

2019 STATE OF CALIFORNIA LABOR LAWS



LEAVES OF ABSENCE AND BENEFITS

Paid Family Leave

SB 1123: Expanded State-Paid Family Leave Benefits for Military Families (SB 1123): Beginning January 1, 2021, eligible employees are entitled to state-paid family leave benefits for time off to attend to a "qualifying exigency" related to the covered active duty of the employee's spouse, domestic partner, parent, or child in the armed forces. (See Unemp. Ins. Code §§ 3301, 3302.1, 3302.2, 3303, 3303.1, 3307.)

Lactation Accommodation

AB 1976: Employers must provide a space other than a bathroom and "in close proximity to the employee's work area," to express breast milk. AB 1976 authorizes a temporary lactation location if certain conditions are met and provides a narrow hardship exemption. (See Lab. Code § 1031.)



HIRING PRACTICES

Salary History

AB 2282 is follow-up and clarifying legislation to AB 168, signed in 2017. Clarifies that prior salary history shall not justify any disparity in compensation, and an employer shall not pay any employee at wage rates less than the rates paid to other employees for substantially similar work. The employer must demonstrate that any wage differential is based on one or more factors that include: a seniority system, a merit system, or a system that measures earnings by quantity or quality of production.

Criminal Background Checks

SB 1412 would require employers to consider only a "particular conviction" (as defined by the bill) relevant to the job when screening applicants using a criminal background check.



WAGE AND HOUR

Copies of Payroll Records

SB 1252 Employer Must Pay for Requested Copies Of Pay Statements: SB 1252 provides that employees have the "right to receive" a copy of their wage statements upon request. Employers may not require employees to make or pay for copies of their payroll records themselves. (See Lab. Code § 226.)

Minimum Wage

Effective January 1, 2019, employers will be required to comply with phase-in requirements of previously enacted legislation for minimum wage increases to \$11/hour for employers with 25 or fewer employees, and \$12/hour for employers with 26 or more employees. In addition, 2019 phase-in requirements for agricultural employee overtime for employers with 26 or more employees will now require overtime payment (1.5 times the regular rate) when an employee works more than 9.5 hours per day, or works more than 55 hours per week.



LIABILITY

Labor-Related Liabilities - Direct Contractor

AB 1565: Last year's AB 1701 imposed liability onto the general contractor for any unpaid wages, benefits or contributions. AB 1565 removes a provision placed into the Labor Code by AB 1701.



WORKPLACE HEALTH/SAFETY

Workplace Injury

Beginning January 1, 2019 Cal/OSHA has authority to issue citations for recordkeeping violations that exist during the entire five-year record keeping retention period.



DISCRIMINATION HARASSMENT AND RETALIATION LAWS

Harassment - Defamation Protection

AB 2770 Sponsored by the California Chamber of Commerce to codify California case law related to workplace sexual harassment to provide defamation protection for employers and employees. Employees who report sexual harassment to their employer are not liable for any resulting injury to the alleged harasser's reputation if the communication is made based on credible evidence and without malice. Former employers are not liable for any resulting injury to a former employee's reputation if, in response to inquiries from prospective employers, the former employer indicates they would not rehire the former employee based on a determination that the former employee engaged in sexual harassment, and the statement is made without malice.

Confidentiality Clauses in Settlement Agreements

SB 820 Settlement agreements may not include provisions that prevent disclosure of factual information related to a claim of sexual assault, sexual harassment, sex discrimination, or retaliation, which is filed in a civil or administrative action. The agreement may preclude disclosure of the amount paid in settlement. SB 820 also allows claimants' identities, and facts that could reveal their identities, to be protected if the claimant requests anonymity, except if a government agency or public official is a party to the settlement agreement. (See Code of Civ. Proc. § 1001.)

Waivers of Right to Testify

AB 3109 Ban on Waivers of Right to Testify About Alleged Sexual Harassment or Criminal Conduct: Any contract or settlement agreement provision that waives a party's right to testify in an administrative, legislative, or judicial proceeding concerning alleged criminal conduct or sexual harassment is unenforceable. (See Civ. Code §1670.11.)

Gender Representation on Board of Directors

Any publicly held corporation with principal executive offices in California will be required to place at least one female director on its board by December 31, 2019



WORKPLACE SEXUAL HARASSMENT

Sexual Harassment Training

SB 1343 Expands upon existing training requirements for sexual harassment prevention in the workplace to now include all employees and applies to smaller employers with five or more employees, including temporary and seasonal workers. Within six months of hiring, employers are now required to provide at least two hours of sexual harassment training to all supervisory employees, and at least one hour of training to all non-supervisory employees by January 1, 2020, and once every two years thereafter.

Sexual Harassment

SB 1300 a) Employers may not require employees to sign, in exchange for a raise or bonus, or as a condition of employment: (1) a release of Fair Employment and Housing Act (FEHA) claims or (2) documents prohibiting disclosure of unlawful acts in the workplace, including non-disparagement agreements. This provision does not apply to negotiated settlement agreements.

(b) Prevailing defendants will not be awarded attorney's fees and costs in FEHA litigation, unless the court finds the action was frivolous, unreasonable, or groundless when brought or that the plaintiff continued to litigate after it clearly became so.

(c) Employers may (but are not required to) provide "bystander intervention training" to employees, which includes information and practical guidance on how to recognize potentially problematic behaviors and to motivate bystanders to take action when they observe problematic behaviors. (See Gov't Code §§ 12940, 12965, 12923, 12950.2, and 12964.5.)

Professional Relationship

SB 224 Expanded Liability for Sexual Harassment in Business, Service or Professional Relationships: "Investors, elected officials, lobbyists, directors and producers" have been added to the list of persons who may be held personally liable for sexual harassment in "business, service or professional" relationships. (See Civ. Code § 51.9; Gov't Code §§ 12930, 12948.)