

To: NVCA, HR Policy Subcommittee
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Re: Human Resources (H.R.) Anti-Harassment and Discrimination Policies

**National Venture Capital Association
Sample H.R. Policies for Addressing Harassment and Discrimination**

Disclaimer: Please note that information contained in the sample policies included here is provided for informational purposes only; it does not constitute legal advice and should not be treated as such. Organizations referring to these sample policies should consult legal counsel for advice on implementing these policies. Language highlighted in yellow indicates where a firm may add its own preferred language or remove the section, so as to allow greater flexibility and to demonstrate areas where policies can be tailored to a firm's needs or preferences. Of course, a firm should feel free to make any other language changes that are appropriate for their business as well.

Preface:

The sample policies included in this memo focus on harassment and discrimination in venture capital firms. **These policies are not a replacement for and do not constitute a comprehensive set of H.R. policies or an employee handbook; these are policies geared more towards addressing and preventing harassment and discrimination at venture capital firms.**

Some of these example policies will be mandated and legally required depending upon such variables as geography and firm size. Others are ideas for possible incorporation to support the prevention of harassment and discrimination. Please check with counsel to ensure a full understanding of the laws applicable to your Firm.

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

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I. Mission Statement

At our Firm we are committed to [building a workplace][creating a work environment] in which everyone is empowered to develop, to contribute, and to succeed. As a Firm, we do not tolerate harassment and discrimination. Creating an inclusive environment where employees feel comfortable, safe, and free from inappropriate and disrespectful conduct is one of our core values.

This policy, as well as other Firm policies or practices, are not an express or implied contract, bargain, or agreement, nor do they confer any contractual rights whatsoever or guarantee your employment with the Firm for any specific duration.

This policy applies to all employees regardless of the date of hire.

II. Non-Discrimination Policy

We are committed to maintaining a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities in all aspects of employment and personnel matters (including, without limitation, recruiting and hiring, job assignment, compensation, opportunities for advancement (including promotion and transfers), evaluation, benefits, training, discipline, and termination), and prohibits discriminatory practices, including harassment. This policy applies to unlawful conduct by supervisors, co-workers, and third parties.

We expect that all relationships among persons in the workplace will be free of unlawful bias, prejudice and harassment. Therefore, it is the Firm's policy to ensure equal employment opportunity without discrimination or harassment on the basis of race; color; religion or creed; sex or gender (including pregnancy, childbirth, breastfeeding or related medical conditions); age; physical or mental disability; medical condition; military or veteran status; national origin or ancestry; citizenship status; genetic information; [marital and partnership status; sexual orientation; gender identity or expression; credit history; unemployment; status as a victim of domestic violence, stalking or sex offenses; height; weight; arrest or conviction record; affiliation with a spouse or domestic partner falling within the protected categories of this policy];¹ or any other characteristic protected by law. We also prohibit discrimination 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.

¹ The highlighted characteristics are protected under the laws of some cities and/or states. Exceptions may apply. Firms should contact local counsel to see which protections are necessary for their jurisdiction.

III. Anti-Harassment Policy²

Policy Statement

The Firm is committed to maintaining a workplace free from unlawful harassment of any kind (such as oral, written, visual, or electronic) for any reason, including sexual harassment and other unlawful harassment on the basis of race; color; religion or creed; sex or gender (including pregnancy, childbirth, breastfeeding or related medical conditions); age; physical or mental disability; medical condition; military or veteran status; national origin or ancestry; citizenship status; genetic information; [marital and partnership status; sexual orientation; gender identity or expression; credit history; unemployment; status as a victim of domestic violence, stalking or sex offenses; height; weight; arrest or conviction record; affiliation with a spouse or domestic partner falling within the protected categories of this policy;]³ or any other characteristic protected by applicable state or federal laws. Without limitation, this policy governs conduct both in the workplace and at any other location where a Firm-sponsored event takes place.

