



US Capitol Dome

EMPLOYMENT LAW UPDATE

SOUTHERN CALIFORNIA MEDIATION ASSOCIATION | 2025 EMPLOYMENT MEDIATION INSTITUTE



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JUNE 14, 2025



The Speaker



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- Mediator at ADR Services: employment, civil rights, education/Title IX, appeals, and other matters.
- Partner, DLA Piper, Employment Group.
- Director, Department of Fair Employment and Housing (DFEH, renamed Civil Rights Department), Governors Arnold Schwarzenegger and Jerry Brown.
- Vice Chair & Commissioner, Fair Employment and Housing Commission (FEHC), Governor Pete Wilson.
- Commissioner, Commission on the Status of Women, Governor George Deukmejian
- Vice Chair, Comparable Worth Task Force.
- Deputy Attorney General, Civil Rights Enforcement Section.
- Research Attorney, California Court of Appeal.
- Responsible for enactment of FEHA legislative reforms, promulgation of FEHA regulations, and enactment of California's version of the Title IX law.
- Author, California Case Law Alert, Cases Pending before the California Supreme, California Labor & Employment Law Review, Bender's Labor & Employment Bulletin, The Rutter Group, Daily Journal, etc.
- Member, College of Labor & Employment Lawyers.



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I. FEDERAL DEVELOPMENTS



A. Executive Orders

2025 Executive Orders: 157 as of June 1, 2025 (EO 14147-EO 14303); see also Heritage Foundation's [Mandate for Leadership: 2025 Presidential Transition Project](#) (Project 2025)

- [EO 14148](#): Initial Rescissions of Harmful Executive Orders and Actions
- [EO 14151](#): Ending Radical and Wasteful Government DEI Programs and Preferencing
- [EO 14168](#): Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government
- [EO 14171](#): Restoring Accountability to Policy-Influencing Positions Within the Federal Workforce
- [EO 14173](#): Ending Illegal Discrimination and Restoring Merit-Based Opportunity (eliminating the Office of Federal Contract Compliance Programs (OFCCP))
- [EO 14179](#): Removing Barriers to American Leadership in Artificial Intelligence to American Leadership in Artificial Intelligence
- [EO 14188](#): Additional Measures To Combat Anti-Semitism
- [EO 14192](#): Unleashing Prosperity Through Deregulation
- [EO 14210](#): Implementing the President's "Department of Government Efficiency" Workforce Optimization Initiative
- [EO 14215](#): Ensuring Accountability for All Agencies
- [EO 14217](#): Commencing the Reduction of the Federal Bureaucracy
- [EO 14219](#): Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative
- [EO 14238](#): Continuing the Reduction of the Federal Bureaucracy (eliminating Mediation and Conciliation Service (FCMS))



B.1. Federal Enforcement Agencies: Equal Employment Opportunity Commission (EEOC)

- Former EEOC Chairperson Charlotte Burrows, Vice Chairperson Jocelyn Samuels, and General Counsel Karla Gilbride from the Biden era were dismissed by President Trump. With three vacancies out of five Commissioners, the EEOC currently has no quorum.
- Acting Chairperson Andrea R. Lucas was reappointed and Acting General Counsel Andrew Rogers (now nominated to head the Department of Labor's (DOL's) Wage and Hour Division (WHD)) was appointed.
- New EEOC priorities include enforcement and investigation of: DEI-motivated workplace discrimination; anti-American national origin discrimination; biological sex discrimination; focus on religious bias and harassment, including antisemitism, and other under-enforced areas. New EEOC Guidance and EEO-1 data collection reflect these priorities. Project 2025 proposes the elimination of EEO-1 data collection.
- In 2024, the EEOC secured nearly \$700 million in monetary recoveries, benefitting about 21,000 claimants. This is the highest monetary recovery the EEOC has ever achieved. (See [EEOC](#) and [Seyfarth](#).)
- Between the government's recent deferred resignation program, layoffs, and hiring freezes, the EEOC workforce may be reduced to its 2019 level, about 250 fewer employees out of over 2,100 employees.
- The EEOC's FY 2026 Budget Request of \$435.382 million is \$19,618 million below its FY 2025 Enacted Budget. (See [DOGE](#).)
- Less funding and staffing may lead to delays in processing charges under Title VII, the Equal Pay Act, the Age Discrimination in Employment Act, Sections 501 and 505 of the Rehabilitation Act, Titles I and V of the Americans with Disabilities Act, the Government Employee Rights Act, Title II of the Genetic Information Nondiscrimination Act, and the Pregnant Workers Fairness Act.
- Suspension of federal funding to states (EEOC funding to federal employment practices agencies, i.e., California Civil Rights Department (CRD)) and joint filing may follow.



