

CLIENT NEWS BRIEF

Employers Subject to New FEHA Regulations on Anti-Harassment Policies, Training, and Notice

Effective April 1, 2016, California employers are subject to new regulations under the California Fair Employment and Housing Act (FEHA), which prohibits workplace discrimination and harassment. The new regulations focus on changes in the following three areas: employer policies, training and dissemination of an employer's harassment, discrimination and retaliation prevention policy.

Employer Anti-Discrimination/Anti-Harassment/Anti-Retaliation Policies

All employers subject to the FEHA must have written policies in place that include all of the following content:

- The types of prohibited discrimination and harassment under the law.
- A statement that employees are protected under the FEHA from unlawful conduct from their co-workers, managers, supervisors and third parties.
- The complaint process, including language that explains that a complaint of discrimination or harassment will: (1) be confidential to the extent possible; (2) receive a timely response; (3) be investigated in a timely and impartial manner by qualified personnel; (4) be documented and tracked through the complaint process; and (5) be timely closed with options for remedial action and resolution, as appropriate.
- Notification that employees may file a complaint with someone other than their immediate supervisor, such as a designated representative for the employer.
- Notification that employees may not be retaliated against for making a discrimination or harassment complaint or for participating in any complaint investigation.

Training Requirements

Employers with 50 or more employees must provide their supervisors with training on prohibited harassment, discrimination, and abusive conduct. During this training, supervisors must be notified of their duty to report sexual harassment, discrimination, and retaliation. The training must also include instruction on appropriate measures to remediate harassing conduct.

Supervisors must be provided with the definition of "abusive conduct" and informed that unless an act is particularly egregious, a single act will generally not constitute abusive conduct. The training should explain the negative impacts of abusive conduct in the workplace and must include examples of abusive conduct.

Employers must keep written records of harassment training for two years. Records that must be retained during this period include sign-in sheets, copies of webinars, written questions and responses to questions associated with the training, and certificates of attendance or completion. Employers must still

May 2016
Number 30



Dulcinea A. Grantham
Partner and Labor & Employment
Practice Group Co-Chair
Walnut Creek Office
dgrantham@lozanosmith.com



Gabriela D. Flowers
Associate
Sacramento Office
gflowers@lozanosmith.com



As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.

CLIENT NEWS BRIEF

May 2016
Number 30

keep records of the names of supervisors trained, the date of the training, the type of training, and the name of the training provider.

Policy Distribution/Dissemination

Employers must ensure that employees are provided with their anti-discrimination/anti-harassment policies. The written policies must be translated into all languages spoken by at least 10% of the workforce. Only one of the following methods must be used to distribute the policies:

- Provide employees with a printed copy of the policy with an acknowledgement form for the employee to sign and return;
- E-mail the policy with an acknowledgement return form;
- Post the policy on the internal company intranet with a tracking system to ensure that employees have read and acknowledged receipt of the policy; or
- Discuss the policy upon an employee's hiring and/or during an orientation session.

In light of these new regulations, public agency employers should review their policies and process for disseminating the same to ensure compliance with the new law.

For more information on the new FEHA requirements and the implications on your current anti-discrimination and anti-harassment policies, please contact one of our [nine offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).