



# H.R. UPDATE

## August 2016



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## Harassment, Discrimination, and Retaliation Prevention Policy Requirements

Employers are required to develop, distribute and implement a harassment, retaliation and discrimination prevention policy that meet specific requirements and that are communicated to all employees. Employers are required to disseminate the policy to employees through a print, e-mail or posting, and to obtain acknowledgements from employees.

Some of the requirements of the policy:

- Is in writing.
- Lists all currently protected categories under the FEHA.\*
- Indicates that managers, supervisors, coworkers, and third parties with whom employees come into contact are prohibited from engaging in unlawful conduct under the FEHA.
- Includes a description of the employer's internal complaint process.
- Provides various avenues to lodge a complaint other than to a direct supervisor.
- Instructs supervisors to report complaints to a designated company representative.
- Employers with 50 or more employees must provide sexual harassment prevention training to supervisory employees every two years.

\*The Fair Employment and Housing Act (FEHA) prohibits harassment and discrimination in employment because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, mental and physical disability, medical condition, age, pregnancy, denial of medical and family care leave, or pregnancy disability leave.

**TO DO:** Contact your HR Alternatives to discuss updating your policy if it is not compliant.

## California Equal Pay Act

For decades, the California Equal Pay Act has prohibited an employer from paying its employees less than employees of the opposite sex for equal work. Changes to the Act strengthens the Equal Pay Act in a number of ways, including:

- Requiring equal pay for employees who perform “substantially similar work”\*, when viewed as a composite of skill, effort, and responsibility.
- Eliminating the requirement that the employees being compared work at the “same establishment.”
- Making it more difficult for employers to satisfy the “bona fide factor other than sex” defense.
- Ensuring that any legitimate factors relied upon by the employer are applied reasonably and account for the entire pay difference.
- Explicitly stating that retaliation against employees who seek to enforce the law is illegal, and making it illegal for employers to prohibit employees from discussing or inquiring about their co-workers' wages.
- Extending the number of years that employers must maintain wage and other employment-related records from two years to three years.

\*Substantially similar work refers to work that is mostly similar in skill, effort, responsibility, and performed under similar working conditions. Skill refers to the experience, ability, education, and training required to perform the job. Effort refers to the amount of physical or mental exertion needed to perform the job. Responsibility refers to the degree of accountability or duties required in performing the job. Working conditions has been interpreted to mean the physical surroundings (temperature, fumes, ventilation) and hazards.

**TO DO:** Contact HR alternatives to review your compensation program to identify potential exposure.

*As the primary HR Consulting firm for small and mid-sized employers throughout Southern California our goal is to support the growth of your business and navigate the challenges that can prevent you from accomplishing your objectives. HR Alternatives has been solving workplace issues since 1993.*