B.2. Federal Enforcement Agencies: National Labor Relations Board (NLRB)

- NLRB Chairperson Gwynne A. Wilcox and General Counsel Jennifer Abruzzo from the Biden era were dismissed by President Trump. NLRB has no quorum.
- NLRB Acting General Counsel William B. Cowen rescinded more than a dozen pro-union memos from the former General Counsel, signaling a shift away from union-friendly litigation strategy.
- The NLRB fiscal year (FY) 2026 Budget Request is \$285.2 million, which is 4.7 percent or \$14 million below the FY 2025 Enacted Budget of \$299.2 million. (See [DOGE](#).) As of March 2025, approximately 30 of approximately 1300 NLRB employees took the government's recent deferred resignation program. This is likely under-reported.
- Less funding and staffing may mean unfair labor practice (ULP) processing delays.
- GC Cowen plans to re-empower Regional Directors to promote and handle settlements.
- Increased emphasis on NLRA preemption may mean states cannot regulate areas that the NLRB regulates (i.e., the California Chamber of Commerce and California Restaurant Association's [lawsuit](#) challenging the California Captive Audience Meeting ban under [SB 399](#)).

B.3. Federal Enforcement Agencies: U.S. Department of Labor (DOL)

- Lori Chavez-DeRemer is the new Secretary of Labor. Many members of the [DOL leadership](#) have been appointed. EEOC Acting General Counsel Andrew Rogers has been nominated to head the Wage and Hour Division (WHD).
- The Administration plans to save \$455 million by cutting DOL's contracts, grants, and office leases. See Department of Government Efficiency (DOGE) [website](#).)
- DOGE aims to cancel grants from the DOL's Bureau of International Labor Affairs for a savings of about \$237 million. The subagency works to improve labor rights overseas.
- DOGE also seeks to shutter 87 DOL offices nationwide to save an estimated \$23 million and terminate at least 96 agency contracts for trainings, software, and other services worth about \$192 million, according to a Bloomberg Law analysis of the DOGE website.
- Potential savings could make it harder for DOL to enforce laws protecting workers' safety, pay, and ability to compete in the global economy, former DOL officials and grant recipients say.
- In the case of the Occupational Safety and Health Administration (OSHA), for example, office closures and the potential for staff cuts could slow agency enforcement and oversight designed to prevent on-the-job illness and injuries.
- Pursuant to [EO 14173](#), the Office of Federal Contract Compliance Programs (OFCCP) will be eliminated and its responsibilities moved from DOL to the EEOC.

(See [link](#) to Bloomberg Law Daily Labor Report.)

B.4. Federal Enforcement Agencies: U.S. Department of Justice (DOJ) Civil Rights Division

