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PRACTICE GUIDE · EMPLOYMENT LAW

The California Employee-Protection Framework

Grand Park Law Group · 2026



California's employee-protection regime is built on two statutory pillars — the Fair Employment and Housing Act and the Labor Code — administered by two principal agencies (the Civil Rights Department and the Labor Commissioner's Office) and supplemented by a robust body of common-law tort doctrine. The framework is deliberately more protective than its federal counterparts, and in most areas the state floor sits well above the federal ceiling.

A. The Fair Employment and Housing Act (FEHA)

FEHA, codified at California Government Code § 12940 and the surrounding sections, is the engine of California discrimination, harassment, and retaliation law. Section 12940(a) makes it unlawful for any employer to refuse to hire, discharge, or discriminate in compensation or terms of employment because of an enumerated protected characteristic. Section 12940(j) imposes parallel liability for harassment, and crucially extends harassment liability to *individual* supervisors and coworkers — something Title VII does not do. Section 12940(h) bars retaliation against employees who oppose unlawful practices or participate in CRD proceedings. Section 12940(k) imposes an affirmative duty to take "all reasonable steps necessary to prevent discrimination and harassment from occurring," and section 12940(n) requires employers to engage in a timely, good-faith *interactive process* with employees who request disability accommodations.

FEHA covers employers with five or more employees for discrimination claims and *one or more* for harassment claims. Cal. Gov. Code § 12926(d). Damages are uncapped: prevailing plaintiffs may recover back pay, front pay, emotional distress damages, punitive damages, and attorneys' fees

under Cal. Gov. Code § 12965(c)(6). FEHA's fee-shifting is one-way in practical effect; under *Williams v. Chino Valley Independent Fire Dist.* (2015) 61 Cal.4th 97, a prevailing defendant cannot recover fees absent a showing that the action was frivolous, unreasonable, or groundless.

B. The Labor Code (Wage Hour, Whistleblower, Retaliation)

The Labor Code covers what FEHA does not: payment of wages, working conditions, and retaliation tied to the exercise of any statutory right. Three sections do most of the work in plaintiff practice.

Section 1102.5 — Cal. Lab. Code § 1102.5 — is California's general whistleblower statute. As amended in 2014 and again in 2021, it prohibits retaliation against an employee who discloses information the employee *reasonably believes* evidences a violation of law, whether to a government agency, a person with authority over the employee, or another employee with authority to investigate. The 2021 amendment added subsection (j), which awards attorneys' fees to a prevailing plaintiff, and Senate Bill 497 (effective January 1, 2024) created a rebuttable presumption of retaliation when an adverse action follows protected activity within 90 days.

Section 226 — Cal. Lab. Code § 226 — governs itemized wage statements. Employers must provide nine specific categories of information on every paystub (gross wages, hours, deductions, net wages, pay period dates, employee name and last four of SSN, employer name and address, hourly rates and corresponding hours). Knowing and intentional violations expose the employer to statutory penalties of $50 for the first pay period and $100 per pay period thereafter, capped at $4,000 per employee, plus attorneys' fees.

Section 226.7 — Cal. Lab. Code § 226.7 — is the meal-and-rest-period premium statute. An employer who fails to provide a compliant 30-minute meal period (within the first five hours of work) or a 10-minute rest period (per four hours worked) owes one additional hour of pay at the employee's "regular rate of compensation." After *Naranjo v. Spectrum Security Services, Inc.* (2022) 13 Cal.5th 93, those premiums are themselves "wages," meaning their non-payment triggers derivative wage-statement and waiting-time penalties.

C. The Civil Rights Department (formerly DFEH) and Administrative Exhaustion

FEHA is not self-executing. Before filing a civil action, an aggrieved employee must file an administrative complaint with the Civil Rights Department (CRD) — known until July 2022 as the Department of Fair Employment and Housing — and obtain a right-to-sue notice. Cal. Gov. Code § 12960(b).

The complaint window is the critical date. Assembly Bill 9 (the "Stop Harassment and Reporting Extension Act"), effective January 1, 2020, amended Cal. Gov. Code § 12960 to extend the filing deadline from one year to **three years** from the date of the unlawful practice. Once the CRD issues the right-to-sue letter, the employee has one additional year to file in superior court. Cal. Gov. Code § 12965(c)(1)(C). Employees who request an immediate right-to-sue may bypass agency investigation, but doing so forfeits potential CRD-led mediation and resource leverage.

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A separate exhaustion regime applies to Labor Commissioner wage claims (a Berman hearing under Lab. Code § 98) and to PAGA claims, which require pre-filing notice to the Labor and Workforce Development Agency. There is no general exhaustion requirement for common-law claims like wrongful termination in violation of public policy.

D. Interaction with Federal Statutes (Title VII, ADA, ADEA, FLSA)

Federal antidiscrimination and wage statutes set a floor, not a ceiling. California's protections are broader along nearly every axis:

- **Coverage threshold.** Title VII reaches employers with 15 or more employees; the ADEA, 20; the ADA, 15. FEHA reaches five (one for harassment).
- **Causation standard.** Title VII requires "but-for" causation for retaliation under *Univ. of Tex. Sw. Med. Ctr. v. Nassar*, 570 U.S. 338 (2013). FEHA, post-*Harris*, applies the more plaintiff-friendly "substantial motivating factor" standard discussed below.
- **Damages.** Title VII caps compensatory and punitive damages between $50,000 and $300,000 depending on employer size, 42 U.S.C. § 1981a(b)(3). FEHA imposes no cap.
- **Wage law.** The FLSA does not require daily overtime, meal periods, or rest breaks; California does. Cal. Lab. Code §§ 510, 512, 226.7.

For most California-based plaintiffs, the practical decision is whether to dual-file with the EEOC (often advisable to preserve federal jurisdiction and any benefits-related ERISA or § 1981 theories) while litigating principally under state law. Removal risk is real where federal claims are pleaded; counsel should evaluate whether the federal hook adds enough leverage to justify it.

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