Sexual or other unlawful harassment, whether committed by or against principals, senior executives, partners, venture partners, management, supervisors, fellow employees, temporary employees, and/or independent contractors is strictly prohibited. The Firm also will not tolerate sexual or other unlawful harassment committed by or against Firm investors, individuals at portfolio companies, entrepreneurs who may be seeking funding, clients, service providers, vendors, or suppliers. [Firms can tailor the list of covered individuals based upon their particular organization structure, third-party relationships, etc.]

Behavior of the kind described below is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings, and business-related social events.

Definition of Prohibited Conduct

Sexual Harassment: Sexual harassment means harassment based on someone's sex or gender and is prohibited under this policy. Unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature may constitute sexual harassment when:

- Submission to or rejection of such advances, requests, or conduct is made either explicitly or implicitly a term or condition of the individual's employment;
- Submission to or rejection of such advances, requests, or conduct is used either explicitly or implicitly as a basis for employment or compensation decisions affecting the individual; or

² CA employees should receive the following state anti-harassment pamphlet: <https://dfeh.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-185-ENG.pdf>. This should be distributed to all current CA employees (if not already provided), as well as subsequent CA new hires.

³ The highlighted characteristics are protected under the laws of some cities and/or states. Exceptions may apply. Firms should contact local counsel to see which protections are necessary for their jurisdiction.

- Such advances, requests, or conduct have the purpose or effect of unreasonably interfering with an individual’s work performance by creating an intimidating, hostile, humiliating, or sexually offensive work environment.

While it is difficult to define precisely what types of conduct might constitute sexual harassment, examples of prohibited behavior include, without limitation, unwelcome sexual advances, requests for sexual favors, obscene gestures, displaying sexually graphic materials, sending sexually explicit email or voicemail, and other unwelcome verbal or physical conduct of a sexual nature, such as uninvited touching of a sexual nature or sexually related comments. Depending upon the circumstances, such conduct also can include sexual or offensive conversation or joking, commenting about an employee’s or another individual’s physical appearance, conversation about one’s own or someone else’s sex life, teasing, or other conduct directed toward a person because of his or her gender which is sufficiently severe or pervasive to create a hostile work environment.

Sexual harassment includes harassment of women by men, of men by women, and same sex gender-based harassment.

Other Harassment: It also is difficult to define precisely what conduct constitutes “other harassment.” However, prohibited conduct includes slurs or epithets, threats, derogatory comments, unwelcome jokes, teasing, touching, abusing, and other kinds of verbal or physical conduct that is based upon race; color; religion or creed; sex or gender (including pregnancy, childbirth, breastfeeding or related medical conditions); age; physical or mental disability; medical condition; military or veteran status; national origin or ancestry; citizenship status; genetic information; [marital and partnership status; sexual orientation; gender identity or expression; credit history; unemployment; status as a victim of domestic violence, stalking or sex offenses; height; weight; arrest or conviction record; affiliation with a spouse or domestic partner falling within the protected categories of this policy;]⁴ or any other characteristic protected by applicable state or federal laws.

[OPTIONAL: **Consensual Relationships:** Employees who are managers or have supervisory responsibility may not have a dating or sexual relationship with any employee to whom they assign work, directly supervise, or whose employment or compensation decisions they influence, without both parties promptly advising Human Resources of such a relationship, so that appropriate assurances/arrangements can be made to assure mutual consent and no adverse impact or favoritism in the workplace. Furthermore, employees should understand that there may be situations where it is determined that no such appropriate arrangements can be made and, therefore, employment decisions may need to be made if the relationship in question is to continue. Should a conflict arise, at the discretion of the Firm, individuals will be given the opportunity to decide who is to be transferred to another available position. If no decision can be reached by the individuals themselves within the timeframe set by the Firm, management will decide who is to transfer or, if necessary, terminated from employment.]