- Harmeet Dhillon is the new Assistant Attorney General of DOJ's Civil Rights Division. The Civil Rights Division has the authority to enforce all Federal civil rights statutes, including: the Americans with Disabilities Act (ADA) Titles 1-3; Rehabilitation Act; Title VII Civil Rights Act; Uniformed Services Employment and Reemployment Rights Act (USERRA); Title IX of the Education Amendments, and more.
- Speaking at a recent Federalist Society event, Dhillon likened the division's work under Democratic administrations to a speeding train. She said Republican administrations typically try to "just slow the train down . . . This is the opportunity where we can ensure that our nation's civil rights laws benefit all Americans, not just a select few." (See [NPR](#).)
- The new priorities of DOJ's Civil Rights Division include redirecting resources to the executive orders, including: "Protecting Children from Chemical and Surgical Mutilation," "Keeping Men Out of Women's Sports," "Eradicating Anti-Christian Bias" and "Additional Measures to Combat Antisemitism."
- In the past week alone, the Trump administration launched an investigation into whether Chicago engaged in racial discrimination by hiring Black employees for top jobs; said it would use an antifraud law to pressure universities to end diversity and inclusion programs; pulled back from federal oversight of local law enforcement; and sued an Idaho town of 925 people for refusing to allow a small Christian church to operate in a commercial zone. (See [Wall Street Journal](#).)
- Some 250 attorneys — or around 70% of the division's lawyers — have left or will have left the department in the time between President Trump's inauguration and the end of May, according to current and former officials. (See [NPR](#).)



C. Federal Legislation and Regulations

- [2025 Executive Orders](#): 157 as of June 1, 2025
 - EO 14147-EO 14303 (see slide 5)
- “One Big Beautiful Bill,” [H.R.1 — 119th Congress](#) (2025-2026)
 - U.S. House of Representatives Passed: Yeas and Nays: 215 – 214
 - Pending in the U.S. Senate
- “Implementing DOGE Bill,” [H.R. 199 – 119th Congress](#) (2025-2026) (USAID , NPR, PBS)
 - U.S. House of Representatives Passed: Yeas and Nays: 217 – 215
 - Pending in the U.S. Senate
- Unknown number of regulations to be rescinded or promulgated



D.1. Federal Case Law

[Trump v. Wilcox](#), --- S.Ct. ----, 2025 WL 1063917 (Mem) (Apr. 9, 2025) NLRB and MSPB Board Members

Supreme Court allowed President to remove without cause for now Gwynne Wilcox of the National Labor Relations Board and Cathy Harris of the Merits Systems Protection Board, whose terms end in 2028.

In an unsigned two-page order, the court explained that the decision to put the lower courts' orders on hold "reflects our judgment that the Government faces greater risk of harm from an order allowing a removed officer to continue exercising the executive power than a wrongfully removed officer faces from being unable to perform her statutory duty."

Justice Elena Kagan dissented from the court's order, in an eight-page opinion joined by Justices Sonia Sotomayor and Ketanji Brown Jackson.

A vertical photograph of the interior of the US Capitol dome, showing the ornate architecture and the central circular skylight.

D.2. Federal Case Law

[Ames v. Ohio Dept. of Youth Services](#), --- S.Ct. ---, 2025 WL----- (23–1039 per curiam 6/5/25) Title VII Disparate Treatment

Petitioner Marlean Ames, a heterosexual woman, has worked for the Ohio Department of Youth Services in various roles since 2004. In 2019, the agency interviewed Ames for a new management position but ultimately hired another candidate—a lesbian woman. The agency subsequently demoted Ames from her role as a program administrator and later hired a gay man to fill that role. Ames then filed this lawsuit against the agency under Title VII, alleging that she was denied the management promotion and demoted because of her sexual orientation. The District Court granted summary judgment to the agency, and the Sixth Circuit affirmed. The courts below analyzed Ames’s claims under *McDonnell Douglas Corp. v. Green*, 411 U. S. 792, which sets forth the traditional framework for evaluating disparate-treatment claims that rest on circumstantial evidence. At the first step of that framework, the plaintiff must make a prima facie showing that the defendant acted with a discriminatory motive. Like the District Court, the Sixth Circuit held that Ames had failed to meet her prima facie burden because she had not shown “‘background circumstances to support the suspicion that the defendant is that unusual employer who discriminates against the majority.’ ” 87 F. 4th 822, 825. The court reasoned that Ames, as a straight woman, was required to make this showing “in addition to the usual ones for establishing a prima-facie case.” *Ibid*.

Held: The Sixth Circuit’s “background circumstances” rule—which requires members of a majority group to satisfy a heightened evidentiary standard to prevail on a Title VII claim—cannot be squared with the text of Title VII or the Court’s precedents.

