

Harassment, Discrimination, and Retaliation Prevention Policy

Purpose

CalPERS is committed to providing a professional work environment that is free from harassment and discrimination of any kind based on any protected characteristic under the law. CalPERS also does not tolerate retaliation for participating in any protected activity covered by this policy. CalPERS expects its managers and supervisors to vigorously and visibly promote a harassment-free, discrimination-free, and retaliation-free work environment and expects its employees to read, understand, and comply with this policy. For a description of CalPERS' more general policy governing workplace conduct, including its prohibition against harassment, discrimination, and other unprofessional conduct based on *non*protected characteristics and other factors, refer to the Code of Conduct and the CalPERS Core Values & Guiding Behaviors. For CalPERS' policy on workplace violence specifically, see the Workplace Violence Prevention Policy.

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Background

CalPERS strives to maintain a work environment that is free from discrimination, harassment, and retaliation in accordance with all equal employment opportunity (EEO) state and federal laws, including, but not limited to, Title VII of the Civil Rights Act, the California Fair Employment and Housing Act (FEHA), the Americans with Disabilities Act (ADA), and the State Civil Service Act.

Policy

CalPERS is committed to ensuring a work environment that is free from harassment and discrimination due to an individual possessing, being perceived to possess, or associating with an individual who either possesses or is perceived to possess any of the following characteristics:

- Age (40 and over)
- Ancestry
- Citizenship
- Color
- Disability (mental and physical, including HIV and AIDS)
- Domestic violence victim status
- Gender
- Gender identity
- Gender expression
- Genetic information
- Marital status
- Medical condition (genetic characteristics, cancer, or a record or history of cancer)
- Military and veteran status
- National origin (including one's use or nonuse of a particular language, such as an effort to mandate the exclusive use of English in the workplace)
- Political affiliation
- Race (inclusive of traits historically associated with race, including, but not limited to, hair texture and protective hairstyles)
- 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
- Any other classification protected by federal, state, or local laws or ordinances

CalPERS further prohibits any form of retaliation for reporting perceived violations of this policy, requesting a reasonable accommodation for a disability or religious practice, asserting rights under the Family Medical Leave Act (FMLA) or the California Family Rights Act (CFRA), pursuing a complaint or cooperating in any way in an investigation of a complaint involving

conduct covered under this policy, and participating in any proceeding concerning a complaint of conduct covered under this policy.

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 Office immediately. Alternatively, the employee may contact any CalPERS supervisor, manager, or the Human Resources Division. Employees are never required to directly inform an individual who is the subject of a complaint.

CalPERS' 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 discrimination and harassment by or against any CalPERS employee or job applicant, including co-workers, supervisors, and managers on the basis of any of the protected characteristics listed in this policy. In addition, this policy prohibits discrimination or harassment by or against independent contractors, vendors, customers, third parties conducting business with CalPERS, and official CalPERS representatives on the basis of any of the protected characteristics listed in this policy.

Primary Responsibility

The EEO Program has primary responsibility for this policy.

Key Terms / Definitions

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

Key Term	Definition
Discrimination	The unequal treatment of an employee or applicant in any aspect of employment, including discrimination based solely or in part on the employee's, or applicant's, protected characteristic(s), as listed in this policy.
Harassment	Unwelcome conduct that is offensive to the work environment for being inappropriate and personal in nature rather than furthering a legitimate business purpose of CalPERS, and based solely or in part on an employee's, or applicant's, protected characteristic(s), as listed in this policy, including comments, innuendo, ridicule, insult, intimidation, or other verbal, physical, or visual conduct.
Retaliation	Occurs when an employee suffers an adverse employment action because the employee engaged in activity protected under this policy. Protected activities may include, but are not limited to, reporting or assisting in reporting perceived violations of this policy, requesting a reasonable accommodation for a disability or religious practice (regardless of whether the request was granted), asserting

	<p>rights under FMLA or CFRA, and pursuing a complaint or cooperating in investigations or proceedings arising out of an alleged violation of this policy.</p> <p>An adverse employment action under this policy is a personnel action that materially affects the terms or conditions of employment, such as hiring, firing, lesser forms of discipline, promoting, and decisions concerning pay (<i>e.g.</i>, merit salary increases).</p>
Sexual Harassment	<p>“Sexual harassment” as used in this policy is harassment based upon the person’s sex or conduct of a sexual nature. This may include unwelcome sexual advances, conversations about sexual activities, requests for sexual favors, and other verbal, physical, or visual 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 a violation of this policy to harass a co-worker by making offensive comments about their sex/gender in general.</p>

