

New California Harassment Policy Requirements, Effective April 1

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Amended FEHA regulations cover a wide range of compliance topics and may require California employers to update their harassment and discrimination policies.

On April 1, new antidiscrimination amendments affecting employers take effect in California. The regulations, adopted by the Fair Employment and Housing Council, provide several policies to which employers must adhere to meet their “affirmative duty to take reasonable steps to prevent and promptly correct discriminatory and harassing conduct” in the workplace. The regulations specify the information that employers must include in their harassment policies, the methods by which employers must disseminate their policies, and, potentially, the languages in which employers must provide their harassment policies.

Harassment Policy Changes

The regulations require employers to distribute the Department of Fair Employment and Housing’s DFEH-185 Brochure on Sexual Harassment and develop a harassment, discrimination, and retaliation prevention policy.

Dissemination

The regulations require employers to disseminate the updated harassment policy to their employees. Compliant dissemination methods include one or more of the following:

- Providing a hardcopy or an email copy to all employees with an acknowledgment form for employees to sign and return
- Posting current versions of the policies on a company intranet with a tracking system ensuring that all employees have read and acknowledged receipt of the policies
- Discussing the policies upon hire and/or during a new hire orientation session

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- Any other way that ensures employees receive and understand the policies

Translation Requirement

The regulations also require that any employer whose workforce at any facility or establishment contains 10% or more of persons who speak a language other than English as their spoken language must shall translate the policy into every language that is spoken by at least 10% of the workforce.

Training Requirement

As a reminder, California employers of 50 or more persons must also ensure that supervisors receive legally compliant training. The new regulations also provide additional detail on the requirements of such trainings, including recordkeeping requirements.

Compliance Checklist

- Are you a covered employer, even if your headquarters are located outside California? Do you distribute DFEH Brochure 185 on Sexual Harassment?
- Do you have a **written** Harassment, Discrimination, and Retaliation Prevention Policy?
- Does your policy include the full, updated list of protected classes?
- Have you updated any definitions of protected classes, harassment, and “abusive conduct” or bullying that may be used in your policy or related training?
- Does your policy clarify that unlawful harassment is prohibited by all supervisors, managers, coworkers, and third parties?
- Do you have a complaint process that satisfies all new requirements, including a mechanism that does not require an employee to complain directly to his or her immediate supervisor?
- Do you require supervisors to report any complaints to an appropriate company representative, such as a human resources (HR) manager, so the company can try to resolve the claim internally?
- Does your policy reference all of the investigation protocols related to a confidential, prompt, thorough, and impartial investigations?
- Does your policy confirm that appropriate remedial action will be taken when warranted?
- Does your policy make appropriate assurances that the company will not permit retaliation against anyone who makes a complaint or participates in any workplace investigation?
- Have you translated your policies to the extent required under the new regulations?

Key Action Items

California employers should ensure that their harassment policies are compliant and distribute updated policies in accordance with the requirements stated above. Employers that are not prepared to immediately update their handbooks should consider providing an updated standalone policy in the meantime. Employers that use California handbook “supplements” should update those documents as necessary to adhere to the new regulations. Employers may also wish to modify any Handbook Acknowledgment to specifically reference receipt of the updated harassment, discrimination, and retaliation prevention policy. HR personnel and supervisors should understand the regulatory changes and requirements. Finally, employers should ensure that their related training programs and documentation comply with updated regulatory requirements.

Please note that harassment policy updates reflect only one aspect of the updated regulations. Other notable modifications include amendments to training requirements, pregnancy disability requirements (including new posting requirements), and regulations addressing assistive animals. We recommend that appropriate in-house employment counsel and/or HR become familiar with the lengthy (90-page) [regulatory amendments](#). We have prepared a more fulsome summary and description of key changes and best practice recommendations.

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