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Advocacy Profession Code of Conduct

THE FORCE TO END HARASSMENT IN ADVOCACY ANTI-SEXUAL HARASSMENT RECOMMENDATIONS ADOPTED BY NILE 2020

The six leading professional government affairs industry groups have formed a diverse task force of leaders in the profession to develop a roadmap to protect professionals from sexual harassment at all levels of government and begin the process of changing the culture in Washington.

The groups, H Street, Hispanic Lobbyists Association, National Institute of Lobbying and Ethics (NILE), Q Street, the Washington Government Relations Group and Women in Government Relations, created *The Force to End Harassment in Advocacy (FEHA)* with a goal of creating adoptable guidelines, professional standards, and industry programs to support victims.

Ultimately, prevention is the key to eliminating sexual harassment in the workplace. Our **Advocacy Profession Code of Conduct** outlines our suggestions regarding a standard of behavior for advocacy professionals should exhibit towards their colleagues, supervisors and overall organization.

Our profession should promote free expression and open communication, and individual companies should expect their employees to follow company-specific codes of conduct. The lobbying profession should be leaders in fostering a well-organized, respectful and collaborative environment.

We offer the following guidance and recommendations as first steps to preventing and responding to harassment in the workplace. These guidelines should not be construed as legal advice but are provided to assist employers in creating policies and programs and to assist individuals in responding to harassing behavior. Always consult legal counsel as appropriate to ensure you understand your rights and responsibilities under the law.



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FEHA Recommended Code of Conduct for the Advocacy Profession

- All employees have the right to work in an environment that is safe and respectful, free from unsolicited and unwelcome comments or conduct.
- All related firms, companies, associations and all other entities undertaking advocacy activities have the responsibility to provide and maintain a respectful work environment free from discrimination, harassment, retaliation, bullying, and other offensive conduct in professional venues including the halls of government.
- Any employee who knows of violations of sexual harassment policy is strongly encouraged to take action.
- Taking action may include intervening, investigating, or reporting to an appropriate supervisor.
- Early reporting and intervention are an effective way to resolve incidents of prohibited conduct. Waiting to report an incident can affect the employer's ability to take appropriate action.
- Accordingly, reports of prohibited conduct should be made promptly after experiencing, observing, or learning of the conduct so that appropriate action can be taken.

IDENTIFYING SEXUAL HARASSMENT

SEXUAL HARASSMENT

According to the United States Equal Employment Opportunity Commission (EEOC), it is unlawful to harass a person (an applicant or employee) because of that person's sex.

Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.

Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general.

Both the victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex.



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Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a

hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, Member of Congress, journalist, association member, or a client.

QUID PRO QUO HARASSMENT

Quid pro quo harassment occurs when a job, promotion or other professional benefit is conditioned on the recipient's submission to sexual advances or other conduct based on sex, or such benefits are denied to an individual because they refused to participate in a romantic or sexual activity.

HOSTILE WORK ENVIRONMENT

This situation refers to unwelcome verbal, physical or visual conduct that is severe or pervasive, and which creates an intimidating, hostile, or offensive work environment or interferes with work performance. You may experience such sexual harassment even if the offensive conduct was not directed towards you.

Examples: Making sexually explicit or derogatory comments or jokes, out loud or via email; inappropriate touching or groping; visual conduct includes making sexually suggestive gestures or publicly displaying sexually suggestive or explicit images.

An individual's office is only one part of the work environment. The following are also examples of work environments for government relations professionals: Congressional office buildings, networking and fundraising events, receptions, or any out of office business gathering.

COMMON MISCONCEPTIONS ABOUT SEXUAL HARASSMENT

- A hug, kiss on the cheek, or casual touch is not necessarily sexual harassment. The key is whether the behavior was unwelcome or offensive.
- It does not matter if a person has sexual feelings towards the recipient, only that the behavior is of a sexual nature and that it was unwelcome and/or offensive.



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- Sexual harassment laws do not create a general “civility” code. Personality conflicts or non-sexual insensitive actions do not in and of themselves constitute sexual harassment.
- Sexual harassment is gender-neutral and orientation-neutral. It can be perpetrated by any gender against any gender.

RECOMMENDATIONS

Sexual harassment is a form of sex discrimination that is illegal under federal law (Title VII of the Civil Rights Act of 1964) and may violate individual state laws. The law requires employers to take action to ensure that no worker ever be subject to sexual harassment in the workplace. Employers must have a policy against sexual harassment and explain to employees the process for reporting and investigating complaints about harassment. Employer must also take prompt remedial action reasonably calculated to end the harassment if they knew or should have known it occurred.