JACKSON, J., delivered the opinion for a unanimous Court. THOMAS, J., filed a concurring opinion, in which GORSUCH, J., joined.



D.3. Federal Case Law

Catholic Charities Bureau, Inc. v. Wisconsin Labor & Industry Review Comm’n., --- S.Ct. ---, 2025 WL ----- (24–154 per curiam 6/5/25) Unemployment Compensation Taxes | First Amendment

Wisconsin law exempts certain religious organizations from paying unemployment compensation taxes. The relevant statute exempts nonprofit organizations “operated primarily for religious purposes” and “operated, supervised, controlled, or principally supported by a church or convention or association of churches.” Wis. Stat. §108.02(15)(h)(2). Petitioners, Catholic Charities Bureau, Inc., and four of its sub-entities, sought this exemption as organizations controlled by the Roman Catholic Diocese of Superior, Wisconsin. The Wisconsin Supreme Court denied the exemption, holding that petitioners were not “operated primarily for religious purposes” because they neither engaged in proselytization nor limited their charitable services to Catholics.

Held: The Wisconsin Supreme Court’s application of the Wisconsin law to petitioners violates the First Amendment.

SOTOMAYOR, J., delivered the opinion for a unanimous Court. THOMAS, J., and JACKSON, J., filed concurring opinions.



D.4. Federal Cases

[U.S. Office of Personnel Mgmt., et al. v. American Fed. of Gov't Employees, AFL-CIO, et al.](#), --- US ---, Westlaw Bulletin 2025 WL 1035208 (U.S. 24A904 Order April 8, 2025) Reinstatement of Terminated Federal Employees

The United States Supreme Court has granted the federal government's application to stay the preliminary injunction granted by a California federal district court to non-profit organizations, in an action in which unions for federal employees and non-profit organizations are seeking declaratory and injunctive relief under the Administrative Procedure Act (APA), based on allegations that the Office of Personnel Management (OPM) engaged in ultra vires conduct when it directed federal agencies to fire probationary employees.

The Supreme Court's unsigned order stated that the preliminary injunction was “based solely on the allegations of the nine non-profit-organization plaintiffs in this case,” but “under established law, those allegations are presently insufficient to support the organizations’ standing.” The Court provided no elaboration, beyond a cite to *Clapper v. Amnesty Intern. USA*, 568 U.S. 398, 133 S.Ct. 1138, 185 L.Ed.2d 264 (2013).

The order said that it did not address the claims of the other plaintiffs because they did not form the basis of the district court’s preliminary injunction.

Justices Sotomayor and Jackson dissented.



D.5. Federal Cases

E.M.D. Sales, Inc. v. Carrera, 604 U.S. 45 (2025) Fair Labor Standards Act

Employees, who were sales representatives for distributor of international food products, brought action alleging that employer violated the Fair Labor Standards Act (FLSA) by failing to pay them overtime wages. Following bench trial, the United States District Court for the District of Maryland concluded that employer failed to prove by clear and convincing evidence that employees qualified as outside salesmen exempt from FLSA, and therefore ordered employer to pay overtime wages and liquidated damages. Both parties appealed. The United States Court of Appeals for the Fourth Circuit affirmed. Certiorari was granted.

Holding: In a unanimous opinion, the Supreme Court, Justice Kavanaugh, held that the preponderance-of-the-evidence standard applies when an employer seeks to show that an employee is exempt from the minimum-wage and overtime-pay provisions of the FLSA.

Reversed and remanded.

Justice Gorsuch filed a concurring opinion, in which Justice Thomas joined.



