Harassment, Discrimination and Retaliation Prevention

Updated February 2018
Replaces Sexual and Other Unlawful Harassment April 2008

First 5 LA is an equal opportunity employer. First 5 LA is committed to providing a work environment free of unlawful harassment, discrimination, or retaliation based on sex (including pregnancy, childbirth, breastfeeding or related medical conditions), race, religion (including religious dress and grooming practices), color, gender (including gender identity and gender expression), national origin (including language use restrictions and possession of a driver's license issued under Vehicle Code section 12801.9), ancestry, physical or mental disability, medical condition, genetic information, marital status, registered domestic partner status, age (40 and over), sexual orientation, military and veteran status or any other basis protected by federal, state or local law or ordinance or regulation. It also prohibits discrimination, or harassment based on the perception that anyone has any of those characteristics, or is associated with a person who has or is perceived as having any of those characteristics.

In addition, First 5 LA prohibits retaliation against individuals who raise complaints of discrimination or harassment or who participate in workplace investigations.

All such conduct violates First 5 LA policy.

Harassment Prevention

First 5 LA’s policy prohibiting harassment applies to all persons involved in the operation of First 5 LA. First 5 LA prohibits harassment by any employee of First 5 LA, including managers and co-workers. First 5 LA’s anti-harassment policy also applies to vendors, independent contractors, interns, volunteers, persons providing services pursuant to a contract and other persons with whom you come into contact while working. Similarly, First 5 LA will not tolerate harassment by its employees of non-employees with whom First 5 LA employees have a business, service or professional relationship. Finally, First 5 LA will seek to protect employees from harassment by non-employees in the workplace and in work related situations.

Unlawful harassment includes verbal, physical and visual conduct that creates an intimidating, offensive or hostile working environment or that interferes with work performance when it is based on a legally protected status. Such conduct constitutes harassment when:

- Submission to the conduct is made either an explicit or implicit condition of employment
- Submission to or rejection of the conduct is used as the basis for an employment decision or
- The harassment interferes with an employee’s work performance or creates an intimidating, hostile or offensive work environment

Prohibited harassment includes, but is not limited to, the following behavior:

- Verbal conduct such as epithets, derogatory jokes or comments, slurs or unwanted sexual advances, requests for sexual favors, conversations containing sexual comments, invitations, comments, posts or messages
- Visual displays such as derogatory and/or sexually-oriented posters, photography, cartoons, drawings or gestures
- Physical conduct including assault, unwanted touching, intentionally blocking normal movement or interfering with work because of sex, race or any other protected basis
- Threats and demands to submit to sexual requests or sexual advances as a condition of continued employment, or to avoid some other loss and offers of employment benefits in return for sexual favors
- Retaliation for reporting or threatening to report harassment; and
- Communication via electronic media of any type that includes any conduct that is prohibited by state and/or federal law or by First 5 LA policy

Sexually harassing conduct can be by a person of either the same or opposite sex. Sexual harassment does not need to be motivated by sexual desire to be unlawful or to violate this policy. For example, hostile acts toward employees because of their gender can amount to sexual harassment, regardless of whether the treatment is motivated by sexual desire.

Prohibited harassment is not just sexual harassment but harassment based on any protected category.

**Non-Discrimination**

First 5 LA is committed to compliance with all applicable laws providing equal employment opportunities. First 5 LA does not unlawfully discriminate on the basis of the protected categories listed above or on any other basis protected by law. This commitment applies to all persons involved in First 5 LA operations. First 5 LA prohibits unlawful discrimination against any job applicant, employee or intern by any employee of First 5 LA, including managers and co-workers.

Pay discrimination between employees of the opposite sex, or of another race or ethnicity performing substantially similar work, as defined by the California Fair Pay Act and federal law, is prohibited. Pay differentials may be valid in certain situations defined by law. Employees will not be retaliated against for inquiring about or discussing wages.

**Anti-Retaliation**

First 5 LA will not retaliate against an employee for filing a complaint or participating in any workplace investigation and will not tolerate or permit retaliation by management, employees or co-workers.

**Reasonable Accommodation**

When necessary, First 5 LA will make a reasonable accommodation for an employee and an applicant (including an unpaid intern) with disabilities if the person is otherwise qualified to safely perform all of the essential functions of the position. First 5 LA will also provide reasonable accommodation for pregnancy, childbirth or related medical conditions, if requested, by the employee upon advice and medical certification of her health care provider. Reasonable accommodation may include a temporary transfer to a less strenuous or hazardous position, if requested, supported by proper medical certification and otherwise qualifying as reasonable accommodation. Reasonable accommodation may also be provided for religious beliefs or practices, unless doing so would cause more than a minimal burden on operations.

