

## Are Your Policies in Compliance with California's New Fair Employment Regulations?



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The California Fair Employment and Housing Council ("FEHC") recently issued new anti-discrimination and anti-harassment regulations that apply to most employers with employees in California effective April 1, 2016. These regulations not only expand the number of employers covered by the Fair Employment and Housing Act ("FEHA"), but they mandate such employers have a harassment, discrimination and retaliation prevention policy that:

1. is in writing;
2. lists all current protected categories covered under the FEHA;
3. that the law prohibits coworkers and third parties, as well as supervisors and managers, with whom the employee comes into contact from engaging in conduct prohibited by the FEHA;
4. creates a complaint process to ensure that complaints receive: (a) an employer's designation of confidentiality to the extent possible; (b) a timely response; (c) impartial and timely investigations by qualified personnel; (d) documentation and tracking for reasonable progress; (e) appropriate options for remediation actions and resolutions; and (f) timely closures;
5. provides a complaint mechanism that does not require an employee to complain directly to his or her immediate supervisor;
6. supervisors to report any complaints of misconduct to a designated company representative so that the company can try to resolve the claim internally;
7. that an employer will conduct a fair, timely and thorough investigation that provides all parties due process and reaches reasonable conclusions based on the evidence collected;
8. states that confidentiality will be kept by the employer to the extent possible, but not indicate that the investigation will be completely confidential;
9. that if at the end of the investigation misconduct is found that remedial measures shall be taken; and

10. makes clear that employees shall not be exposed to retaliation as a result of a complaint or participating in any workplace investigation. In addition, this policy must be disseminated to employees in a manner where receipt is acknowledged.

The FEHC regulations also revise many provisions related to Pregnancy Disability Leave, including imposing a mandatory requirement that employers who publish an employee handbook that describes other kinds of reasonable accommodation, transfers or temporary disability leaves available to its employees include a description of reasonable accommodation, transfer and pregnancy disability leave in the next edition of its handbook that it publishes after April 1, 2016. In the alternative, the employer may distribute to its employees a copy of its required notice of employee rights to Pregnancy Disability Leave at least annually. Please note that the form Notice B has been deleted from the FEHC regulations.

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