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II. CALIFORNIA DEVELOPMENTS

A. California Response to Federal Developments

- A significant share of federal funding for California flows through the state budget. The Governor's \$492.9 billion proposed state budget for 2025-26 includes more than \$170 billion in federal funds. This is over one-third (34.6%) of the total state budget. (See [California Budget & Policy Center](#).)
- Immediately following the November 2024 election, which launched the second Trump administration, California Gavin Newsom first [announced](#) the establishment of a new litigation fund for the California Department of Justice and state agencies to defend California from "unconstitutional federal overreach," challenge "illegal federal actions" in court, and take "administrative actions" to reduce potential harm under the second Trump administration. Another \$500,000 was earmarked to commence legal action right away.
- In November 2024, Governor Newsom issued a [proclamation](#) convening a special session of the California Legislature "to safeguard California values and fundamental rights in the face of an incoming Trump administration."
- Out of the December 2024 [special session](#), the State Legislature amended the [Budget Act](#) to "include \$25 million in funding proposed by Governor Newsom for the California Department of Justice to bolster legal resources" against the federal government.
- In February 2025, Governor Newsom sought \$40 billion in federal funds from President Trump for the Los Angeles and Altadena wildfires. (See [CalMatters](#).)
- In May 2025, Governor Newsom unveiled an updated 2025–26 state budget plan ([May Revise](#)) with a projected \$11.9 billion shortfall. Blaming the tariffs, he proposed cuts that to scale back the state's offer of health insurance to low-income undocumented immigrants. Nonetheless, Governor Newsom pledged to continue pushing back against the President's agenda in court. California has already filed more than a dozen lawsuits against the Trump administration. (See [KQED](#) article.)
- In June 2025, President Trump is reportedly considering a large-scale cancellation of federal funding for California, because of the state's transgender students' participation in women/girls' sports and antisemitism on U.C. campuses. (See [CNN](#) article.)
- In response, Governor Newsom has threatened to withhold California taxes from the federal government. (See [Politico](#).) Californians contribute [\\$234.5 billion](#) to or 15% of federal income taxes.

A vertical photograph of the interior of the US Capitol Dome, showing the ornate architecture, including the circular ceiling with a central fresco and the surrounding galleries.

B.1. Enforcement Agencies: California Civil Rights Department (CRD, formerly DFEH)

- CRD (formerly Department of Fair Employment and Housing, DFEH) enforces the Fair Employment and Housing Act (FEHA, Gov. Code § 12900 et seq.), Unruh Civil Rights Act (Civ. Code, § 51 et seq.), Ralph Civil Rights Act (Civ. Code, § 51.7), Disabled Persons Act (Civ. Code, § 54 et seq.), Government Code sections 11135 et seq., and related statutes (See Cal. Code Regs., tit. 2, § 10000 et seq.)
- The largest state civil rights agency in the nation, CRD has a budget of \$67.854 million in FY 2025-26, of which \$6.123 million consists of federal funds from the EEOC and HUD.
- CRD is a Fair Employment Practices Agency with respect to the EEOC. CRD and the EEOC have a [worksharing agreement](#) to dual file cases for which CRD is paid by the EEOC for handling such cases.
- Historically, DFEH and the EEOC had collaborated well. However, in 2022, DFEH publicly opposed an \$18 million sexual harassment settlement between the EEOC and Activision Blizzard. (See [American University Business Law Review](#).) The U.S. District Court approved the EEOC's settlement. EEOC maintained that DFEH had breached the worksharing agreement that gave the federal agency the lead with the sexual harassment claims against Activision, leaving the sex discrimination claim for the state agency to resolve. (See [Courthouse News Service](#).)
- Suspension of EEOC's federal funding to California would impact CRD's ability to carry out its statutory authority.

A vertical photograph of the interior of the US Capitol Dome, showing the ornate architecture, including the circular ceiling with a central fresco and the surrounding galleries.

B.2. California Enforcement Agencies: Department of Industrial Relations (DIR)

- The Department of Industrial Relations (DIR) protects and improves the health, safety and economic well-being of workers in California. DIR is responsible for enforcing the sections of the Labor Code that protect the health and safety of workers; promulgating regulations and enforcing laws relating to wages, hours, and workers' compensation insurance laws; adjudicating workers' compensation claims, and working to prevent industrial injuries and deaths. The Department also promotes apprenticeship and other on-the-job training, as well as analyzes and disseminates statistics measuring the condition of labor in the state.
- In FY 2025-26, DIR's budget is \$1.498 billion of which \$38.161 million is federal funding.
- DIR's Division of Occupational Safety and Health (Cal/OSHA) State Plan program receives federal funding from two grants. Cal/OSHA receives a grant of \$26,563,600 in federal funds, which constitutes 29.1% of the State Plan budget for enforcement.
- The California On-Site Consultation program is funded by a cooperative agreement for \$5,526,300 in federal funds, which constitutes 46 percent of the program budget for consultation services.
- Suspension of federal funding to California would impact DIR's ability to carry out its statutory authority.

