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News & Types: Employment, Labor & Benefits Update

New 2020 Employment Laws Affecting California Employers

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Practices: Employment, Labor & Benefits

Executive Summary

California has welcomed the new year with numerous new employment laws. The following five (5) laws are summaries of some of the significant laws for California employers. Unless indicated otherwise, these laws took effect on January 1, 2020.

3 Year Statute of Limitations on Discrimination/Harassment/Retaliation Claims (AB 9)

California employees now have three years to file charges alleging workplace discrimination, harassment, and retaliation that is governed under the Fair Employment and Housing Act ("FEHA"). The new law will increase the statute of limitations for filing a charge under the FEHA from 1 year to 3 years.

- **Action Step:** Employers should review and update internal document-retention policies and procedures to ensure that relevant documents and information are retained for a minimum of three years.

Expansion of State-Provided Paid Family Leave Benefits from 6 weeks to 8 Weeks (SB 83)

The state's Paid Family Leave benefits program provides wage replacement to workers who take time off from work for an ill child, spouse, parent, grandparent, sibling, or domestic partner, or to bond with a child within one year of birth or adoption. This new law, beginning July 1, 2020, increases the total amount of Paid Family Leave an employee can receive from the state from six weeks to eight weeks.

- **Action Step**: Employers should continue providing the required notices and pamphlets regarding state-provided Paid Family Leave to their employees upon hire and when appropriate, as required by existing laws. In addition, employers should update leave policies, if any, to reflect the increase in benefits.

Hairstyle Discrimination Prohibited (SB 188)

California became the first state to outlaw racial discrimination based on natural hair and hairstyle. Existing law prohibits discriminatory employment practices based on certain protected characteristics including race. The law amended the definition of "race" to include traits historically associated with race, including but not limited to, "*hair texture and protective hairstyles*." "*Protective hairstyles*" is defined as "*braids, locks, and twists*," among others. This new law prohibits an employer from withholding or terminating employment or promotion based on discrimination against the protected employee or applicant's hairstyle.

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- **Action Step**: Employers should review workplace dress code and grooming policies to comply with the new law as some of the facially neutral policies may be in violation of the new law

Lactation Accommodation (SB 142)

California employers now have expanded obligations to provide lactation accommodations to their employees, including, among others, that lactation spaces must be private, not a bathroom, in close proximity to the employee's work area, safe, clean, free of hazardous materials, contain a place to sit and a surface to place a breast pump and personal items, and have access to electricity or alternative devices needed to operate a breast pump. In addition, employers must provide access to a sink with running water and a refrigerator, in close proximity to the employee's workplaces. An employer must develop a written policy regarding lactation accommodation and must be given to its employees upon hire and when an employee makes an inquiry. A denial of lactation break time or space is a violation of rest period laws, and subjects the employer to a $100 penalty per day. The new law has an undue hardship exemption for employers with fewer than 50 employees.

- **Action Step**: Employers should update lactation policies.

Sexual Harassment Training Deadline Extended to January 1, 2021 (SB 778)

The prior law required an employer with 5 or more employees to provide at least 2 hours of classroom or other effective interactive training on sexual harassment ("training") to all supervisory employees and at least 1 hour of such training to all nonsupervisory employees in California by January 1, 2020. This new law extends the deadline to comply with the training requirement by January 1, 2021. If the employers provided the training in 2019, they are not required to provide it again until 2 years thereafter.

- **Action Step**: If not done so, employers should plan to train all workers before the end of 2020 to comply with the new January 1, 2021 deadline. It is critical to plan ahead and hire a qualified trainer.

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