

California Employers Faced Two April 1 Deadlines

By John Garner

Employers with five or more employees in California must comply with the PDL requirements. The new PDL poster is available [here](#). Electronic posting is adequate if the notice is posted in a conspicuous place where employees would tend to view it while working. This notice should also be given as soon as practicable to an employee who discloses that she is pregnant.

This would be a good time to review all employment-related posters and notices. Here is a [link](#) to the posters required by the California Department of Fair Employment and Housing.

The other deadline is required by new regulations from California's Fair Employment and Housing Council. These regulations state that employers have an affirmative duty to create a workplace environment that is free from employment practices prohibited by the Fair Employment and Housing Act (FEHA).

These regulations require employers with five or more employees in California to have a written policy against unlawful harassment, discrimination and retaliation in the workplace. The written policy must contain the following provisions:

- The policy must list all of the protected categories under FEHA: race, religion, color, national origin, ancestry, physical and/or mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, military and/or veteran status.
- The policy must prohibit unlawful harassment, discrimination and retaliation by supervisors, managers and co-workers, as well as by third-parties (e.g., vendors or customers).

- The policy must include information about the complaint process. Employees must be informed that they can complain either to their manager or via an alternative method of reporting complaints, which can be to Human Resources or a neutral manager or supervisor, to a complaint hotline, to a designated ombudsperson or to agencies such as the Department of Fair Employment and Housing or the Equal Employment Opportunity Commission. The written policy must include statements regarding the extent to which a complaint or investigation will be kept confidential; a timely response to complaints; a timely and impartial investigation by a qualified person; documentation and tracking for reasonable progress; appropriate due process; a reasonable conclusion based on the evidence collected, appropriate options for remedial actions; and resolutions and timely closure. The policy must direct supervisors to report any complaints of violations to Human Resources or another person in the company so that a prompt internal investigation can occur. The policy must specify that anyone who complains of violations will not suffer any retaliation for bringing a complaint or participating in an investigation.

Employers must provide employees with a copy of the written policy. It can be provided via email if a tracking system ensures employees read and acknowledge the policy. Employers can discuss the policy at hire or during a new hire orientation session. If the workforce at any location has 10 percent or more of the employees who speak a language other than English, the policy must be translated into that language(s).

If an employee brings a claim of harassment, discrimination or retaliation, an employer may be subject to damages for failure to maintain a compliant policy.

California employers should consult with legal counsel to ensure that policies are compliant with the latest regulations.



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