A vertical photograph of the interior of the US Capitol dome, showing the ornate architecture, including the dome's interior with its circular design and the lower levels with arches and statues.

B.3. California Enforcement Agencies: Department of Justice (CalDOJ)

- The California Constitution establishes the Attorney General, currently Rob Bonta, as the state's chief law officer, responsible for ensuring that the laws of the state are uniformly and adequately enforced. The Attorney General is vested with broad powers and carries out these important responsibilities through the California Department of Justice.
- CalDOJ includes over 5,600 employees. It has a [budget](#) of \$1.498 billion in FY 2025-26, of which \$38.16 million, nearly 40%, consists of federal funds.
- Between 2017 and 2021, California reportedly filed more than [123 lawsuits](#) and spent [\\$41 million](#) challenging the first Trump administration's authority on health care, gun control, civil rights issues and immigration.
- Now, under Trump 2.0, the state is filing lawsuits at almost [double the pace](#) of his first administration. So far CalDOJ has filed or joined [16 lawsuits](#) against the federal government. CalDOJ posts on its Web site [lawsuits](#) it has file against the federal government.
- Suspension of federal funding to California would impact CalDOJ's ability to carry out its constitutional and statutory authority.

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C. California Legislation & Regulations

1. Regulation:

CRD Civil Rights Council's Proposed Employment Regulations re AI

On May 17, 2025, the Civil Rights Council, a rulemaking body under the CRD, issued its notice of proposed rulemaking modifying parts of California's employment discrimination regulations. (Cal. Code Regs, tit. 2, §§ 11008-11017.) The [Final Unmodified Text of Proposed Employment Regulations Regarding Automated-Decision Systems](#) has proceeded to a 45-day [public comment](#) period until July 18, 2025.

The proposed regulations clarify that it is unlawful to use AI and automated decision-making systems to make employment decisions that discriminate against applicants or employees in ways prohibited by the FEHA or other California antidiscrimination laws.

The proposed regulations cover the following:

- Key terms such as “agent,” “automated decision-making,” “artificial intelligence,” and “machine-learning.”
- Unlawful selection criteria.
- Pre-employment practices.
- Unlawful medical or psychological inquiries.
- Third-party liability.



C. California Legislation & Regulations

2. Pending Legislation

[SB 294](#), as amended, Reyes. The Workplace Know Your Rights Act.

This bill:

1. requires employers to provide a stand-alone written notice annually to each employee informing them of their rights under state and federal law;
2. directs the Labor Commissioner to develop separate videos for employers and employees informing them of their responsibilities and rights;
3. requires employers, if authorized by an employee, to contact an employee's designated emergency contact if the employee is arrested or detained; and
4. authorizes various penalties for noncompliant employers.



C. California Legislation & Regulations

2. Pending Legislation

[AB 1015](#), as introduced, Patel. Discrimination and harassment prevention training.

This bill would authorize an employer to satisfy the training requirements by demonstrating that the employee possesses a certificate of completion within the past 2 years.

A vertical photograph of the interior of the US Capitol dome, showing the ornate architecture and the central fresco.

C. California Legislation & Regulations

2. Pending Legislation

[SB 238](#), as amended, Smallwood-Cuevas. Workplace surveillance tools.

This bill requires:

- 1) an employer to annually provide a notice to the Department of Industrial Relations (DIR) of all workplace surveillance tools the employer is using in the workplace, and
- 2) DIR to make the employer-provided notice publicly available on the Department's internet website.



C. California Legislation & Regulations

2. Pending Legislation: Artificial Intelligence

[SB 7](#), as amended, McNerney. Employment: automated decision systems.

[AB 316](#), as amended, Krell. Artificial intelligence: defenses.

