

Senate Bill 1137: California Amends Law to Clarify Protection for Combinations of Protected Characteristics

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On September 27, 2024, Governor Newsom signed [Senate Bill \(SB\) 1137](#), which clarifies that the Unruh Civil Rights Act, the provisions of the Education Code prohibiting discrimination in public education, and the California Fair Employment and Housing Act (FEHA) prohibit discrimination on the basis not just of individual protected traits, but also on the basis of the intersectionality (e.g., combination) of two or more protected traits.

Specifically relevant to employers, the law amends FEHA to clarify that the protected characteristics enumerated in the statute include a combination of those characteristics.

The California Legislature described the concept of intersectionality as follows:

Intersectionality is an analytical framework that sets forth that different forms of inequality operate together, exacerbate each other, and can result in amplified forms of prejudice and harm. The framework and term “intersectionality,” coined and popularized by legal scholar Professor Kimberlé Williams Crenshaw, captures the unique, interlocking forms of discrimination and harassment experienced by individuals in the workplace and throughout society . . .

Through SB 1137, California’s Legislature affirms the decision of *Lam v. University of Hawai’i* (9th Cir. 1994) 40 F.3d 1551, where the Ninth Circuit found that when an individual claims multiple bases for discrimination or harassment, it may be necessary to establish whether the discrimination or harassment occurred on the basis of a combination of these factors, not just one protected characteristic alone.

This amendment will take effect January 1, 2025.

Federal law already affords similar protection pertaining to discrimination and harassment in the Equal Employment Opportunity Commission’s interpretive guidance of Title VII of the Civil Rights Act of 1964.

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