

Employment Law Update 2019

www.wendel.com

Maggie Grover

January 2019

Harassment Re-Defined



Single Incident May Be Harassment
Reduced Productivity Not Required
Look at Totality of the Circumstances
Does NOT depend on Type of Workplace

New Training Required

Small Employers Must Provide Harassment Prevention Training
5 or More Employees
1 Hour for Non-Supervisors
2 Hours for Supervisors



Applicable Laws
Practical guidance on preventing and correcting harassment
Available Remedies
Practical Discussion and Examples

Avoid Problems

What are the best steps for employers to take to assure compliance with the new laws?



Other Changes



Expanded Lactation Accommodation
Paid Family Leave for Military Families
New Test for Independent Contractor
Pay Parity Still Hot Topic

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Legislative Purpose

Eliminate Harassment Because It

- Creates a hostile, offensive, oppressive, or intimidating work environment
- Deprives victims of their right to work in a place free of discrimination

Workplace

Litigation

Workplace Protections

- Protection for Complaints and Statements During Investigation
- Prohibition on Releases as Term of Employment

Litigation Changes

- Harassment Claim Rarely Appropriate for Summary Judgment
- California Law - Only Complaining Party May Require Secrecy of Facts
- Federal Law - Tax Implication of Secrecy Provision
 - No Deduction for Settlement
 - No Deduction for Legal Fees

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Training Must Cover

- Gender Identity
- Gender Expression
- Sexual Orientation
- Prevention of Abusive Conduct

***Qualified
Trainer***

Qualified Trainer

Trainers or Educators with Knowledge of

- Prevention of Harassment
- Prevention of Discrimination
- Prevention of Retaliation

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Expanded Lactation
Accommodation

Paid Family Leave for
Military Families

New Test for
Independent
Contractor

Pay Parity Still Hot
Topic

Other Changes

Lactation Accommodation - Near Employee, Not Bathroom

Paid Family Leave - for Military Families - Not Job Protection

Independent Contractor New Test

(A) Worker is free from control of hiring entity;

(B) Work performed is outside the usual course of the hiring entity's business;

(C) Worker is customarily engaged in an independent trade, occupation, or business of the same nature as the work performed.

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- 
- ***Provide Training***
 - ***Update Handbooks, Policies, and Contracts***
 - ***Distribute Policies***
 - ***Understand Paid Family Leave***
 - ***Accommodate Nursing Mothers***

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