
KNOW YOUR RIGHTS: GUIDELINES & RESOURCES FOR SEXUAL HARASSMENT VICTIMS

What is sexual harassment?

Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that affects your employment, unreasonably interferes with your work performance, or creates an intimidating, hostile, or offensive work environment.

1. Sexual Favors in Exchange for Employment

An employer or another employee cannot grant or deny you employment opportunities in exchange for sexual favors.

Examples of Unwanted Sexual Favors Requested

- Have sex with me
- Kiss me
- Masturbate in front of me
- Let me masturbate in front of you
- Show me your body
- Let me touch your body

Examples of Employment Opportunities

- Hire or fire you
- Promote or demote you
- Cover your shift or give you unfavorable hours
- Approve or reject your project
- Improve your salary/benefits/hours/overtime or cut your salary/benefits/hours/overtime

2. Hostile Work Environment

Hostile Work Environment is harassment that is sufficiently severe or pervasive and alters the conditions of employment and creates an abusive work environment. Examples of severe or pervasive harassment include:

- Unwanted kissing
- Unwanted touching including neck/back massages
- Deliberately brushing up against your body in passing
- Offensive comments based on gender or sexual orientation
- Purposeful exposition of body
- Sending suggestive emails and texts
- Sending semi-nude or nude photos
- Display of semi-nude or nude photos
- Repeated requests for sex, dates, nude, or semi-nude photos
- Sending derogatory or suggestive videos or movies
- Compliments about appearance and clothing in a sexual nature directed at you:
 - “You should wear those pants that make your ass look big.”
 - “Your breasts look nice in that shirt.”
- Crude or inappropriate language directed at you or your body
 - “I’m glad you work here. You’re the only hot one in the office.”
 - “You’re so uptight. You need to get laid.”
 - “You have such a feisty attitude. I bet you’re like that during sex.”

What should I do if I experience sexual harassment?

If you experience behavior that is making you feel uncomfortable, you should tell the person to stop, document the behavior so you have record of it while the memory is fresh and then report the conduct to a supervisor. Your employer cannot stop the behavior if they do not know it is happening.

1. **If You Feel Comfortable, Address with Harasser**
 - a. Be direct – tell the person who is harassing you to stop.
 - b. Identify the problematic behavior – for example, “I don’t want you to touch my shoulder.”
 - c. Be firm – do not laugh.
2. **Document** – Keep a journal or a notepad and write down who, what, when, where, and why. You want to keep record as the event occurs.
3. **Report Conduct to Supervisor/Employer** – Tell someone in your company about what is happening. Tell Human Resources, any supervisor, or anyone in the company’s management.

- a. Check to see if your employer has an anti-harassment policy. This may be on the employer's website. If it's not, check your employee handbook. Finally, you can ask any supervisor (it does not have to be your supervisor) or someone in Human Resources (if your employer has an Human Resources department) whether there is an anti-harassment policy and if so, to give you a copy.
- b. If there is a sexual harassment policy, follow the steps in the policy. The policy should give you various options for reporting the harassment, including the option of filing a complaint. A written report is best, but you can also verbally report the conduct.
- c. If there is no sexual harassment policy, talk with a supervisor. You can talk with your own supervisor, the supervisor of the person who is harassing you, or any supervisor in the company. Explain what happened and ask for that person's help in getting the behavior to stop.

What should I do if I see someone experiencing sexual harassment?

If you see someone being harassed, you should say something to Human Resources, any supervisor, or anyone in company's management, if you can.

1. Address with the Person Being Harassed

- a. Seek a neutral location and private/confidential setting for the conversation *in person*.
- b. Relay what you witnessed and how it made you feel.
- c. Ask for feedback or feelings about it, be open and receptive to their responses.
- d. Encourage them to report to supervisors, Human Resources, anyone in management, or address the harasser directly, as prompt reporting is important and can lead to immediate, more effective results.
- e. Express support for their decision, whatever they choose to do; alternately,
- f. Let them know if you intend to report on their behalf if they are unwilling to do so.

2. If You Feel Comfortable, Address with Harasser

- a. Seek a neutral location and private/confidential setting for the conversation *in person*.

