

Harassment Prevention Policy Checklist

This checklist will help you avoid the top 10 mistakes in harassment prevention policies. These suggestions will help you create an effective policy.

1

Policy addresses the law, but focuses on more than the law

- Policy contains required legal language:
 - Definition of unlawful behavior (stated precisely, clearly, and succinctly)
 - Examples of unlawful behavior
 - Retaliation – all are protected by it, all are bound to follow it
 - How to report, details on how reports will be handled
- Policy goes beyond legal definitions, says all misconduct is unacceptable, especially if it has the effect of making employees feel excluded, demeaned, or disrespected.
- Policy lists core values and these are woven into the entire policy—respect, inclusion, accountability, integrity, ethics.
- Is the name of the policy clear or does it sound legal?
- Is the policy too long?

2

Zero-tolerance policy?

- Decide if want/need to include.
- Consider renaming or rewriting policy to precisely define which behavior is intolerable and the consequence for engaging in that behavior.

3

Provide supervisors with encouraging guidance to report misconduct

- Policy should not be threatening or punitive.
- Policy written to honor supervisor role as company eyes and ears.
- Policy written to encourage reporting, and explain why that's so important.
- Policy written to set expectations, not written in legalese.

4

Reporting – encourage early reports

- Policy welcomes complaints of misconduct, that is, conduct that excludes, belittles, or demeans; does not limit complaints to only those about unlawful conduct.
- Policy encourages speaking with a manager or HR if there is a concern that can be addressed and resolved early (even if no formal investigation is needed).
- Policy states the company's commitment to teach early conflict resolution skills so that drama can be nipped in the bud.

5

Reporting – make it easy and safe

- Policy says employees are “invited to” or “encouraged” to report concerns, not “required to.”

- ✓ Policy language makes it clear that company sees reports as an opportunity to make workplace better; to make culture healthier.
- ✓ Policy refers to company's commitment to educate employees and managers on how to address conflict early, but does not "require" that employee "confront" person engaged in misconduct before filing a complaint.
- ✓ Policy provides numerous avenues to lodge complaints; message to employees is "we welcome hearing from you."

6

Reporting – do not cause a chilling effect

- ✓ Policy says company will investigate concerns brought in "good faith," not that company will discipline or fire employee if concerns are "malicious" or "frivolous."
- ✓ Concept of "good faith" is further explored in other policies that address ethics, expected professional conduct, integrity, and values.

7

Investigations – include broad language for what you will investigate

- ✓ Policy language is broad, making it clear that the company will investigate concerns of misconduct.
- ✓ Policy includes commitment to a healthy culture, which means concerns are identified, investigated, and resolved early, long before they reach the level of unlawful harassment.

8

Investigations – don't overpromise

- ✓ Policy refers to "limited confidentiality" or "discretion," not to a "confidential investigation."
- ✓ Policy indicates that the company will communicate with the main parties (complainant and accused) after the investigation to provide them conclusions and next steps, but does not guarantee that specific information or documents will be shared (policy explains that the company will be transparent but needs to exercise judgment and discretion).

9

Conflict resolution – promise more than "We will fix problems only if harassment is found"

- ✓ Policy clearly indicates that appropriate remedies will be taken if the investigation uncovers misconduct, not that action will only be taken if the conduct violates a policy or is found to be unlawful.
- ✓ Policy provides general statement indicating that remedial action taken after the investigation will vary and will be guided primarily by the severity of the misconduct.
- ✓ Policy emphasizes company's commitment to not only discipline when necessary, but to also learn from each investigation since goal is to make culture healthier.

10

Make sure your discipline policy is precise and clear.

- ✓ Policy on progressive discipline is clear, precise, and customized; it is not canned.
- ✓ Language on discipline makes it clear that investigations that uncover misconduct will include a step to determine the best remedial measure—one that aims to correct behavior and prevent it from happening again.
- ✓ Policy emphasizes the company's commitment to evenhandedness when it comes to discipline.