

CLIENT ALERT



Key California Labor and Employment Updates for 2026

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New California employment statutes include significant changes that will reshape employment agreements, pay equity compliance, notice practices, data governance, and leave administration. Below we summarize the statutes most likely to affect multi-state and California employers beginning January 1, 2026, highlight near-term implementation steps, and flag forward-looking changes coming in 2027 and beyond.

REPAYMENT, “STAY-OR-PAY,” AND CONTRACT DESIGN: AB 692

Beginning January 1, 2026, **AB 692** prohibits employers from entering into contracts that require an employee or other worker to repay a “debt” or incur a penalty upon termination, unless the agreement fits within narrow statutory exceptions. The law’s breadth, targeting any “money due or owing” to an employer, casts substantial compliance risk over training repayment agreements, relocation reimbursements, education-related costs, and signing/retention payments that trigger repayment when employment ends. Governor Newsom’s signing message characterized these arrangements as “debt traps” that can operate like modern non-competes and impede worker mobility. See Public Statement: <https://www.gov.ca.gov/wp-content/uploads/2025/10/AB-692-Signing-Message.pdf>.

AB 692 applies prospectively to agreements **entered into on or after January 1, 2026**; existing agreements remain governed by current law. Still, employers should review and update templates now so that post-effective-date arrangements are compliant. The statute protects a broad category of “employees or other workers,” signaling likely application beyond W-2 employees to individuals performing work in California, regardless of where a contract was originally executed.

The law contains limited and highly structured exceptions. Two will be most relevant for common programs:

- **Sign-on bonuses and similar “unearned” upfront payments** remain permissible if they are set out in a separate agreement; include advance notice of the right to consult counsel at least five business days before signing; make any clawback interest-free and strictly prorated over a retention period no longer than two years; offer the worker the option to defer the payment until the end of the retention period with no repayment obligation; and permit repayment only if the worker resigns voluntarily or is terminated for misconduct.
- **Tuition/education repayment** is allowed if in a separate agreement for a transferable credential that is not a condition of employment, with a specified amount not exceeding the employer’s actual cost; prorated (non-

accelerated) repayment during any service requirement; and no repayment upon termination except for misconduct.

Other enumerated exceptions include government loan/forgiveness programs, contracts related to approved apprenticeship programs, and contracts tied to the lease, financing, or purchase of residential property. Unearned payments tied to specific job performance (e.g., commission advances where no repayment is required) are also outside the statute's scope.

Note that California law already forbade making deductions from a final paycheck for amounts owed, and that remains true for these exceptions as well.

Noncompliant provisions are at risk of being void under **Business & Professions Code § 16600** and can trigger statutory penalties of **\$5,000 per employee** or actual damages, plus injunctive relief. Given the statute's interplay with California's broader restraint-of-trade regime and potential tax timing concerns, employers should audit and re-paper any affected arrangements and train HR and legal teams on compliant structures for 2026 offers and programs.

PAY DATA REPORTING AND DEMOGRAPHIC DATA GOVERNANCE: SB 464

Starting January 1, 2026, private employers covered by California's annual pay data reporting must store demographic information collected for reporting purposes **separately from personnel records**. Courts are now required, upon CRD request, to impose civil penalties of **\$100 per employee** for a first failure to file and **\$200 per employee** for subsequent failures. Effective January 1, 2027, employers must transition from the EEO-1's 10 categories to the **23 Standard Occupational Classification (SOC) categories** for reporting job groupings, necessitating job mapping and system updates in 2026 to support the reporting due in May 2027.

Practical steps include segregating demographic datasets from personnel files, aligning Human Resources Information System (HRIS) configurations to capture SOC groupings ahead of the 2027 shift, and coordinating with labor contractors to ensure clean, consistent data for the May reporting window.

EQUAL PAY AND PAY TRANSPARENCY: SB 642

Existing law requires employers to share the pay scale for a position with an applicant or in a job posting. Effective January 1, 2026, the definition of "pay scale" is revised to mean a **good-faith estimate** of the salary or hourly wage range the employer reasonably expects to pay for the position upon hire—now focusing disclosures at the point of hire. Amendments to the Equal Pay Act also clarify that "wages" and "wage rates" include all forms of compensation, and update the comparator language from "opposite sex" to "another sex," ensuring coverage for non-binary employees. The statute of limitations moves to three years, with relief available for up to the entire period of the violation, capped at six years.

Employers should refresh posting templates, calibrate hiring ranges, and extend retention of job postings and pay statements to match the expanded recovery period.

