



THE CALIFORNIA DISCRIMINATION OR HARASSMENT LAWS

Several additional laws have been passed over the past few years adding to our understanding of harassment and discrimination and further defining protected classes.

Assembly Bill No. 76 (2003)

"An employer may also be responsible for the acts of nonemployees, with respect to sexual harassment of employees, applicants, or persons providing services pursuant to a contract in the workplace, where the employer, or its agents or supervisors, knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing cases involving the acts of nonemployees, the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of those nonemployees shall be considered."

Assembly Bill No. 196 (2004)

Protects transgender and transvestite employees. Gender includes not only a person's actual sex but their identity, appearance or behavior - even if it is different than their assumed sex at birth. You may not refuse to hire based on cross-dressing, and you may not fire, layoff or refuse employment benefits based on a person's real or perceived gender.

Assembly Bill No. 1670 (2004)

Protects transgender and transvestite employees under an amended definition in FEHA. Gender includes not only a person's actual sex but their identity, appearance or behavior - even if it is different than their assumed sex at birth. You may not refuse to hire based on cross-dressing, and you may not fire, layoff or refuse employment benefits based on a person's real or perceived gender.

Assembly Bill 1670 ("California Civil Rights Amendments of 1999") extensively amended the Fair Employment and Housing Act.

- ✓ A company may be liable for the harassment of an independent contractor by the managers or employees.
- ✓ The FEHA "Supervisor" definition includes anyone with authority "to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to

recommend that action... if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

- ✓ Pregnancy Discrimination: Employers must provide "reasonable accommodation" to an employee due to pregnancy, childbirth or related medical condition upon request with the advice of her healthcare provider.
- ✓ Increase in damages and fines - The amount of damages and fines which may be awarded in an administrative proceeding before the Fair Employment and Housing Commission was been increased.
- ✓ The FEHA now includes the training of personnel as an equitable remedy.

Assembly Bill 519 - Sexual Harassment in a Professional or Business Relationship

This bill now defines sexual harassment as "sexual advances, solicitations, sexual requests, demands for sexual compliance, or other verbal, visual or physical conduct of a sexual or hostile nature based on gender." The bill deleted the requirement that the client ask the harasser to stop the conduct, and clarifies "personal injury" to include emotional distress. The original law stated that a client must suffer economic loss and/or personal injury.

About Marcia Stein, PHR

Marcia Stein has worked in the Silicon Valley since 1989 and owns a Human Resources Consulting practice with experience as a Recruiter, Staffing Manager and Human Resources Director. Marcia is an active speaker presents to organizations, corporations and job search groups. She is the founder and organizer of the Silicon Valley Women in Human Resources...and Friends group, a networking, mentoring and educational group for professional women with over 1,500 members. Marcia started and maintains a website for the group and has been recognized by the HR Symposium with the Partners in Innovation Award.

She is the author of [*Recruiters on Recruiting*](#), a look into the career paths of different types of recruiters, their tips for job seekers and new recruiters. Her second book is [*Strained Relations: Help for Struggling Parents of Troubled Teens*](#).

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