SpencerFane®

Golden State Gotchas: Your 2026 California Employment Law Guide

California employers are facing another significant wave of employment law changes in 2026. A broad range of new and amended statutes impact wages, pay equity, leave rights, workforce reductions, data reporting, contracting practices, and compliance obligations – many with near-term deadlines and meaningful penalties for noncompliance. For California employers, its compliance time.

Statewide Minimum Wage Increases

Effective January 1, 2026, the California state minimum wage increased to $16.90/hour for all employers. The hourly wage rate for employees in certain health care and fast-food operations is different, so employers are advised to review industry-specific wage rates in addition to the new state mandate.

The salary threshold for exempt employees in California is now $70,304 annually and higher still for those employed under the computer software professional exemption (at least $122,573.13 annually).

Action Item: Employers should review their offer letters, contracts, and job descriptions with a view of implementing minimum wage and salary threshold related changes.

SB 294: Workplace Know Your Rights Act

California employers must provide a standalone written notice regarding certain workers' rights to each current employee on or before February 1, 2026, and annually after this. The notice should be provided in a manner the employer normally uses to communicate job or employment information. An employer must also provide this

notice to a new employee upon hire and to the employee's authorized representative by electronic or regular mail. The California Labor Commissioner has a template notice available here.

In addition, employers must provide existing employees with the opportunity to name an emergency contact by March 30, 2026. For new hires, employers must allow for this at the time of hire. Employers must also allow employees to: (i) provide updated emergency contact information throughout their employment; and (ii) indicate whether the emergency contact should be notified if the employee is arrested or detained "on their worksite, or during work hours or during the performance of the employee's job duties, but not on the worksite, if the employer has actual knowledge of the arrest or detention of the employee."

Action Item: Employers must provide the required notice in an appropriate manner and take steps to meet the emergency contact notification provisions noted above.

AB 692: Certain "Stay-or-Pay" Contracts Unlawful

Effective January 1, 2026, this new law largely bans "stay-or-pay" provisions in employment contracts, prohibiting employers from forcing workers to repay training, bonuses, or relocation costs if they leave, and restricting penalties for early termination, with narrow exceptions for things like clearly defined, separate tuition agreements or sign-on bonuses with specific conditions. The law is prospective – not retroactive – and aims to increase worker mobility and protect against clauses that act as unlawful restraints on trade, allowing affected employees to sue for damages.

Specifically, the new law prohibits certain contracts entered into, on or after January 1, 2026, from including a term that does any of the following:

- Requires a worker to pay an employer (or a training provider or debt collector acting for the employer) for a debt if the worker's employment or work relationship with a specific employer terminates;
- Authorizes the employer, training provider, or debt collector to resume or initiate collection of or end forbearance on a debt post termination; or
- Imposes any penalty, fee, or cost on a worker if the worker's employment or work relationship with a specific employer terminates.

Examples of prohibited terms include replacement hire or retraining fees, liquidated damages for quitting, reimbursement for immigration related expenses if an employee leaves, lost goodwill, and other related areas.

There are exceptions to the law, with the key ones noted below.

- **Tuition Repayment**: this is permitted if: (i) it is stated in a separate, signed agreement; (ii) where the tuition or credential cost is not condition of employment; (iii) where the agreement specifies costs and that repayment is limited to employer's actual cost for the transferable credential; (iv) where the agreement prorates repayment over any required service period without acceleration at separation; and (v) where the agreement exempts termination without misconduct.
- **Upfront / Sign-On Bonuses Repayment**: this is permitted if: (i) in a separate, signed agreement; (ii) with legal consultation time of no less than five business days; (iii) prorated over two years max; (iv) triggering only at the employee's election or the employer's termination due to employee misconduct; and (v) an option for deferral of payment until completion of retention period (in which case no repayment obligation will apply).
- **Other exemptions include** approved apprenticeship programs, government loan repayment and forgiveness programs, and certain residential property transactions.

