



# Harassment, Discrimination, and Retaliation Prevention Policy

## Purpose

CalPERS has zero tolerance for harassment and discrimination of any kind based on any protected characteristic. CalPERS expects its managers and supervisors to vigorously and visibly promote a harassment-free and discrimination-free work environment and expects its employees to read, understand and comply with this policy.

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## Policy

CalPERS is committed to ensuring a work environment that is free from harassment and discrimination based on:

- Age (40 and over)
- Ancestry
- Color
- Gender
- Gender identity
- Gender expression
- Genetic information
- Marital status
- Medical condition (cancer and genetic characteristics)
- Military and veteran status
- National origin (including language use restrictions)
- Disability (mental and physical) including HIV and AIDS
- Denial of Family and Medical Care Leave
- Requests for leave under the California Family Rights Acts
- Political affiliation
- Race
- Religion
- Religious creed (including religious dress and grooming practices)
- Sex, which includes:
  - Pregnancy
  - Childbirth
  - Breastfeeding
  - Medical conditions related to pregnancy, childbirth, or breastfeeding
- Sexual orientation
- Domestic violence victim status
- Citizenship
- Any other classification protected by federal, state or local laws or ordinances.

CalPERS prohibits any form of retaliation for reporting perceived violations of this policy, requesting a reasonable accommodation, pursuing a complaint or cooperating in any way in an investigation of a complaint. If an employee believes they are being retaliated against for engaging in any activity described in this policy, the employee should contact the CalPERS EEO Officer immediately.

CalPERS' Equal Employment Opportunity (EEO) Policy Statement is incorporated into this policy. A copy of the EEO Policy Statement is available on CalPERS' intranet.

## Policy Scope

This policy prohibits unlawful discrimination and harassment of or by any CalPERS employee or job applicant, including co-workers, supervisors, and managers. In addition, this policy prohibits discrimination or harassment of or by independent contractors, vendors, customers, third parties doing business with CalPERS, and official CalPERS representatives.

## Key Terms / Definitions

For the purposes of this document, the following terms and definitions apply.

| Key Term          | Definition  |
|-------------------|---|
| Harassment        | "Harassment" as used in this policy is unwelcome conduct in any form based on any of the protected characteristics listed in this policy. Such conduct violates this policy.  |
| Sexual Harassment | "Sexual harassment" as used in this policy is harassment based upon the person's sex. This may include unwelcome sexual advances, conversations about sexual activities, requests for sexual favors and other verbal or physical harassment of a sexual nature. It can also include offensive remarks about a person's sex, but need not be motivated by sexual desire. For example, it is illegal to harass a woman by making offensive comments about women in general. |
| Retaliation       | Retaliation is when an employee suffers an adverse employment action, such as demotion or discipline, because the employee exercised a legal right.<br><br><i>Example:</i><br><br><i>Transferring an employee to a less desirable position, disciplining the employee for insubordination or suspending the employee for complaining about harassment.</i>  |

## Common Forms of Prohibited Conduct

Unlawful harassment for the purposes of this policy includes, but is not limited to, the following:

- Offering employment benefits in exchange for sexual favors;
- Threats and demands to submit to sexual favors in order to retain employment or avoid adverse job action;
- Leering, making sexual gestures or displaying sexually suggestive objects, pictures, cartoons, emails or posters;
- Making or using derogatory comments, epithets, slurs or jokes based on any protected characteristic;
- Sexual comments including graphic comments about an individual's body;
- Sexually degrading words used to describe an individual or suggestive or obscene letters, emails, notes or invitations;
- Physical touching or assault, as well as impeding or blocking movements; or
- Flirtations and other unwanted verbal, physical or visual conduct of a sexual nature.

All such conduct violates this policy and is unacceptable in the workplace and in any work-related settings, such as business trips and business-related social functions.

## Rights and Responsibilities

### Employee Rights

Employees have the right to:

- A work environment free of harassment and discrimination based on membership in any protected class;
- File a good faith complaint of any perceived violation of this policy or law with a supervisor or the EEO Officer;
- A full, impartial and prompt inquiry or investigation, commensurate with the circumstances;
- Be treated with dignity and discretion by CalPERS during the entire internal reporting, complaint and investigation process;
- Be free from intimidation, threats, coercion, harassment or retaliation for reporting, testifying, assisting or participating in any manner in any investigation, proceeding or hearing regarding a complaint under this policy; and
- File a complaint with the appropriate state or federal agency at any time.

### **Employee Responsibilities**

All employees are responsible for ensuring that violations of this policy do not occur by:

- Attending harassment and discrimination prevention training when requested or required by CalPERS;
- Conducting business and professional communications in compliance with and as outlined in this policy;
- Reporting conduct that they reasonably believe violates this policy in accordance with the reporting process described below; and
- Cooperating fully with every CalPERS-initiated inquiry or investigation of any perceived violation of this policy.

***Important!*** If the alleged offender is the employee's manager or supervisor, the employee may report the conduct to any manager or supervisor in or out of the employee's reporting structure or to the EEO Officer.

