

California Employers: What You Need to Know for 2014 – Discrimination and Retaliation

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A new year means new legislation and regulations for employers with operations in California. This four part series will take a look at some of the new laws and regulation affecting private employers doing business in California. Today we look at new laws and regulations in California dealing with discrimination and retaliation.

Discrimination and Retaliation

Retaliation. AB 263 expands employer liability for violating Labor Code 98.6, which currently protects employees from discharge or discrimination when they have asserted their rights under the Labor Code. As amended, the law will:

1. Prohibit any *retaliation* or *adverse action* against employees who have asserted any right under the Labor Code or who have updated or attempted to update their “personal information” in a manner unrelated to their skill set, qualifications, or knowledge required for the job;
2. Expand protected activity to include a written or oral complaint by an employee that they are owed unpaid wages; and
3. Provide a civil penalty to employers of up to \$10,000 per employee per instance of retaliation.

New protected class. AB 556 adds “military or veteran status” to the list of classes protected from employment discrimination under the Fair Employment and Housing Act.

Sexual harassment. SB 292 clarifies that sexually harassing conduct is unlawful under FEHA regardless of whether the conduct is motivated by any sexual desire.

Whistleblower protections. Labor Code 1102.5 prohibits employers from retaliating against employees who report violations of a state or federal rule or regulation to a government agency,

except for employees with duties related to company compliance. SB 496 extends whistleblower protections to employees with compliance duties and expands protected activity to include:

1. Reports alleging a violation of a *local* rule or regulation; and
2. Internal complaints to “a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or non-compliance.”

The new law also clarifies that retaliation is prohibited when the employer “believes the employee disclosed or may disclose information.”

Make sure to check out the first post in this series on new [Wage and Hour Laws and Penalties](#).

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