



---

# HOW TO DEAL WITH SEXUAL HARASSMENT AT WORK

# Table of Contents

---

Recognize Sexual Harassment and Know How to Take Action .....	4
What is Sexual Harassment? .....	5
When to Speak Up .....	6
What Actions to Take .....	8
How Employers Should Handle a Sexual Harassment Claim .....	12
What to Do if Your Employer Does Not Investigate Your Claim....	15
What to Do if Your Employer Retaliates Against You .....	18

**Workers should be immersed in an environment that allows them to feel confident and capable of advancing their ambitions.**

---

Unfortunately, unwelcome behavior in the workplace such as sexual harassment can be detrimental to a worker's ability to thrive, not to mention threaten their safety. Whether it is unwanted attention or a more serious offense from a co-worker, a victim of sexual harassment may have trouble knowing how to respond.



# Recognize Sexual Harassment and Know How to Take Action

---

Often, sexual harassment is not corrected or punished because victims may feel intimidated or uncomfortable when confronting their harasser.

---

Victims of sexual harassment also often do not report the harassment for fear that they may be retaliated against. When facing these difficult circumstances, workers should know how to recognize harassment and when to take action. They should also know what to expect of their employer when filing a complaint, and how to file a complaint with their supervisor or human resources.

Every case of sexual harassment is different, and the right approach will depend on your particular situation. Consider the following information to help you decide how to respond when faced with sexual harassment at work.

# What is Sexual Harassment?

---

Sexual harassment can include unwanted sexual advances, requests for sexual favors, and verbal, physical, or visual harassment in the workplace.

---

Sexual harassment also includes gender harassment and harassment based on pregnancy, childbirth, or related medical conditions, such as breast-feeding. Sexual harassment can be perpetrated by a coworker, supervisor, or even a non-employee if the employer knew or should have known about the conduct and does not take immediate and appropriate corrective action.

## **Generally, sexual harassment can take two forms:**

- 1. Quid pro quo harassment**, which occurs when an employment benefit is conditioned, expressly or implicitly, on the submission to an unwelcome sexual advance, and
- 2. Hostile environment harassment**, which occurs when a victim's work environment is made hostile or abusive as a result of the harassment.

## When to Speak Up

---

A legal requirement for the classification of sexual harassment is for the behavior to be “unwelcome.” Rather than ignoring the behavior, you should immediately communicate to the harasser that such behavior is unwelcome.

---



It is common for joking, banter and socializing to occur in the workplace. However, when someone makes a comment or behaves in a way that

makes you feel uncomfortable, you should clearly state that such behavior is unacceptable and demand it to stop. This is particularly the case when the comment is directed toward you.

A legal requirement for the classification of sexual harassment is for the behavior to be “unwelcome.” Rather than ignoring the behavior, you should immediately communicate to the harasser that such behavior is unwelcome.

---

*Sometimes, simply saying, “You’re making me uncomfortable, please stop” will be enough to get your message across.*

You can also threaten to report them. If your harasser sees that you are treating the situation seriously, they may too. But if the behavior continues, you will have to take further action.



## What Actions to Take

---

Documentation is key. Your company may have a detailed procedure for handling these types of situations. You should try to follow that procedure by the letter.

---



### Write it down

On your home computer or other personal device, write down the details of the harassment, including the date and location where it occurred, and the names of any witnesses. If possible, ask witnesses to make a written account of the incident as well. As others may read your account later on,



be as accurate and objective as possible, and store your record of the incident where you can securely save and access it. If you don't have access to a computer, keeping a written and dated journal is helpful.

## **Gather your work records**

Some harassers may try to defend themselves against your claim by attacking your job performance.

---

*As an active form of defense for any issues that may arise, you should gather copies of your personnel file, performance reviews and/or other letters documenting the quality of your work in order to keep evidence of your job performance.*

If your company policy does not allow you to make copies of your personnel file, you should take notes of its contents.

## **Report the behavior to your supervisor and human resources**

As soon as you feel that you are being harassed, report it to your immediate supervisor. This is important because your employer is required to know about the conduct in order to be legally responsible for addressing a coworker, client or customer's behavior. It is best to inform your supervisor by writing a formal letter detailing the events that took

place, and ask for a meeting to discuss it in person. However, if you only report it verbally, this should still trigger your employer's duty to investigate. After you report the harassment to your supervisor, you may also to Human Resources, if your employer has one.