- b. Use non-confrontational terms.
- c. Describe what you witnessed: how you perceived the exchange, how it made you feel as a witness, and how you perceive it made the person being harassed feel.
- d. Explain how their conduct impacts the workplace – coworkers, productivity, growth, reputations, recidivism, retention, turnover.
- e. Suggest they apologize, request they stop similar conduct, recommend they attend office training or online trainings.

3. Address with Supervisor/Employer

- a. Seek a private/confidential setting for the discussion in person.
- b. If desired, request anonymity in reporting.
- c. Relay a neutral account of what you witnessed – how it made you feel, how the other person responded, any follow-up you witnessed or conducted, and perceived impact on workplace morale, attitude, and culture.
- d. State your hopes or expectations for how the matter be handled – counselling for the harasser; conducting the investigation; imposing disciplinary action such as reprimand, sanctions, discharge, or termination; providing remedies for the victim.
- e. Request updates or enhancements to current office harassment policy, or the creation of such a policy if none exists; request mandatory office-wide harassment training.

What if I am uncomfortable reporting the harassment to my employer?

If you are unsure or uncomfortable about reporting the harassment to your employer, contact an employment or sexual harassment lawyer. Many employment lawyers will gladly sit with you free of charge to provide advice.

You may also file a claim with California's Department of Fair Employment and Housing ([DFEH](#)) or the U.S. Equal Opportunity Commission ([EEOC](#)). If you decide to take this course of action, seek advice of a qualified employment lawyer beforehand. Most work on a contingency basis, which means that you pay nothing unless they recover money on your behalf. While it may seem like a drastic measure, a good lawyer will explain your options, not pressure you to file a lawsuit, and provide clarity to your situation.

What will happen if I report the sexual harassment?

If you are experiencing conduct or behavior that makes you feel uncomfortable or you believe you are being sexually harassed, it is important to report that conduct to your designated Human Resources department or representative, or to someone with authority in the company (a supervisor, lead, partner, CEO, etc.) Once you tell someone what is happening to you, your company should start an investigation into your complaint. The investigation will try to verify or confirm what you complained about and determine if there are any witnesses or anyone who has seen or heard about the bad behavior.

The investigation is not always confidential. The investigator may need to identify the conduct or your name to the person that is bothering you, but that person should be warned to not treat you any differently because you complained. You may be interviewed to tell your story again and describe what happened. After the investigation is complete, your Human Resources department, or someone in your company, should let you know the results of the investigation, but they may just simply tell you that the investigation is finished. Sometimes the investigator will write a report about the investigation, which you may request to read. Your employer can share it with you but is not required to show you the report. It is a good idea to ask to read the report, so you know what is included. Your employer may hire an outside company to do the investigation instead of your Human Resources department, if you have one, but the process is the same.

Your employer, including the person you complained about, should not treat you any differently after you report sexual harassment or conduct that makes you uncomfortable. This is called “retaliation” and is illegal. However, sometimes employees believe they are treated differently after they report bad conduct. If you feel that way, you should tell your Human Resources department or representative or someone with authority in your company (a supervisor, lead, partner, CEO, etc.) and explain why you believe you are being treated different than before you complained. It is always a good idea to write down in a journal or notebook any experiences you have so you can remember them and tell your employer. Keeping notes is always a good idea to help you explain your situation.

What if I experience retaliation for saying no or reporting the harassment?

The law protects you from retaliation (punishment) for complaining about harassment. You have a right to report harassment, participate in a harassment investigation or lawsuit, or oppose harassment, without being retaliated against for doing so.

1. What is Retaliation?

Retaliation occurs if, after you complain or oppose an unlawful practice, your boss or coworkers punish you.

You may be a victim of unlawful retaliation if your employer has punished you in any way for asserting your right to be treated fairly and free of harassment in the workplace. Under California and federal law, you have a right to engage in “protected activity” at work, which means the right to protest and oppose unlawful workplace practices. For instance, the law protects you if you oppose any workplace conduct that you believe is discriminatory, harassing, or otherwise illegal. It also protects you when you lodge a formal or informal complaint about a situation or practice that you believe is unlawful, such as sexual harassment or an offensive situation with a superior or coworker.