[SB 366](#), as amended, Smallwood-Cuevas. Employment: artificial intelligence.

[AB 1018](#), as amended, Bauer-Kahan. Automated decision systems.

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C. California Legislation & Regulations

2. Pending Legislation

[SB 464](#), as amended, Smallwood-Cuevas. Employer pay data.

This bill, for existing pay data reporting requirements of private employers:

- 1) requires employers to collect and store demographic information gathered separately from employees' personnel records; and
- 2) expands the pay data reporting requirements to public employers, as defined.



C. California Legislation & Regulations

2. Pending Legislation

[SB 513](#), as amended, Durazo. Personnel records.

This bill:

- 1) provides that every current and former employee, or their representative, has the right to inspect or receive a copy of the personnel records that an employer maintains relating to education or training, and
- 2) requires an employer who maintains education or training records to ensure those records include specified information.



C. California Legislation & Regulations

2. Pending Legislation

[SB 642](#), as amended, Limón. Employment: payment of wages.

This bill aims to strengthen California's Equal Pay Act by, among other things:

- (1) revising the definition of “pay scale” for purposes of existing job posting requirements;
- (2) increasing the statute of limitations on civil actions for employer violations; and
- (3) specifying what constitutes a cause of action for violations.



C. California Legislation & Regulations

2. Pending Legislation

[SB 648](#), as introduced, Smallwood-Cuevas. Employment: gratuities: enforcement

This bill authorizes the Labor Commissioner to investigate and issue a citation or file a civil action to recover gratuities taken or withheld from workers in violation of existing law.



C. California Legislation & Regulations

2. Pending Legislation

[AB 1234](#), as amended, Ortega. Employment: nonpayment of wages: complaints.

Clarifies and revises the steps the Labor Commissioner may take in the wage claim process to ensure participation by the parties by permitting the entry of default judgment if a defendant fails to answer an employee's complaint, attend a mandatory settlement conference without good cause, or appear at the hearing on the complaint.



C. California Legislation & Regulations

2. Pending Legislation:

[AB 858](#), as amended, Lee. Employment: rehiring and retention: displaced workers: natural disasters.

Modifies recall and reinstatement rights for laid-off employees in the hospitality, service, and travel industries by adding a new recall right for workers laid off on or after January 1, 2025 for a reason related to a state of emergency, as well as sunsets this requirement and the recall and reinstatement rights for employees laid off as a result of the COVID-19 pandemic, as specified, on December 31, 2027.



D. California Case Law

[Carranza v. City of Los Angeles](#), --- Cal.Rptr.3d ----, 2025 WL 1482443 (May 23, 2025) Sexual Harassment | Hostile Work Environment

Female police captain brought action against city, asserting hostile work environment sexual harassment claim under Fair Employment and Housing Act (FEHA), alleging she experienced severe or pervasive harassment based on widespread circulation of a photograph of a topless woman falsely said to be her among police department personnel and police department's failure to notify officers it was not her or order them to stop sharing it. The Superior Court, Los Angeles County, entered judgment on jury verdict in favor of captain. City appealed.

Holding: The Court of Appeal held that substantial evidence supported finding that harassment was sufficiently severe or pervasive to create a hostile work environment.

A vertical photograph of the interior of the US Capitol dome, showing the ornate architecture and the central fresco.

D. California Case Law

Bradsbery v. Vicar Operating, Inc., 110 Cal.App.5th 899 (2025) Meal Period Waivers

Employees brought a putative class action against their former employer, a veterinary hospital operator, alleging violations of the Labor Code and Industrial Welfare Commission (IWC) wage orders for failure to provide required meal periods. The Superior Court granted employer's motion for summary adjudication, determining that the meal period waivers signed by employees were valid. Employees petitioned for a writ of mandate, which was denied. Employees and employer settled the remaining claims, with employees reserving the right to appeal the summary adjudication order. The Superior Court, Los Angeles County, entered judgment in employer's favor. Employees appealed.

Holding: The Court of Appeal held that as a matter of first impression, employees' revocable, prospective written waivers of meal periods for work shifts between five and six hours were enforceable under the Labor Code and wage orders at issue.