*If or when you make a report to your supervisor and/or to Human Resources (HR), be sure to keep a copy of anything that you provide to your employer for your records. If you are asked to sign a statement of your complaint on company forms, make sure you ask for a copy of the form for your records.*

If your employer refuses to make a copy, inform them that you are going to take a picture of it and do so.

It is important that you report the incident right away, otherwise the behavior may continue. If there were witnesses, you will want to secure their testimony in writing.

Additionally, it can strengthen your case if you have spoken with other victims, if any, of the person's harassment. Perhaps they have filed claims against him/her in the past.

## **Report it to Senior Management**

If your supervisor and HR fail to respond to your complaint, you should report your claim to senior management. When doing so, best practice is to present your complaint in formal writing and include any evidence and documentation concerning the incident(s).



## How Employers Should Handle a Sexual Harassment Claim

---

Your employer is obligated to address harassment claims professionally and effectively. The following are the steps you should expect your employer to take when handling your sexual harassment claim.

---



### **Distribute a written anti-harassment policy**

California law requires employers to distribute a written anti-harassment policy that expressly prohibits sexual harassment and assures that the

employer will conduct a fair investigation into any harassment cases. The investigations should be timely and maintain confidentiality wherever possible. If it is determined that harassment has occurred, the policy must require the employer to take appropriate and immediate corrective action. The policy should also offer the employee the chance to report the harassment to someone other than their direct supervisor, such as human resources.

## **Sexual harassment training**

Businesses with over 50 employees are required by California law to conduct mandatory sexual harassment training to supervisors every two years. Smaller companies, though not legally required to do so, should also offer sexual harassment training to their employees. Failure to do so may indicate that they do not take sexual harassment prevention seriously or will fail to respond appropriately if it occurs.