An affected worker can bring a civil action under this new law and liability includes actual damages, or five thousand dollars ($5,000) per worker, whichever is greater, in addition to injunctive relief, and reasonable attorney's fees and costs.

Action Item: Employers should contact legal counsel to audit and revise their contract templates and offer language in light of this new law.

SB 642: Changes Related to Payment of Wages

Expanded Definitions

The California Labor Code currently prohibits employers from paying employees at wage rates less than the rates paid to employees of the "opposite" sex for substantially similar work, subject to certain exceptions. SB 642 changes "opposite"

to “another” sex. The new law also adds a definition of “wages” and “wage rates,” as including “all forms of pay, including, but not limited to, salary, overtime pay, bonuses, stock, stock options, profit sharing and bonus plans, life insurance, vacation and holiday pay, cleaning or gasoline allowances, hotel accommodations, reimbursement for travel expenses, and benefits.”

SB 642 also increases the applicable statute of limitations for bringing civil equal pay claims. While the prior language provided that such claims may be brought no later than “two years after the cause of action occurs …,” the new language states that such an action may be commenced no later than “three years after the last date the cause of action occurs.” SB 642 further provides that an employee is entitled to “obtain relief for the entire period of time in which a violation of subdivision (a) or (b) [of Labor Code Section 1197.5] exists, but not to exceed six years.”

Pay Transparency Related Changes

The California Labor Code currently requires employers to include the pay scale for a position in a job posting. The term pay scale is defined as “the salary or hourly wage range that the employer reasonably expects to pay for the position.” SB 642 amends this definition to “a good faith estimate of the salary or hourly wage range that the employer reasonably expects to pay for the position upon hire.”

Action Item: The expanded definitions and pay transparency provisions in SB642 potentially impact job descriptions, job application related paperwork, as well as severance and termination paperwork. In addition to conducting a review of employment and termination paperwork, employers should also consider conducting pay equity audits.

SB 513: “Personnel Records” Now Include Education or Training Records

The California Labor Code allows current and former employees to inspect and receive copies of their “personnel records that the employer maintains relating to the employee’s performance or to any grievance concerning the employee.” SB 513 expands this definition of personnel records in Section 1198.5 to include “education or training records.” Employers must ensure that such records include all of the following information: (i) the name of the employee; (ii) the name of the training

provider; (iii) the duration and date of the training: (iv) the core competencies of the training, including skills in equipment or software; and (v) the resulting certification or qualification.

Employers who maintain education or training records must make them available to employees, along with their other personnel documents, consistent with Section 1198.5.

Action Item: Employers responding to employees' requests for review of personnel records must ensure that their response to such requests includes education and training records, to the extent applicable. Where handbook policies or other standalone documents discuss personnel records, employers should ensure that the descriptions are revised to include this new category of records.

SB 464: Employee Pay Data Reporting Expanded

Existing law requires a private employer that has 100 or more employees to submit an annual pay data report to the California Civil Rights Department (CRD) that includes various categories of data, including:

- The number of employees by race, ethnicity, and sex in 10 job categories;
- The number of employees by race, ethnicity, and sex whose pay falls within federal pay bands;
- Within each job category the median and mean hourly rate for employees who have any combination of the protected characteristics noted above; and
- The total number of hours worked by each employee counted in each pay band.

This report is due each year on the second Wednesday in May (i.e., **May 13, 2026** for this coming year).

California has now expanded its requirements for employers regarding pay data reporting. Under the new law, the following changes will go into effect:

- Any demographic information must be collected and stored separately from employees' personnel records, effective January 1, 2026;
- For purposes of civil penalties, while a court previously "may" have imposed a civil penalty of up to $100 per employee upon any employer who failed to file the

required report and $200 per employee for a subsequent failure, the court now "shall" impose such penalties.
- Beginning **May 2027**, the number of job categories an employer will be required to report on will expand from 10 to 23.

