

LAW & POLICY GROUP

GRIST

US: CALIFORNIA ENHANCES PROTECTIONS AGAINST WORKPLACE DISCRIMINATION

By Mercer's Stephanie Rosseau and Fiona Webster
Oct. 17, 2019

Starting in 2020, California employees will have increased protections against workplace discrimination under two recently [signed](#) laws. The Stop Harassment and Reporting Extension (SHARE) Act ([2019 Ch. 709](#)) gives employees two additional years to file harassment and discrimination claims. Another law ([2019 Ch. 711](#)) prohibits mandatory arbitration clauses, which can restrict an employee's ability to bring harassment and discrimination claims. According to the governor's press release, the "landmark legislation drafted in response to the #MeToo campaign" aims to create "a safe workplace for all Californians, especially women who experience sexual harassment at disproportionate rates."

HIGHLIGHTS OF NEW DISCRIMINATION PROTECTIONS

Extended filing deadline. The SHARE Act extends the current one-year deadline to three years for employees to file claims of unlawful workplace harassment, discrimination and retaliation under the California Fair Employment and Housing Act (FEHA). This statute of limitations is six times longer than the federal filing deadline for similar claims. Workplace harassment includes discrimination or retaliation based on protected characteristics, such as sex and gender, sexual orientation, gender identity, race, age, religion, and disability.

No mandatory arbitration. Employers are prohibited from conditioning employment or an employment-related benefit on an employee's or applicant's agreement to waive a right, forum or procedure for remedying violations of the FEHA or Labor Code. Employers can't threaten, terminate, or otherwise retaliate or discriminate against employees or applicants for refusing to waive any of their rights. The ban applies to employment contracts entered into, modified, or extended on or after Jan. 1, 2020.

OTHER RECENT SEXUAL HARASSMENT PROTECTIONS

In August, the governor signed [legislation](#) (2019 Ch. 215) that requires employers with five or more employees to provide at least two hours of sexual harassment training and education to all supervisors and one hour of training to nonsupervisory staff. The measure extends by one year the initial training deadline enacted in 2018, requires retraining every two years and makes other clarifications.

RELATED RESOURCES

Non-Mercer Resources

- [Press Release](#) (Office of Governor, Oct. 10, 2019)
- [2019 Ch. 709](#) (California Legislature, Oct. 10, 2019)
- [2019 Ch. 711](#) (California Legislature, Oct. 10, 2019)

Mercer Law & Policy Resources

- [US: California Employers Must Provide Sexual Harassment Training by 2021](#) (Sept. 11, 2019)

Note: Mercer is not engaged in the practice of law, accounting or medicine. Any commentary in this article does not constitute and is not a substitute for legal, tax or medical advice. Readers of this article should consult a legal, tax or medical expert for advice on those matters.