

November 2018: Newsletter



2019 HR Alerts: Empowering Your People

The coming of a new year means the coming of new California employment laws! As always, Leap Solutions is at the ready to guide you through changes that could impact your organization, your employees and your bottom line in 2019.



Mandatory Sexual Harassment Training

Senate Bill 1343 requires employers of five or more employees (including seasonal and temporary employees) to provide certain sexual harassment prevention training by January 1, 2020. Within six months of assuming a position (and once every two years thereafter), all supervisors must receive at least two hours of training, and all nonsupervisory employees must receive at least one hour of training. For seasonal or temporary employees who will work for fewer than six months, the training needs to take place within 30 calendar days of hire date or within 100 hours worked (whichever is earlier).

What this could mean for you: While this bill won't be in effect until January 2020, employers should implement the required trainings in 2019 in order to be compliant by that date. In light of the #MeToo movement, there's no better time than now to protect your company and your employees by doing everything you can to create a harassment-free work environment. There's also no better time to move on from anti-harassment trainings of the past—ones that focused on avoiding legal liability—in favor of modern, more effective trainings that aim to reduce and prevent workplace harassment altogether. Strong facilitators will tailor new training approaches, including bystander intervention and civility training, to meet the varying needs of your specific workplace and your unique employees.



Protection Against Defamation

Effective January 1, 2019, Assembly Bill 2770 protects employers and sexual harassment victims from being sued for defamation by an alleged harasser (who, in the past, could claim injury to reputation). Complaints of sexual harassment by an employee, without malice and based on credible evidence, as well as any communications between an employer and interested persons regarding complaints, will be considered privileged and therefore protected from civil action. The bill further authorizes an employer to answer an inquiry from a prospective employer (such as during a reference check), again without malice and based on credible evidence, about whether the employer would rehire the employee and whether a decision to not rehire is based on the employer's determination that the former employee engaged in sexual harassment.

What this could mean for you: Surely prompted by the #MeToo movement, protections like these exist to support victims in speaking out and allow employees to investigate claims without fear of liability. This is an ideal time to review and update your employee handbook and all written harassment and retaliation policies and be sure you're consistently and regularly communicating these protections to all employees. It's also appropriate to incorporate these policies into your sexual harassment prevention trainings. When you're conducting a reference check on a potential new hire, consider asking whether the former or current employer would rehire the applicant and whether a decision not to rehire is based on the determination that the applicant engaged in sexual harassment. When answering the same question from another employer, however, be cognizant of the fact that this new law is non-specific about what—if any—detail you can safely provide about an alleged harassment.

Gender Options

Senate Bill 179 allows California residents to choose from three equally recognized gender options: female, male and nonbinary on birth certificates (effective September 1, 2018) and state-issued identification cards and driver's licenses (effective January 1, 2019).

What this could mean for you: For employers, we advise using nonbinary, gender-neutral language on employment applications, employee handbooks and all other written materials. You want to honor an employee's chosen name, gender identification and/or use of pronouns as well incorporate information on gender identity, gender expression and sexual orientation into sexual harassment prevention trainings. You'll also want to respect an employee's use of facilities that best correspond to their gender identity or expression.



Lactation Accommodation

Effective January 1, 2019, Assembly Bill 1976 requires employers to provide a location other than a bathroom (previously other than a toilet stall) for an employee to express breast milk. The location must be private and in close proximity to the employee's work area. Ideally the location will be a permanent one, but it can be temporary provided it meets certain outlined conditions.

What this could mean for you: If you've designated a bathroom area for an employee to express milk, you'll need to provide a new accommodation that satisfies the law's requirements. However, the bill does include an exemption whereby an employer who can demonstrate an undue hardship to find such a location (due to the size, nature or structure of the business) will be required to make reasonable efforts to find a suitable location other than a toilet stall for an employee to privately express milk. The bill also contains a provision for agricultural employers to comply by allowing an employee to use the air-conditioned cab of a tractor or truck for expressing milk.

Salary History

Assembly Bill 2282 amends and clarifies ambiguities in last year's Assembly Bill 168. Going forward, employers may inquire about an applicant's salary expectations for a position, and employers need only provide a pay scale upon request to an external applicant—not a current employee/internal candidate seeking promotion or lateral transfer—when that applicant has already completed an initial interview.

What this could mean for you: This bill addresses pay inequalities and serves as a reminder of the importance of conducting a market-based compensation analysis to ensure that you're paying your employees fairly and competitively. Leap Solutions Group can help you determine your compensation formula based on job, region, function and industry and develop or update pay scales and clear job descriptions.



Don't Forget!

January 1, 2019 also brings another increase in hourly minimum wage: for California employers with 25 or fewer employees, minimum wage will be \$11.00 per hour; for those with 26 or more employees, minimum wage will be \$12.00 per hour.

Looking Forward

The bulk of California's new employment laws reflect a larger trend—a movement toward greater awareness, tolerance and respect in the workplace. It's clear that in coming years, we'll only see greater legal protections for all classes and characteristics (including race, national origin, sex, gender identity, gender expression and transgender status). Proactive employers will choose to strengthen your commitment now to fostering a work environment that is not only current and compliant, but one that is inclusive, validating and forward-looking.

Whether you want to offer compelling sexual harassment prevention trainings to your employees, refresh your employee handbook with nonbinary, gender-neutral language or conduct a thorough, market-based compensation analysis, the HR professionals at Leap Solutions can help. We've got the expertise, tools and resources to steer your organization confidently through ever-changing legislation and empower your people to thrive.

Are you ready to Leap?



Copyright © 2018 Leap Solutions Group, Inc., All rights reserved.

Thank you for subscribing to our Leap Solutions newsletter.

Our mailing address is:

1400 North Dutton Avenue, #15 Santa Rosa, CA 95401

707-527-0969