Action Item: Employers should comply with the data storage requirements starting this year and look ahead to complying with the 2027 expanded reporting requirements for next year.

SB 590: Expanded Paid Family Leave Now Includes "Designated Person"

Beginning July 1, 2028, California will expand its Paid Family Leave benefits to include individuals who take time off work to care for a seriously sick designated person. A designated person is defined as "any care recipient related by blood or whose association with the individual is the equivalent of a family relationship." An employee seeking benefits for the care of a designated person must identify the designated person at the time of their first claim and, under penalty of perjury, attest to how the relationship is blood-related or the equivalent of a family relationship.

Action Item: The California Family Rights Act was already amended to allow employees of employers with five-plus employees to take unpaid protected leave to care for a designated person, so this change provides wage replacement benefits for this additional category of individuals. Employers should be aware of these changes while coordinating wage replacement with employees' protected leave.

AB 406: Expanded Use of Paid Sick / Safe Time and Unpaid Leave

California's AB 406 significantly expands victim protections by allowing employees to use paid sick leave for crime-related absences, broadening leave for judicial proceedings for victims of violence (domestic violence, sexual assault, stalking), and clarifying employer duties, effective October 2025 and January 2026, requiring employers to update policies and provide specific notices for these enhanced job-protected leaves.

- Effective October 1, 2025, AB 406 amended the paid sick leave law to clarify that employees may use this paid time off for jury and witness duty purposes.

Effective January 1, 2026, paid and unpaid leave laws have been amended to extend leave rights to victims and family members to attend judicial proceedings for certain serious crimes. Covered proceedings include delinquency hearings, post-arrest release decisions, pleas, sentencing, post-conviction release decisions, and any proceeding where a victim's rights are at issue. The term "victim" includes individuals harmed by violent felonies, serious felonies, and other specific crimes.

Action Item: In addition to amending handbook policies, employers should align their implementation of leaves with these new changes.

SB 303: Bias Mitigation Training Does Not Constitute Discrimination

Bias mitigation training is education or activities provided by an employer for the purpose of increasing understanding, recognition, or acknowledgment of the influence of conscious and unconscious thought processes and their associated impacts. Such training includes strategies to mitigate the impact of employees' personal biases. California's SB 303, effective January 1, 2026, protects employees by clarifying that a good-faith acknowledgment or assessment of personal bias during employer-provided bias mitigation training does not, by itself, constitute unlawful discrimination under FEHA, aiming to encourage honest participation and create safer learning environments for growth.

Action Item: Employers can consider integrating such training with broader equity initiatives, providing ongoing education, and collecting feedback after training sessions to help refine implementation of such training. Employers are encouraged to consult with counsel prior to conducting any such training.

SB 617: Additional Mass Layoff / WARN Notice Requirements

SB 617 provides that written notice provided for a mass layoff, relocation, or termination pursuant to the California Worker Adjustment and Retraining Act must include:

- Information on whether the employer plans to coordinate services through the local workforce development board or another entity, along with a specific statement about local workforce development boards;
- Information regarding CalFresh, the statewide food assistance program; and

- A functioning email and telephone number of the employer for contact.

Action Items: Existing WARN notices and reduction in force related internal processes may require changes in light of the above. Employers should review existing separation paperwork and work with employment counsel prior to initiating separations covered under the California WARN.

SB 809: Independent Contractors and Business Expenses

The first part of this new law addresses the construction trucking amnesty program. The second part of the new provisions clarifies an employer's duty to reimburse under Labor Code section 2802 for an employee's use of a personal vehicle for work – in this case, all necessary and reasonable mileage, fuel costs, maintenance, insurance, and depreciation must be covered by an employer.

Action Items: Employers should ensure that their expense reimbursements policies and practices align with these articulated developments.