Common Forms of Prohibited Conduct

For the purposes of this policy prohibited conduct can include, but is not limited to, the following:

Type	Common Forms
Harassment	<ul style="list-style-type: none"> • Offering employment benefits in exchange for sexual favors (quid pro quo sexual harassment) • Threats and demands to submit to sexual favors in order to retain employment or avoid adverse job action (quid pro quo sexual harassment) • 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 • Spreading rumors about a person’s sexuality or demeaning statements about a person’s protected characteristics • Messages, texts, or notes of a sexual nature or demeaning towards any protected characteristic • Physical touching or assault, as well as impeding or blocking movements • Flirtations and other unwanted verbal, physical or visual conduct of a sexual nature

Discrimination	<p>Can include:</p> <ul style="list-style-type: none"> • Denial of reasonable accommodation • Denial of leave under FMLA/CFRA/Pregnancy Disability Leave • Denial of employee compensation or benefits • Less desirable job assignments • Negative or lowered performance evaluations • Favoritism based on a protected characteristic when issuing promotions or transfers • Termination • Suggestion of a preferred candidate on a job advertisement based on protected characteristics • Exclusion of candidates from the hiring process based on protected characteristics
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All such conduct violates this policy and is unacceptable in the workplace and 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 Office.
- A full, impartial, and prompt inquiry or investigation into allegations of conduct covered under this policy, commensurate with the circumstances
- Be treated with dignity, by CalPERS, during the entire internal reporting, complaint, and investigation processes.
- To have their complaints handled confidentially to the extent reasonably permitted.
- 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.
- 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 accordance with this policy.
- Reporting conduct that they reasonably believe violates this policy in accordance with the reporting process described below.
- 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 Office.

Manager and Supervisor Responsibilities

Managers and supervisors must take affirmative steps in regard to conduct that violates this policy. Managers and supervisors who learn of any potential violation of this policy are required to immediately report the matter to the EEO Office and their own manager. Managers and supervisors are responsible for reporting any perceived policy violation even if those involved are not directly within their line of supervision or responsibility.

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 where warranted. In the absence of a formal complaint, CalPERS may initiate an investigation where it has reason to believe that conduct that violates this policy has occurred. Additionally, while a complainant may request to withdraw a formal complaint, CalPERS may continue the investigation to ensure that the workplace is free from discrimination, harassment, and retaliation.

In meeting its obligation, CalPERS will:

- Inform the complainant of their rights and any obligations relating to the exercise of those rights.
- Conduct an immediate, thorough, impartial, timely, and complete investigation by qualified personnel, which may include, among other things, interviewing the alleged harasser and other persons knowledgeable regarding the matter. The investigation will provide all parties with appropriate due process and reach reasoned 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, and providing a remedy for the complainant.
- 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 Office, 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 that 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. However, complete confidentiality cannot be guaranteed when it interferes with CalPERS' ability to fulfill its obligations under this policy. Information will be handled as sensitively as possible and will not be disclosed to others except on a need-to-know basis.

All employees are required to cooperate fully with any investigation. This includes, but is not limited to, maintaining an appropriate level of confidentiality regarding the investigation in order to avoid disrupting the work environment and influencing the investigation testimony of others, and disclosing any and all information that may be pertinent to the investigation to the assigned investigator(s).

Note: Nothing in this policy section should be construed to inhibit or discourage employees from having the right to self-organization, to form, join, or assist labor organizations, to discuss working conditions, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. Please see the Ralph C. Dills Act and the Excluded Employees Bill of Rights for the laws that govern State Employer-Employee relations.

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

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

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

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's Civil Rights Department (CRD)

Employees have the right to file a complaint of any harassment, discrimination, or retaliation with the CRD (formerly known as the Department of Fair Employment and Housing- DFEH), which may investigate and prosecute such complaints. There is no requirement, although it is encouraged, to first file a complaint with the CalPERS EEO Office.

Persons wishing to file such complaints should contact the CRD Communication Center at 1-800-884-1684, or visit the [CRD'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 CalPERS EEO Office.

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 Program](#) or by contacting the EEO Office at EEO@calpers.ca.gov.