The Force to End Harassment in Advocacy recommends:

First and foremost, firms, companies, associations and all other entities undertaking advocacy activities must comply with federal and state laws regarding harassment. If you are uncertain about the nature of the law, please consult with your in-house legal department (if you have one) or with an attorney. If you do not have access to such resources, contact one or more of the resources listed in Exhibit B.

Each firm or company provides in-person or online anti-sexual harassment training for all managers and team members. Effective training should not be simply focused on avoiding legal liability but must be part of a culture of respect that starts at the top. Such training takes different forms and styles; make certain that the training you utilize is tailored to your specific firm or company and its needs. Managers should ensure that the individual trainer has experience providing training in the area of sexual harassment laws and that all levels of management are present at the training in order to demonstrate the firm's commitment to the policy.

Continue to be vigilant in efforts to prevent sexual harassment. Consider taking steps to maintain awareness of harassment on an ongoing basis, such as periodically adding anti-sexual harassment information at staff meetings.

Offer reporting procedures that provide a range of methods, multiple points-of-contact, including contacts at different organizational levels and in different geographic workplaces (e.g., a firm or company with multiple locations), if applicable. We suggest **designating at least two**



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(2) **individuals**, ideally of different genders, that individuals can approach if they are subject to or witness harassment.

Reports of harassment are listened to with attention and empathy. If an individual reports an incident of harassment, assume the complainant is being sincere until further inquiry can be undertaken, while bearing in mind that the report itself does not predetermine guilt. Reassure the reporting party that the firm or company takes harassment very seriously and that s/he will face no retaliation for reporting. The firm or company should move quickly to address the

allegations or engage a third party to do so, allowing for as much transparency as can be provided.

Be alert for any possibility of retaliation against an employee who reports harassment and take steps to ensure that such retaliation does not occur. Retaliation is illegal, and it is a serious concern for individuals reporting harassment and can take many forms. Anyone making a complaint or participating in an investigation is protected against retaliation.

Unlawful retaliation may include:

- Reprimanding the employee or giving a performance evaluation that is lower than it should be;
- Transferring the employee to a less desirable position;
- Engaging in verbal or physical abuse;
- Threatening to make, or actually making reports to authorities (such as reporting immigration status or contacting the police);
- Threatening to blacklist you from the industry;
- Increasing scrutiny;
- Spreading false rumors or publicly defaming reputations;
- Treating a family member negatively (for example, canceling a contract with the employee's spouse);
- Making the employees work more difficult (for example, by purposefully changing the employee's work schedule to conflict with family responsibilities, another job, religious practices, or other commitments); and/or
- Demoting or terminating the employee.



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PROTOCOL FOR VICTIMS, WITNESSES, MANAGERS

A substantial body of law protects individuals from workplace harassment. The following recommendations are intended to supplement and facilitate observance of those laws.

- If you are (or believe yourself to be) the victim of a crime, ***contact the appropriate authorities immediately***. Be aware of the **statute of limitations** on filing a charge for acts of harassment or abuse in your state.
- **Create and maintain documents.** Make notes regarding any harassment you suffered or witnessed, or any conversation or exchange with the harasser, including dates, times, places, and the specific behavior(s) you felt to be harassment. Make such notes as soon as possible following any incident, while your memory is still fresh. Keep these notes (or copies thereof) in a place outside the workplace. If possible, send yourself or a trusted friend a time-stamped email containing all of the relevant information. Also, maintain any relevant texts, emails, pictures or other documentation.
- If the behavior is not a crime, and if you are comfortable doing so, **consider speaking to the offending person**. Be specific about the behavior that made you uncomfortable and try to communicate and help them understand what made you uncomfortable and/or feel unsafe. An example of what you may say is, “The comment you made to me the other day made me uncomfortable, and I am asking that you do not make similar comments to me in the future.”
- **Report the incident(s)** to one of the designated individuals within the firm or company. If that avenue is not available or for whatever reason feels unsafe, report the incident to the relevant HR department and/or seek the guidance of an attorney, if necessary. If you need to find resources, consult or refer to one of the resources, including Hotlines and administrative agencies, listed in Exhibit B, following these recommendations.
- If you are aware that a coworker is being harassed and does not feel comfortable speaking to the alleged offender, the manager needs to **step up on behalf of the team member**, engaging in a candid discussion with the person about the harassing speech or behavior and ensure that they understand that the behavior must stop immediately. The manager then should ensure that the allegations are further addressed as warranted.

These recommendations are only the first step in a long process of changing our professional culture. Under federal law, sexual harassment is a form of discrimination. Ultimately, an inclusive workplace helps protect against all forms of discrimination. We will see even more



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progress once boardrooms and corporations are balanced with gender and racially diverse leaders who will hire inclusive staff as a matter of standard practice. We look forward to refining these recommendations as new approaches are tested and new resources become available and will share our findings with the advocacy community.