SB 53: Transparency in Frontier Artificial Intelligence Act

Known as the Transparency in Frontier Artificial Intelligence Act, this law establishes new regulations for AI developers in California, including in areas relating to transparency frameworks, safety reporting, whistleblower protections, and other areas.

Action Items: Employers using AI in relation to employment decisions (whether hiring, discipline, separation, or otherwise) must review these legal developments closely and work with counsel to ensure compliance.

In addition to the above changes, several changes in 2026 will impact plaintiffs' ability to extend or revive claims in civil litigation as well as California agencies' enforcement of existing and new laws. These provisions are summarized below**.**

SB 477: FEHA Enforcement Procedures

Existing law authorizes a complaint to be filed by an "aggrieved" individual or the CRD, on behalf of a class, if the alleged unlawful practice adversely affects, in a

similar manner, a class of persons of which the aggrieved person is a member. This new law defines "group or class complaint" within the California Fair Employment and Housing Act (FEHA) as "any complaint alleging a pattern or practice."

The law additionally provides that the time for filing a civil action under FEHA is tolled until one year after the CRD issues written notice of investigation closure. The new law further provides that that this deadline is also tolled for:

- The period of time specified in a written agreement between the CRD and a complainant;
- The time for which the CRD's investigation is extended because a petition to compel compliance is pending; and
- During a timely appeal to the CRD of its closure of an investigation.

AB 250: Statute of Limitations Extended on Sexual Assault Claims

This new law extends the time period for revival of certain sexual assault claims, which would otherwise be barred prior to January 1, 2026, where the plaintiff seeks damages based on the theory that one or more entities are legally responsible and engaged in a cover up. The new law also revives claims against sexual assault perpetrators. Under this change, claims will proceed if already pending in court as of January 1, 2026. Claims can also proceed if commenced between January 1, 2026, and December 31, 2027.

SB 261: Penalties for Unpaid Wage Judgments

Adding new Section 238.05 to the California Labor Code, SB 261 states that if a final judgment arising from nonpayment of wages for work performed in California remains unsatisfied for 180 days after the time for appeal has expired and no appeal is pending, the judgment debtor shall be subject to a civil penalty not to exceed three times the outstanding judgment amount, including post judgment interest then due.

The law also notes that a court will assess the entire amount of the penalty, *except* to the extent that the court finds that the judgment debtor has demonstrated by clear and convincing evidence good cause to reduce the amount of the penalty. Penalties assessed under this new provision will be distributed as follows: 50% to the

California Division of Labor Standards Enforcement (DLSE) and 50% to the employee(s) for whom judgment was issued.

The law also adds Section 238.10 to the Labor Code, awarding a prevailing plaintiff all reasonable attorney's fees and costs in any action brought by a judgment creditor, the California Labor Commissioner, or a public prosecutor to enforce a final judgment arising from the nonpayment of wages, penalties, or other amounts owed arising from work performed in California, or to otherwise induce compliance by or impose lawful consequences on a judgment debtor for nonsatisfaction of such a final judgment.

SB 648: Enforcement of Tip and Gratuity Protections

The California Labor Commissioner is now authorized to investigate and cite for tip theft, with the new code section creating a penalty scheme of $100 per employee per pay period for an initial violation and $250 per employee per pay period for subsequent violations.

AB 858: Extension of COVID Right to Recall for Displaced Workers

COVID-19's right to rehire law has been extended, with current protections remaining in place through January 1, 2027. Covered employers must continue to notify and rehire qualified individuals laid off for COVID related reasons. There is also a 3-year records' retention requirement associated with records pertaining to layoffs and rehiring, with the potential for fines and liability through enforcement actions by the DLSE.

This blog was drafted by Elaisha Nandrajog, Servando Sandoval, and Jennifer Coleman, attorneys in the Spencer Fane San Jose, California, office. For more information, visit www.spencerfane.com.

Click **here** to subscribe to Spencer Fane communications to ensure you receive timely updates like this directly in your inbox.