### **Manager and Supervisor Responsibilities**

Managers and supervisors must take affirmative steps in regard to conduct that violates this policy. When managers and supervisors obtain information indicating that a violation of this policy may have occurred, even if not directly within their line of supervision or responsibility, they have an affirmative obligation to immediately inform their manager or supervisor immediately and concurrently report the matter to the EEO Officer, so CalPERS can try to resolve the claim internally.

***Important!*** Failure to promptly report perceived violations of this policy may subject a manager or supervisor to disciplinary action.

## **CalPERS Responsibilities**

CalPERS will promptly investigate the facts and circumstances of any perceived violation of this policy and will take immediate and appropriate corrective and preventative action. In meeting its obligation, CalPERS will:

- Inform the complainant of their rights and any obligations to secure those rights;
- Conduct an immediate, thorough, impartial, timely, and complete investigation by qualified personnel, which may include interviewing the alleged harasser and other persons with information regarding the matter. The investigation will provide all parties appropriate due process and reach reasonable conclusions based on the evidence collected;
- Ensure documentation and tracking for reasonable progress;
- Make a determination as to whether the alleged conduct violated this policy and timely communicate the determination to the appropriate parties;
- Take prompt and effective remedial and preventative action, when warranted. This may include, for example, ensuring that the conduct stops, taking appropriate disciplinary action, informing the complainant that remedial action has been taken and providing a remedy for the complainant; and
- Ensure timely closure of the complaint.

## **Complaint Process**

### **Reporting Complaints for Violations of this Policy**

An employee who believes someone has violated this policy must report the relevant conduct to their manager or supervisor, any manager or supervisor with whom the employee feels comfortable, or the EEO Officer, orally or in writing.

All employees who report such conduct are encouraged to complete an EEO Complaint Form and submit it to the EEO Office. This form is available on CalPERS' intranet.

CalPERS encourages employees who feel comfortable to tell the harasser the behavior is unwanted. However, failure to do so does not prevent the individual from reporting the conduct to their manager or supervisor or from filing a complaint as outlined above. Employees are not required by this policy to confront a harasser.

## **Confidentiality**

CalPERS will maintain confidentiality concerning complaints, inquiries and investigations to the extent possible. Information will be handled as sensitively as possible and will not be disclosed to others except on a need-to-know basis.

## Special Complaint Procedures for Victims of Disability, Medical or Intellectual Condition Discrimination, Harassment or Retaliation ONLY with State Personnel Board (SPB)

An employee who believes they have suffered discrimination, harassment or retaliation on the basis of a disability (physical or mental condition, including denial of reasonable accommodation) may have additional complaint rights with the State Personnel Board (SPB) as described below.

| Step | Action  |
|------|---|
| 1    | The employee must first file a written complaint of discrimination with the EEO Officer within one (1) year of the alleged discrimination. The complaint must state the facts upon which the complaint is based and requested relief. |
| 2    | The EEO Officer shall provide a written decision within 90 days of the complaint being filed with the EEO Officer.  |
| 3    | The Complainant may then file a written complaint with the SPB within 30 days of the written decision of the EEO Officer.   |
| 4    | If no written decision is provided within 90 days, the Complainant may file a written complaint with the SPB within 150 days of the date the Complainant first filed a complaint with the EEO Officer.                                |

For more information regarding filing a complaint with the SPB, please visit [SPB's website](#).

### **State Personnel Board Office:**

State Personnel Board  
Appeals Division  
801 Capitol Mall, MS #22  
Sacramento, CA 95814  
(916) 653-0799  
TDD\* Line (916) 653-1498

\*TDD is a Telecommunications Device for the Deaf and is reachable only from telephones equipped with such a device.

## Complaints to the California Department of Fair Employment and Housing (DFEH)

Employees have the right to file a complaint of any harassment, discrimination, or retaliation with the DFEH, which may investigate and prosecute such complaints. There is no requirement, although it is encouraged, to first file a complaint with the EEO Officer.

Persons wishing to file such complaints should contact the DFEH Communication Center at 1-800-884-1684, or visit the [DFEH's website](#).

## Complaints to the Equal Employment Opportunity Commission (EEOC)

Employees have the right to file a complaint of any harassment, discrimination, or retaliation with the EEOC, which may investigate and prosecute such complaints. There is no requirement, although it is encouraged, to first file a complaint with the EEO Officer.

Employees may contact the EEOC at 1-800-669-4000, a toll free number that automatically connects the caller to their local EEOC office. Employees can also visit the [EEOC's website](#).

## Contact Information

Employees can find additional information about this policy at [CalPERS EEO Policy](#) or by contacting the EEO Office at [EEO@calpers.ca.gov](mailto:EEO@calpers.ca.gov).

For information about requesting a reasonable accommodation or religious accommodation, please contact [CalPERS' Human Resources Division](#) at (916) 795-3065.

## Revision History

The following revisions have been made to this policy:

| Version | Modification Date | Summary of Changes                      |
|---------|-------------------|---|
| 3       | 3/9/18            | Updated with gender neutral language    |
| 2       | 1/4/18            | Updated template                        |
| 1       | 5/17              | Superseded Harassment Prevention Policy |