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## Must Have Employment Policies for California Nonprofits

Most nonprofits are proud to focus on achieving their do-good mission. But because nonprofits, like all organizations and corporations, are run by employees, nonprofits must also comply with many employment laws. Employees in California have specific rights, and employers are affirmatively obligated to notify employees of many of those rights, responsibilities, and benefits. A good way to do so is through an employee handbook. The handbook should reflect the nonprofit's philosophy, values, and culture, but also notify employees of key employment policies. While employee handbooks can contain numerous policies, here are 10 essential must-have policies for California nonprofits:

### 1. Equal Employment Opportunity Statement

All nonprofits should have an equal employment opportunity policy that makes a strong statement against all forms of discrimination based on all protected classifications. California's current list of protected classifications is: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or the veteran or military status of any person. The policy should state that the nonprofit is an equal employment opportunity employer and makes employment decisions based on merit, qualifications and competence. This policy is required by Title VII of the federal Civil Rights Act and California's Fair Employment and Housing Act (FEHA).

### 2. Policy Prohibiting Harassment, Discrimination, and Retaliation

California nonprofits are required to develop and enforce harassment, discrimination, and retaliation prevention policies under the FEHA and Title VII. These policies must: explain what conduct is prohibited; provide a procedure for employees to bring complaints; and require that complaints be investigated. In addition, employers are also obligated to show that they have trained employees regarding these policies and that employees have received these policies.

### 3. Reasonable Accommodations

California nonprofits are required to provide reasonable accommodations to disabled employees under the Americans with Disabilities Act and FEHA. This policy should: explain how employees can request reasonable accommodation; describe the non-profit's right to

reasonable documentation regarding the existence of the disability and work limitations; and describe how the employer will respond to the request with an interactive process to brainstorm possible ways the employer might accommodate the employee's limitations. The employer must consider the preference of the employee to be accommodated, but has the right to select and implement an accommodation that is effective for both the employee and the employer.

#### 4. Leave Policies, including Paid Sick Leave

Employees in California have rights to numerous types of leaves. California law provides employees with job-protected leaves of absence when they meet certain eligibility requirements. Employers need to keep these policies up to date and distribute them to employees so they are aware of their rights and benefits. These leaves include: Family Medical Leave (FMLA/CFRA); Pregnancy Disability Leave; Jury Duty/Witness Leave; Military Leave; Time off for Voting; School Activities Leave; Victims of Crime Leave; Victims of Sexual Assault, Stalking, and Domestic Violence Leave; Organ and Bone Marrow Donation Leave; and COVID-19 Supplemental Paid Sick Leave. In addition, California employers must have a paid sick leave policy that complies with the California Paid Sick Leave law. Note that some cities have additional sick leave ordinances that can impact these policies.

#### 5. Lactation Accommodation

California Labor Code 1034 requires employers to implement and distribute a policy on lactation accommodations. The policy must explain: the procedure for an employee to request break time to express breast milk; and the employer's obligation to provide a private room other than a bathroom to do so. The policy must also include a statement about an employee's right to file a complaint with the Labor Commissioner for violations.

#### 6. At-Will Employment

Although the presumption is employment at-will in California, it is strongly recommended that California employers, including nonprofits, provide a statement in their employee handbook affirming that all employees are at-will unless otherwise stated in an employment contract signed by the employee and head of the nonprofit.

#### 7. Standards of Conduct

While not legally mandated, it is recommended that all employers maintain a policy that describes the standards of workplace conduct, and how violations of those standards could subject employees to discipline and termination. The policy should put employees on notice of prohibited conduct, such as: not performing job duties to expectations; excessive use of technology and electronic communications resources; insubordination; or criminal conduct adversely affecting an employee's credibility or reputation or the nonprofit's reputation.

## 8. Overtime Policy

Employers, including nonprofits, are required to comply with state and federal wage and hour laws. Employees who are not exempt from overtime requirements under these laws must be paid overtime (1.5 times their regular rate of pay) for all hours worked over 8 hours in a day and 40 in a week. In addition, employees must receive double overtime (2 times their regular rate of pay) for hours worked over 12 hours in a day. The overtime policy should state: overtime eligible employees must receive advance permission to work overtime; take meal and breaks as required by law; and report all hours worked. Employers can be subject to strict penalties for failing to pay overtime, so this is an essential policy for nonprofits to have and enforce. LCW can assist nonprofits in determining which employees are exempt from overtime requirements.

## 9. Technology and Facilities Use Policies

As we increasingly rely upon technology, including to work remotely, nonprofits should develop policies governing the use of their technology and electronic resources. The policy should state that the nonprofit has the right to search its property, including electronic resources, at any time, and that employees do not have an expectation of privacy in information transmitted through the non-profit's electronic resources. The policy should also explain prohibited conduct, such as: not disclosing confidential information; not downloading unauthorized software or malware; and not using social media during work time.

## 10. Conflicts of Interest

Nonprofit employers should consider implementing a conflicts of interest policy to prevent and address potential conflict situations. The policy can be tailored to the nonprofit's practices and standards. For example, the nonprofit may want to require employees to obtain approval for outside employment to ensure that outside employment is compatible with the nonprofit's mission.

There are many other helpful policies for nonprofits in California to include in their employee handbooks. While it can seem daunting and burdensome to develop these policies, having these policies in place helps ensure the nonprofit is complying with its legal obligations while also notifying employees of their rights and obligations. With these key employment policies in place, nonprofits can better focus on their do-good mission. LCW attorneys are available to assist nonprofit employers in developing these employment policies and updating and creating employee handbooks.

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Associates Casey Williams and Yesenia Z. Carrillo authored the Nonprofit PRO article titled “5 Tips for Nonprofit Leaders to Avoid Claims of Wrongful Termination” which discusses best practices for nonprofits to terminate employees to avoid wrongful termination claims.

The article advises that nonprofits:

- Not act impulsively;
- Follow all applicable policies and contractual requirements precisely;
- Review the employee’s file prior to termination and to know all of the facts;
- Cautiously consider the reason for termination; and
- Consider offering the employee severance in exchange for signing a release.

You can read the article in its entirety by visiting this [page](#).

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