## **Prompt investigation**

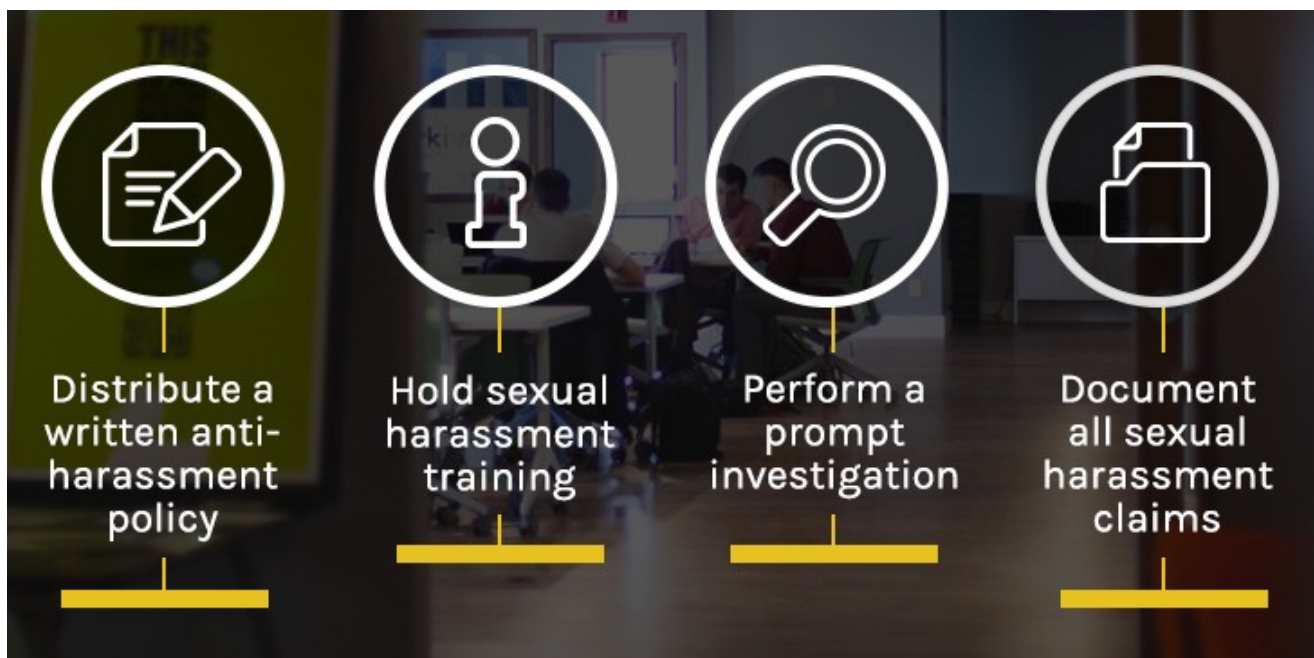
---

*Employers should take action to investigate the claim within 24 to 48 hours of the complaint. The investigation should be unbiased and professional in order to properly determine whether the claim is credible.*

The best way to prevent bias is for a neutral third party to conduct the investigation, which should include interviews with the person filing the claim, the accused harasser and any witnesses of the harassment. The employer must also take action to deter the harassment from happening again. This can include administrative action to discipline and/or terminate the harasser if the claims are substantiated.

## Documentation of sexual harassment claims

When an employee reports sexual harassment at work, the employer must keep written records of the claim. If they do not, this signals that the employer does not take sexual harassment seriously and/or does not intend to investigate the claim. If you reported sexual harassment at work, ask your employer for copies of their documentation. Any time you sign or submit any paperwork to your employer, be sure to keep or request a copy for yourself.



05

## What to Do if Your Employer Does Not Investigate Your Claim

---

Under California law, employers are liable if a supervisor sexually harasses an employee.

---



Your employer is also liable if it is aware or should have been aware of the harassment committed by a coworker but does not take corrective action. In all situations, the harasser is personally liable for their own unlawful behavior.

Additionally, employers are liable for a customer or client harassing an employee after the employer should have been or is aware of the harassment. Regardless of the importance of the customer or client for the business, the employer must take the same steps for corrective action when you report sexual harassment as if the harasser were a coworker or supervisor.

---

*If you are still being sexually harassed, you should find out whether your employer has investigated your claim. If they have not made an investigation, return to the person or department to whom you reported the claim and ask them why the investigation has not been made.*

Provide information regarding the new harassment that has occurred, and make it clear that you expect the company to investigate the harassment.

If the investigation has been completed but no corrective action was made toward the harasser, speak with the person or department to whom you reported the harassment and find out why. Perhaps there was insufficient evidence to determine that the person had in fact harassed you. You might ask whether any other employees were interviewed, or if the company is willing to disclose any information they found in their investigation. Some companies maintain that disciplinary matters are



always confidential, and will say they are unable to offer you any information about the investigation.

If you are still being harassed, inform your supervisor, a company administrator, or HR. You may consider consulting an attorney at this point to determine whether you have a legal claim.



06

## What to Do if Your Employer Retaliates Against You

---

Like sexual harassment, workplace retaliation is against the law.

---



Retaliation occurs when your employer behaves negatively toward you after you file a complaint for discrimination or harassment, which is a legally protected activity. Retaliation can take the form of wrongful

termination, an involuntarily transfer to another department, demotion, job shift reassignment, salary reduction or other negative job action.

---

*If you reported sexual harassment to your employer, and you believe that your employer is retaliating against you, the first step would be to address your concerns with your supervisor.*

It may be discovered that your employer's reasons for such actions are fair or reasonable. However, if your employer does not give you a legitimate explanation, voice your concern that you believe you are being retaliated against. If your employer refuses to correct the problem, you may consider speaking with an attorney to determine whether you have a legal claim, or file a discrimination claim with the Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH).



## Talk to A Lawyer

Strong Advocates can help take quick action on your case. We will provide you with written case analysis to help you understand your case and legal options. We will help you to compile an experienced legal team and serve as your advocate. We will help you reach favorable outcomes, avoiding extensive litigation as much as possible. We assist our clients understand their legal options as well as California's complex laws. We can explain how the law applies to your particular case. Please contact us to schedule a confidential consultation.



**(800) 870-9886**

**(310) 242-8936**

**[www.strongadvocates.com](http://www.strongadvocates.com)**