Examples of retaliation, include:

- Receiving a reprimand for an unrelated incident.
- Receiving a reduction in salary or hours.
- Being transferred to a less desirable position.
- You start receiving increased scrutiny at work.
- Coworkers make false rumors about you or a family member.
- An abrupt change in your work schedule.
- You are fired, laid off, or asked to take a leave of absence.

If you have been subjected to any type of negative treatment shortly after reporting the harassment, then you should take steps to report to retaliation.

2. How Do I Report Retaliation?

Retaliation may be reported internally through your company or externally as part of an administrative or judicial process. You have options depending on the severity of your circumstances. In all cases, you should prepare before you report retaliation so that you have a clear understanding of what occurred. Gather any documents, emails, or reports that you took regarding the harassment or retaliatory conduct at issue.

Review your company handbook and harassment policy to identify any policies that you believe were violated. The handbook may also designate a person to whom you should direct your complaint. Typically, reports can be lodged to Human Resources or any manager in person or in writing. You may choose to send an email with your report and then schedule a meeting with the Human Resources department. Alternatively, you can schedule an informal meeting and report the incident in your conversation. Always ask what the next steps are and be sure to follow up. As before, if you are unsure or uncomfortable about how to report the misconduct, seek advice from an employment attorney.

3. Should I Sign Anything?

One quick note about severance and release agreements, nondisclosure agreements (or “NDAs”), and confidentiality covenants: proceed carefully. If your employer presents you with one of these options, it typically means that you are being fired and

accepting money in exchange for a full release of your retaliation or harassment claim against the company.

Consult with an attorney and determine how to proceed before signing any type of release or severance agreement because this may potentially waive your rights.

If my employer doesn't help, can I get help somewhere else to stop the harassment?

1. Lawyers

There are a number of employment law attorneys who are willing to provide free consultation and represent you on a contingency fee basis. You can google employment or sexual harassment attorneys in your area or find an attorney through the San Diego County Bar Association Lawyer Referral Service at (800) 464-1529 or another lawyer referral service.

2. Government Agencies

If you cannot find an attorney to help you, you can also file a complaint with the DFEH or EEOC.

a. DFEH

First step in filing a complaint with [DFEH](#) is to fill out a form called an intake form. The submission of this form initiates an intake interview with a department representative to determine whether a formal complaint will be accepted for investigation. The intake form is available at www.dfeh.ca.gov. If you do not have access to the website, you can call DFEH at 800-884-1684 (voice), 800-700-2320 (TTY), or California's Relay Service at 711.

b. EEOC

You can file a charge through the [EEOC](#) Public Portal. You can also call the EEOC at 1-800-669-4000; 1-800-669-6820 (TTY for Deaf/Hard of Hearing callers only) 1-844-234-5122 (ASL Video Phone for Deaf/Hard of Hearing callers only) or email at info@eeoc.gov.

What happens next?

It is helpful to have support in your own community after a sexual assault. Local service providers make it easy for you to access care, and they are knowledgeable about the laws in your area and local resources that can assist you.

1. San Diego Support Services

[Center for Community Solutions](#) – Hotline 888-385-4657 – Countywide, they provide counseling, victim advocacy services, legal services, emergency shelter, and long-term shelter.

[County of San Diego](#)– Must file a police report and a worker’s compensation claim in order to be assigned to a victim advocate and receive benefits such as therapy sessions and restitution through the victims’ compensation fund. Eligibility must be determined.

[Advocate for Victims](#)– Independent victim advocate that works directly with you to help you reclaim your power, help you navigate your path forward, and match you to service providers. Can also work as a part of your legal team if you chose to file a civil complaint to help you every step of the way.

2. Trauma-Informed Therapy

The companies above can refer you to a local therapist. Ask for a referral to a therapist that is experienced in sexual harassment cases. There are many modalities to choose from to help relieve stress or trauma related to sexual harassment. You may have to try more than one to see what works for you. Here are two highly regarded methods:

- a. TRE® Trauma Release Exercise – Trauma locks into the body and this therapy uses physical exercises to release deep muscular patterns of stress, tension and trauma.
- b. EMDR – Eye movement desensitization and reprocessing. This method uses bilateral sensory input such as eye movements and hand tapping to release the trauma from the brain.

3. Outside of San Diego

[RAINN](#) – A national organization that has a database to help you find local resources, 800-656-4673 or <https://centers.rainn.org/>.