For information about requesting a reasonable accommodation or religious accommodation, please contact [CalPERS' Human Resources Division](#) at HRSD_Health_Safety@CalPERS.ca.gov.

Compliance

To ensure that all employees are informed of CalPERS' EEO policy and in an effort to prevent discrimination, harassment (including sexual harassment), and retaliation from occurring, mandatory training is provided to all CalPERS employees as follows:

Training	Duration	Delivery Type	Timeframe
Harassment Prevention – manager/supervisor	2 hours	Web-based	Within 30 days from date of hire and biennially
Harassment Prevention – employee	1.5 hours	Web-based	Within 30 days from date of hire and biennially

Note: Seasonal and temporary employees, or any employee hired to work for less than six months, will need to be trained on harassment prevention within 30 calendar days after the hire date or within 100 hours worked, whichever occurs first.

Note: Team members who are promoted or temporarily granted an out-of-class assignment into a team leader position will be assigned the team leader version of Harassment Prevention and will have 30 days from assignment to complete.

Consequences of Non-Compliance

Violations of this policy may result in disciplinary or other corrective action.

Authoritative Sources

CalPERS will administer this policy in compliance with legal, regulatory, and policy requirements, including, but not limited to:

Source	Description
Age Discrimination in Employment Act (29 U.S.C. § 621 <i>et seq.</i>)	Federal law that prohibits age discrimination in employment.
Americans with Disabilities Act (42 U.S.C. § 12101 <i>et seq.</i>)	Federal law that prohibits discrimination against persons with disabilities in employment, transportation, public accommodation, communications, and governmental activities.
California Fair Employment and Housing Act (Gov. Code § 12900 <i>et seq.</i>)	State law that prohibits discrimination and harassment in employment on the basis of a protected characteristic, and retaliation on the basis of protected activity.
California Family Rights Act (Gov. Code §§ 12945.1 to 12945.2)	State law requiring covered employers to provide eligible employees unpaid, job-protected leave from employment for certain family or medical reasons.
Family Medical Leave Act (29 U.S.C. § 2601 <i>et seq.</i>)	Federal law requiring covered employers to provide eligible employees with job-protected and unpaid leave for qualified medical and family reasons.
Genetic Information Nondiscrimination Act (42 U.S.C. § 2000ff <i>et seq.</i>)	Federal law that prohibits genetic information discrimination in employment.
State Civil Service Act (Gov. Code § 18500 <i>et seq.</i>)	State law that guides employment within the State government and provides SPB with jurisdiction to address complaints related to disability discrimination.
Title VII of the Civil Rights Act (42 U.S.C. § 18500 <i>et seq.</i>)	Federal law that prohibits employment discrimination based on race, color, religion, sex, and national origin.
Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §§ 4301 to 4335)	Federal law that protects individuals performing, or who performed, uniformed service from adverse employment discrimination, and allows them to regain their civilian jobs following a period of uniformed service.

Related Documents

For additional information, please refer to:

Document	Relevance
EEO Complaint Form	The EEO Complaint Form may be used to initiate a complaint of discrimination, harassment, and/or retaliation
EEO Policy Statement	The EEO Policy Statement is incorporated into this policy.
Code of Conduct	The Code of Conduct is a cornerstone of the Compliance and Ethics Program and represents a summary of other, more specific provisions that apply to all employees.
Core Values & Guiding Behaviors	The Core Values guide all employees in their work and are woven into the fabric of their daily interactions with members, employers, and each other.
Workplace Violence Prevention Policy	The Workplace Violence Prevention Policy ensures that employees are protected from abusive conduct, assaults, bullying, threats, intimidation, and/or harassment and will take appropriate action when such incidents occur.

Revision History

The following revisions have been made to this policy:

Version	Modification Date	Summary of Changes
7	11/27/23	Updated table of contents; updated language under policy, including the list of protected characteristics; updated key terms/definitions; added a table under the common forms of prohibited conduct to include examples for discrimination and updated examples for harassment; updated timeframe for mandatory training; and updated with new name for DFEH, including updating their website link
6	10/1/20	Updated to new policy template, added and updated definitions
5	12/20/19	Updated the CalPERS logo alternate text, removed second CalPERS logo on page 1, updated acronyms and broken links
4	1/9/19	Updated broken links

3	3/9/18	Updated with gender neutral language
2	1/4/18	Updated template for accessibility purposes
1	5/2017	Superseded Harassment Prevention Policy