Any job applicant or employee (including an unpaid intern) who requires an accommodation in order to participate in the application process or to perform the essential functions of the job
should contact the HR Director and discuss the need for an accommodation. First 5 LA will engage in an interactive process with the applicant or employee to identify possible accommodations, if any, that will help the applicant or employee participate in the application process or perform the job.

First 5 LA will not retaliate against an employee for requesting a reasonable accommodation and will not tolerate or permit retaliation by a manager or co-worker.

**Complaint Process**

If an employee believes that they have been the subject of harassment, discrimination, or retaliation, that employee should bring their complaint to their manager or to:

- The HR Director
- The Executive Director

as soon as possible after the incident. The employee can bring their complaint to any of these individuals. An employee is not required to complain first to an individual who is alleged to be engaging in the prohibited conduct, even if that person would be the appropriate initial contact in the chain of command. Instead, an employee may report the prohibited conduct to any of the individuals listed above. If an employee needs assistance with their complaint, or if the employee prefers to make a complaint in person, they should contact the HR Director. Complaints against an employee at a Director level or above should be made directly to the HR Director. If the HR Director is alleged to be involved, contact the Executive Director. If the Executive Director is alleged to be involved, contact the General Counsel.

Please provide all known details of the incident or incidents, names of individuals involved and names of any witnesses. It would be best for the employee to communicate their complaint in writing, but this is not mandatory. Anonymous and unwritten complaints will also be investigated to the extent possible based on the available information.

First 5 LA encourages all individuals to report any incidents of harassment, discrimination, or retaliation forbidden by this policy immediately so that complaints can be quickly and fairly resolved.

The employee should also be aware that the Federal Equal Employment Opportunity Commission and the California Department of Fair Employment and Housing investigate and prosecute complaints of prohibited harassment, discrimination and retaliation in employment. If an employee thinks they have been harassed or discriminated against or that they have been retaliated against for resisting, complaining or participating in an investigation, the employee may file a complaint with the appropriate agency. The nearest office can be found by visiting the agency websites at [www.eeoc.gov](http://www.eeoc.gov) and [www.dfeh.ca.gov](http://www.dfeh.ca.gov).

Managers (including directors and executives) must report all complaints involving harassment, discrimination, or retaliation immediately to the HR Director. Managers who are aware of situations or circumstances that may reasonably involve harassment, discrimination, or retaliation shall immediately report the situation or circumstances to the HR Director so that the matter can be investigated, a determination made and corrective action taken, if warranted.

When First 5 LA receives allegations of misconduct, it will immediately undertake a fair, timely, thorough and objective investigation of the allegations in accordance with all legal requirements. First 5 LA will reach reasonable conclusions based on the evidence collected. All complaints will
be investigated. The nature of the investigation will vary depending on the circumstances and the available information. The HR Director is responsible for assuring proper completion of the investigation, unless the Executive Director or General Counsel are designated to receive the complaint, in which case they will act as or designate a substitute. The HR Director may delegate any portion of the investigation to another employee or to an outside party, but will remain responsible for assuring proper and timely completion of the investigation. If the Executive Director or General Counsel is designated to receive the complaint, that person will be responsible for assuring proper and timely completion of the investigation but may delegate that responsibility in writing to a specific individual, with written acknowledgment from that individual.

First 5 LA will maintain confidentiality to the extent possible. However, First 5 LA cannot promise complete confidentiality. The employer's duty to investigate and take corrective action may require the disclosure of information to individuals with a need to know. The complainant and, if applicable, an accused employee will be advised of the results of the investigation. These employees are not entitled to copies of any notes or other written materials regarding the investigation, as these are confidential documents.

Complaints will be:

- Responded to in a timely manner
- Kept confidential to the extent possible
- Investigated impartially by qualified personnel in a timely manner
- Documented and tracked for reasonable progress
- Given appropriate options for remedial action and resolution
- Closed in a timely manner

If First 5 LA determines that harassment, discrimination, or retaliation has occurred, appropriate and effective corrective and remedial action will be taken in accordance with the circumstances involved. First 5 LA also will take appropriate action to deter future misconduct.

Any employee determined by First 5 LA to be responsible for harassment, discrimination, or retaliation will be subject to appropriate disciplinary action, up to, and including termination. All employees should also know that if they engage in unlawful harassment, they can be held personally liable for the misconduct.