WAGE AND HOUR AND ENFORCEMENT

As of January 1, 2026, the **state minimum wage** increases to **\$16.90** per hour, raising the exempt salary threshold to **\$70,304** annually for most white-collar exemptions. Employers should also confirm compliance with higher industry-specific rates (e.g., the computer professional exemption) and local ordinances.

New penalties and enforcement tools arrive with **SB 261**, imposing civil penalties of up to three times unpaid wage judgments that remain unsatisfied 180 days after the appeal period, along with mandatory attorneys' fees and successor liability exposure. Employers can avoid penalties by entering into and honoring a written installment plan before the deadline.

Under **SB 648**, the Labor Commissioner and private plaintiffs can pursue expanded remedies for gratuity theft, with administrative procedures and civil penalties layered atop recovery of tips, interest, and attorneys' fees. Update policies, train managers, and audit practices in tipped operations.

CAL-WARN NOTICES AND WORKFORCE REDUCTIONS: SB 617

For mass layoffs, relocations, and terminations, WARN notices issued on or after January 1, 2026 must include additional content, including whether the employer will coordinate services with a Local Workforce Development Board, contact details for the LWDB and the employer, a description of rapid response services, and information about CalFresh. If coordinating support services, employers must arrange them within 30 days of the notice.

Separately, **AB 858** extends California's COVID-19 hospitality recall rights through January 1, 2027, and preserves enforcement for violations occurring on or before December 31, 2026.

WORKPLACE RIGHTS NOTICE AND IMMIGRATION-RELATED PROVISIONS: SB 294

Effective January 1, 2026, employers must deliver a stand-alone written notice of specified worker rights to each current employee by **February 1, 2026**, and annually thereafter, and to new hires at onboarding. The notice in English is available at this link: <https://www.dir.ca.gov/dlse/Know-Your-Rights-Notice/Know-Your-Rights-Notice-English.pdf>

The notice is also available in Spanish on the DLSE website, and will soon be available in additional languages.

Employers must also provide employees the opportunity by **March 30, 2026**, to designate an emergency contact to be notified if the employee is arrested or detained at work or during work hours when the employer has actual knowledge.

Violations can trigger significant per-employee penalties.

LEAVES OF ABSENCE: AB 406 AND SB 590

AB 406 expands California's Crime Victims' Leave framework, broadening covered activities and requiring a good-faith interactive process for safety accommodations, with confidentiality safeguards and anti-retaliation protections. Beginning January 1, 2026, accrued California Paid Sick Leave may be used for specified covered purposes, including court proceedings for qualifying crimes and jury service or witness appearances.

DATA PRIVACY AND BREACH NOTIFICATION: SB 446

From January 1, 2026, businesses must notify affected California residents of a qualifying data breach within **30 calendar days** of discovery and provide the Attorney General a copy of the notice within **15 days** when 500 or more residents are affected.

Employers should adjust incident response plans to meet the fixed deadline and multi-jurisdictional obligations.

PRACTICAL CONSIDERATIONS AND NEXT STEPS

- If you use any agreements that have employee repayment requirements—particularly retention and attraction agreements, such as hiring bonuses, retention bonuses, moving expense reimbursement, and college tuition reimbursement—determine their legality and, if necessary, rework them to comply with AB 692. Where feasible, use clearly optional programs, separate agreements, prorated and interest-free structures, and “paid at the end” designs to reduce or eliminate repayment triggers, while confirming that any repayment exposure is limited to voluntary resignations and misconduct terminations.
- Prepare for changes in pay data reporting under SB 464 by investing in job architecture and HRIS updates to support SOC-based reporting in 2027, and segregate demographic data immediately in 2026.
- Make sure your job postings align with the new SB 642 requirements by adding good-faith hire ranges. Extend record retention as required.
- Make sure employees are paid the minimum hourly wages and/or salary as required by state and local law.
- For WARN changes, refresh templates and vendor workflows in compliance with SB 617.
- Send employees the Annual Workplace Rights Notice on or before the February 1 deadline.

- By March 30, provide existing employees the opportunity to name their emergency contact in the event that the employee is arrested and detained, and put a process in place for updating that information during employment, and a process for giving new hires the opportunity to name an emergency contact during onboarding.
- For AB 406, revise leave policies and train managers on the expanded coverage and safety accommodations.

If you have questions about these developments or would like tailored guidance on revising California agreements, policies, reporting processes, or workforce communications, please do not hesitate to contact Winston & Strawn.

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