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D. California Case Law

Casey v. Superior Court, 108 Cal.App.5th 575 (2025) EFAA

Former employee brought action against employer and co-worker, alleging sexual harassment, discrimination based on gender or sex, retaliation, and failure to prevent discrimination and harassment under Fair Employment and Housing Act (FEHA). Employer and co-worker filed motion to compel arbitration. The Superior Court, Contra Costa County, granted motion. Employee filed a petition for a writ of mandate.

Holdings: The Court of Appeal held that:

1. Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act (EFAA) applied because there was sufficient indicia of interstate commerce;
2. doctrine of conflict preemption applied, and thus, EFAA preempted employer's motion to compel arbitration; and
3. employee's entire "case" against employer was exempt from arbitration pursuant to EFAA.

Petition granted; order compelling arbitration vacated.



D. California Case Law

Cases Pending before the California Supreme Court

Arbitration

Basith v. LAD Carson-Nm LLC, 90 Cal. App. 5th 951 (2023), review granted, 2023 WL 5114947 (Aug. 9, 2023); S280258/B316098

Colon-Perez v. Security Industry Specialist, 108 Cal. App. 5th 403 (2025), review granted, 2025 WL 1132079 (Apr. 16, 2025), S289702/A168297

Fuentes v. Empire Nissan, 90 Cal. App. 5th 919 (2023), review granted, 2023 WL 5114942 (Aug. 9, 2023); S280256/B314490

Hernandez v. Sohnen Enterprises, 102 Cal. App. 5th 222 (2024), review granted, 2024 WL 3893693 (Mem) (Aug. 21, 2024); S285696/B323303 Arbitration

Hohenshelt v. Superior Court (Golden State Foods), 99 Cal.App.5th 1319 (2024), review granted, 2024 WL 2966505 (Mem) (Jun. 12, 2024); S284498/B327524

Keeton v. Tesla, 103 Cal.App.5th 26 (2024), review granted, 2024 WL 4160072 (Mem) (Sept. 11, 2024); S286260/A166690

Rodriguez v. Packers Sanitation Services, Ltd., 109 Cal.App.5th 69 (2025), review granted, 2025 WL 1404550 (May 14, 2025) S290182/D083400

Zhang v. Superior Court, 85 Cal. App. 5th 167 (2022), review granted, 304 Cal. Rptr. 3d 549 (Mem) (Feb. 15, 2023); S277736/B314386



D. California Case Law

Cases Pending before the California Supreme Court

Retirement

Los Angeles County Employees Retirement Assn. v. County of Los Angeles, 102 Cal.App.5th 1167(2024), review granted, 2024 WL 4511044 (Mem) (Oct. 16, 2024); S286264/B326977

San Jose, City of v. Howard Jarvis Taxpayers Association, 101 Cal. App. 5th 777 (2024), review granted, 2024 WL 3819092 (Aug. 14, 2024); S285426/H050889

Ventura County Employees' Retirement Assn. v. Criminal Justice Attorneys Assn. of Ventura County, 98 Cal. App. 5th 1119 (2024), review granted, 320 Cal. Rptr. 3d 117 (Mem) (Apr. 17, 2024); S283978/B325277



D. California Case Law

Cases Pending before the California Supreme Court

Whistleblower

Brown v. City of Inglewood, 92 Cal. App. 5th 1256 (2023), review granted, 2023 WL 6300304 (Mem) (Sept. 27, 2023), S280773/B320658

Wrongful Termination

Hearn v. Pacific Gas & Electric Co., 108 Cal.App.5th 301 (2025), review granted, 2025 WL 1404484 (May 14, 2025) S289581/A167742, A167991



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III. IMPACT OF NEW FEDERALISM ON MEDIATION



Impact of New Federalism on Mediation

- Conflicts between federal and state law and enforcement agencies create uncertainty.
- Mediators can step into the void to resolve conflicts for litigants.
- Recognize that policies, statutory and regulatory guidance will be in flux.
- Stay current on legal developments at the federal and state levels.



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Questions



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THANK YOU



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