

NVCA Sample Best Practices for Preventing and Addressing Sexual Harassment

Disclaimer: Please note that information contained in the sample best practices included here is provided for informational purposes only; it does not constitute legal advice and should not be treated as such.

Preface: The best practices included below focus on harassment and discrimination in venture capital firms, and are the work product of a coalition of venture capital firms, H.R. professionals, and legal/employment professionals. These best practices are not a replacement for and do not constitute a comprehensive set of H.R. best practices or policies or an employee handbook; these are best practices geared more towards addressing and preventing harassment and discrimination at venture capital firms.

Please check with counsel to ensure a full understanding of the laws applicable to your Company/Firm.

And, finally, we encourage venture capital firms to share these best practices with their portfolio companies as appropriate. Together, we can make a difference.

1. Policy – Formal Anti-Harassment Policy and Code of Conduct Policy

- State your organization’s position of intolerance for harassment or inappropriate behavior.
- Clearly articulate the different levels of “inappropriateness” with specific examples of sexual harassment of increasing severity:
 - Comments
 - Propositions/Invitations
 - Threats
 - Physical Moves
- The organization’s policy should apply to all persons involved in the operations of the organization including staff members, entrepreneurs, board members, portfolio company founders, clients, and vendors, and work out communication with those parties to ensure awareness.
- The policy should be broader than what’s required by law. Any finding should be a finding that the policy was violated, not state or federal law.
- Use a zero tolerance model to address all issues.
- Ensure that policy complies with your state’s regulations.
 - Note: Recent guidance from California’s Department of Fair Employment and Housing is available [here](#).
- This should be reviewed at least annually, and be an agenda item at least once a year at board meetings.
- Create a healthy work culture (remove anything offensive).

Resources from NVCA: [Sample H.R. Policies for Addressing Harassment & Discrimination](#) and [Sample Code of Conduct Policy](#)

2. Leadership

- Leaders at the organization must set the tone and example in order to create a culture which will not tolerate harassment, no double –standards (actual or perceived).
- Build a diverse workforce.

Resources from NVCA: [Sample H.R. Policies for Attracting & Retaining Diverse Talent; VentureForward blog series](#)

3. Accountability

- Prioritize and address any issues which arise promptly and completely to ensure individuals are held accountable.

4. Communication

- Communicate (particularly from leaders) regularly and often to reinforce the message of intolerance for sexual harassment, and also communicate that individuals can report suspected violations of the harassment policy without fear of retaliation.

- At least one in-person meeting on the policy with senior leadership present (then ensure the policy is sent out via email, is available on an intranet or other firm site, put it on display).

5. Reporting Process & Non-Retaliation

Create a safe channel for harassment reporting and clear steps for investigating and protecting complainants:

- For both staff and members of VC teams and also for portfolio company founders and leaders.
- Trusted and objective/neutral person – e.g. HR, Legal.
- Ensure multiple employees are empowered to receive a report of possible violations, and notify employees that they can make reports to whomever they wish.
- Remind supervisors and managers to report all complaints of sexual harassment regardless of the supervisor’s opinion of the weight of the report and even if the employee asks the supervisor not to tell anyone else.
- For organizations without sufficiently-trained internal sources, consider adopting a third-party hotline that lets employees anonymously report suspected behavior.
- Internal champion. Someone in the building to report to. Trusted advisor. He/she would need proper training when playing this role.
- Respond to all complaints. Investigations should be swift, fair, documented, thorough, and as confidential as possible.
- Strive for consistency and due process for all parties.
- Deliver and reinforce message of non-retaliation. Strive for confidentiality to protect the complainant first and foremost.
- Arrive at fair resolutions depending on the severity and pervasiveness of a violation of the harassment policy. Responses can range from additional training to termination of employment.
- No retaliation for good faith complaints of sexual harassment, even if the complaint is not validated or verified.
- Know when to call employment counsel.

Resources from NVCA: [Sample H.R. Policies for Addressing Harassment & Discrimination](#); [Sample Code of Conduct Policy](#); contact NVCA (ventureforward@nvca.org) for potential third-party reporting options.

6. Training

Training for Venture Capital Firms and Founders on How to Identify and Report Harassment

- Based on the state where you are located, determine which statutory requirements exist for Harassment Prevention Training.
- Training should be values driven with complete support from the most senior leaders, founders, CEO, or it will not be impactful.

- An option would be to blend the learning methodology with an online component and in-person lunch & learn forum.
- There are numerous online and in-person training solutions already created so there is no need to go out and create your own. If you do deliver an in-person session, then you would want to speak to the trainer prior to the session to ensure alignment around business practices, unique sayings, acronyms or verbiage.
 - Note: this training is mandatory in California once a company has 50 employees (employee count includes part-time and full-time employees, as well as employees located outside of California).
- Develop one training product for one experience. Suggested outcomes:
 1. Understand the company's role and yours in mitigating and preventing discrimination, harassment & workplace violence.
 2. Be aware of legislation and court decisions that address discrimination, harassment, & workplace violence.
 3. Appreciate the complexity and the costs — both monetary and emotional — of discrimination, harassment & workplace violence.
 4. Recognize warning signs and risk factors for harassment, discrimination, and workplace violence.
 5. Understand your role in responding to cases of discrimination, harassment, & workplace violence, in accordance with your company's policies and procedures.
- As an enhancement, supplement with additional training addressing creating a more inclusive culture; bullying; one that explores the impact of the neuroscience of unconscious bias, and related dynamics of 'covering', 'in-group versus out-group' behavior and power, and 'intersectionality'.

Resources from NVCA: Contact NVCA (ventureforward@nvca.org) for potential third-party education and training resources.

7. Reinforcement

Build Cross Functional "Culture" Team to Keep the "Pulse" on the Firm Internally and Externally

- Focus on values, norms, and more specifically opportunities gained from inclusion and diversity (avoid unconscious bias).
- For this committee to have merit, it must be comprised of respected senior leadership.
- Can conduct surveys of firm itself and/or can be extended to surveying portfolio company founders and entrepreneurs.