

AB 168: Ban on Inquiries Re Prior Salary History

- Update applications, interview templates and other forms to remove inquiries related to salary history.
- Train hiring managers, supervisors, recruiters and anyone else involved in the hiring process to avoid inquiring about an applicant's salary history.
- Change any interview and/or reference checking templates that ask about salary history.
- Train those involved in the hiring process that, to the extent an applicant voluntarily discloses salary history information and the decision is subsequently made to hire that applicant, to document the basis for any salary offer and avoid relying on the prior salary history.
- Develop a salary range for every job posting to be provided to applicants upon request.
- For employers in San Francisco, check that ordinances for additional requirements or necessary postings.

AB 1008: "Ban the Box"- No Inquiries Re Criminal Conviction History Until Contingent Offer

- Update applications to remove inquiries related to conviction history (although it may remain permissible to advise applicants that the employer may inquire about and consider conviction history information after a conditional offer is extended).
- Audit existing policies on the use of criminal background checks and update as needed; conduct background checks only after a conditional offer has been made.
- Have a written policy on the use of criminal background checks of applicants and current employees.
- Train hiring managers and supervisors, recruiters, and anyone else involved in the hiring process: (1) to avoid inquiring about any conviction history until after a conditional offer of employment has been extended, and (2) on the types of information that may be obtained during a criminal background check.
- The law precludes the consideration of convictions that have been sealed, dismissed, expunged or "statutorily eradicated pursuant to law" so train those involved in hiring not to rely on unverified information and consider using only professional background screeners. You may also adopt policies that forbid hiring managers from relying on unverified criminal conviction information and/or requiring the use of professional background screeners.
- Train those involved in making hiring decisions on the factors that must be considered when determining whether prior convictions disqualify an applicant.
- Conduct individualized analysis of conviction history considering: (1) the nature and gravity of the offense; (2) the amount of time that has passed since the offense and the completion of any sentence; and (3) the nature of the job held or sought.
- Develop protocols and notices for the so-called Fair Chance Process wherein the employer notifies applicants of potentially disqualifying convictions and provides an opportunity to respond.
- Before disqualifying an applicant document how the applicant's conviction history is inconsistent with the specific duties of the position.
- Develop template communications for informing applicants of decisions to deny an applicant based in whole or in part on conviction history including notification of the right to file a complaint with the DFEH.
- For employers in municipalities with their own Ban the Box ordinances (e.g. Los Angeles, San Francisco, Richmond and Compton), check those ordinances for additional requirements or limitations.

SB 396: Updates to Mandated Harassment Training

- Update AB 1825 anti-harassment training to include prevention of harassment based on gender identity, gender expression and sexual orientation.
- Post the DFEH poster on transgender rights found here: <https://www.dfeh.ca.gov/resources/posters-and-brochures-and-fact-sheets/poster-and-brochure-tab-list/>

SB 63: Job-Protected Parental Leave for Medium-Sized Employers

- Employers with between 20 and 49 employees should update leave policies to include a description of parental leave including the right to take 12 workweeks of job-protected, unpaid parental leave to bond with a new child, assuming employees meet eligibility criteria.

Minimum Wage/Computer Professional Increases

- Ensure compliance with all local minimum wage ordinances that are higher than the state minimum wage.
- Ensure all exempt employees are making at least \$45,760 as of January 1, 2018 (\$43,680 for employers with 25 or fewer employees).
- Ensure exempt computer professionals are paid at least \$90,790.07.

Policy & Practice Updates

- Consider updating handbook and/or training managers on day of rest rules
- Update rest period policies to eliminate any restrictions on employees during rest breaks. Employees should be free to leave the employer's premises and should not be required to remain "on call," to carry radios or be available to perform any duties during rest breaks.
- Ensure mechanism in place for paying meal/rest penalties to employees who legitimately miss, take a late, or take a short meal/rest period.
- Ensure timekeeping policy requires employees to record all time spent working, even if offsite or outside of scheduled work hours, and forbids "off the clock" work.
- Ensure policy clearly provides a process for employees to report work performed outside of work hours. Make supervisors aware that such time is compensable and they should not discourage employees from requesting pay for such work (although they may wish to discourage employees from performing work while off-duty).
- Encourage supervisors to avoid communicating w/non-exempt employees outside of scheduled work hours.
- Determine whether non-exempt employees need remote access to work e-mail or the company computer system. Terminate remote access for those who do not need to perform work outside of the workplace and ensure such employees do not receive company e-mail on any of their mobile devices.