Complaint Procedure & Investigation

⁴ The highlighted characteristics are protected under the laws of some cities and/or states. Exceptions may apply. Firms should contact local counsel to see which protections are necessary for their jurisdiction.

If you believe that you have been subjected to sexual harassment, other unlawful harassment, or discrimination, or have witnessed or otherwise become aware of such an incident, and if you are comfortable doing so, you should consider making it clear to the offender that such behavior is offensive. You are not, however, required to confront the offender. In either instance, you should immediately report the incident to your immediate supervisor, Human Resources, _____, or _____ (“Designated Reporting Representative”). Individuals should not feel obligated to speak with or otherwise confront the offender before bringing the matter to the attention of a Designated Reporting Representative.

For the Firm to be able to remedy alleged unlawful harassment, it is imperative that claims be brought promptly to the attention of Human Resources, _____ or _____. Failure to report claims of unlawful harassment hampers the Firm’s ability to take necessary steps to remedy such situations. [MANDATORY IN CALIFORNIA AND NEW YORK, BUT RECOMMENDED IN OTHER JURISDICTIONS: Principals, venture partners, partners, senior executives, managers and supervisors must report all instances or complaints of discrimination and harassment of which they become aware—even if they did not personally experience or observe the discrimination or harassment.]

A complaint of alleged sexual or other harassment and discrimination will be addressed promptly. [MANDATORY IN CALIFORNIA, BUT RECOMMENDED IN OTHER JURISDICTIONS: “... addressed promptly, impartially, and thoroughly by qualified personnel.”] Once a complaint is received, the Firm will be responsible for investigating the complaint as it considers appropriate. An investigation may include interviews with the complainant, the alleged offender, and any other persons the Firm deems appropriate. Relevant documents may also be reviewed. Employees are required to cooperate in all investigations. The Firm will endeavor to maintain confidentiality to the extent practicable, but confidentiality cannot be guaranteed.

Policy violations will result in appropriate disciplinary action, which may include termination of employment. [OPTIONAL: After reporting the results of the investigation and, if an individual remains unsatisfied after the investigation is complete, the individual may direct a written request for review to the Firm’s General Counsel, CFO, COO or any member of the Firm’s management team, which may, if it deems appropriate in its reasonable discretion, direct or conduct an independent investigation concerning the complaint.]

Prohibition Against Retaliation

The Firm prohibits any form of retaliation against individuals who in good faith report allegations of unlawful harassment to a Designated Reporting Representative. Conversely, a report made in bad faith will subject the reporting individual to corrective action, up to and including termination.

[OPTIONAL: This policy should not, and may not, be used as a basis for excluding or separating individuals of a particular sex or gender, or any other protected characteristic, from participating in business or work-related social activities or discussions in order to avoid allegations of harassment. The law and Firm policies prohibit disparate treatment on the basis of sex or any other protected characteristic with regard to terms, conditions, privileges and perquisites of

employment. The prohibitions against harassment, discrimination and retaliation are intended to complement and further these policies, not to form the basis of an exception to them.]

Any form of retaliation in violation of this policy will result in disciplinary action, up to and including termination. Acts of retaliation should be reported immediately to a Designated Reporting Representative so that they may be properly investigated and addressed.

Additional Enforcement Information

Employees should also be aware that the federal Equal Employment Opportunity Commission (EEOC) and your state's employment agency investigate and prosecute complaints of harassment and discrimination in employment. You may contact the EEOC and your state's agency directly and file a complaint. Contact information is as follows:

[PLACEHOLDER: Firm to provide contact details for local government employment agency here.]

EXAMPLE:

EEOC –San Francisco District Office

901 Market Street, Suite 500

San Francisco, CA 94103-1782

Website: www.eeoc.gov

Phone: 415-356-5100

1-800-669-4000

1-800-669-6820 (TTY)

CERTIFICATION

I have read and understand the Firm's policy against Harassment and Discrimination.

Name: _____

Signature: _____

Date: _____