



H.R. UPDATE

March 2016



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Discrimination Based On Pregnancy

California law protects employees against discrimination or harassment because of an employee's pregnancy, childbirth or any related medical condition or interfering with an employee's pregnancy-related employment rights. The employer has an obligation to:

- Reasonably accommodates medical needs related to pregnancy, childbirth or related conditions.
- Transfer to a less strenuous or hazardous position or duties if medically needed
- Provide pregnancy disability leave (PDL) of up to four months and return to the same job when no longer disabled
- Provide a reasonable amount of break time and use of a room or other location in close proximity to the employee's work area to express breast milk in private
- PDL is not for an automatic period of time, but for the period of time disabled by pregnancy, the health care provider determines how much time is needed.
- Once the employer has been informed of a need to take PDL, the employer must guarantee in writing that a return to work to the same position be provided if requested.
- The employer can require the employee to submit written medical certification from a health care provider substantiating the need for your leave.
- PDL may include, but is not limited to, additional or more frequent breaks, time for prenatal or postnatal medical appointments, or other medically required time off.
- PDL does not need to be taken all at once but can be taken on an as-needed basis as required by the health care provider, all of which counts against your four month entitlement to leave.
- The leave will be paid or unpaid depending on the employer's policy for other medical leaves.
- At the employee's discretion, any vacation or other paid time off during your PDL can be used.
- The employer may require the employee to use any available sick leave during PDL.
- The employer is required to continue group health coverage during PDL.
- Taking PDL may impact certain of benefits and seniority date.
- If possible, the employee must provide at least 30 days' advance notice for foreseeable events (such as the expected birth of a child or a planned medical treatment).

TO DO: Update your pregnancy leave policy to meet the requirements of the law. Contact your HR Alternatives' Consultant to provide you direction and advice.

Discrimination and Harassment

The state has revised its Fair Employment and Housing Act (FEHA) regulations. FEHA forbids discrimination and harassment in the workplace based on race and gender and many other protected categories. The revisions go into effect on April 1, 2016. The CA chamber's general counsel discussed the regulations during a recent webinar. Companies with five or more employees must have a policy aimed at preventing discrimination, harassment and retaliation, the policy should:

- List all protected groups under the FEHA.
- Specify that supervisors, co-workers and third parties are prohibited from engaging in unlawful behavior under the FEHA.
- Tell supervisors to report all complaints to a company representative.
- Have a thorough complaint process.
- State that all complaints will be followed by a fair, complete and timely investigation.
- Convey that the employer will strive to maintain confidentiality during the investigation, but that there is no guarantee of complete confidentiality.
- State that the employer will take remedial measures if any wrongdoing is detected.
- State that the employer will not retaliate against an employee for making a complaint or participating in an investigation.

New requirements include giving workers various options for reporting complaints. Employees shouldn't be forced to complain to their immediate supervisor. The complaint process must provide contact information for the state and federal agencies that enforce anti-discrimination laws. Employees have a right to go directly to the state or federal enforcement agency, without filing a complaint with the company.

California law requires training on sexual harassment prevention. This requirement applies to companies with 50 or more workers, which includes temporary employees and independent contractors. Covered employers must provide two hours of training, every two years, for all supervisors and managers in California.

TO DO: Update your policy to reflect the new requirements of the CA law. Contact your HR Consultant at HR Alternatives for assistance.

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.