Tucker Ellis LLP

Key California Employment Laws to Prepare for in 2026: What Employers Need to Know

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As we begin 2026, California employers should be aware of significant legal developments that will drive compliance planning, policy updates, and operational risk management.

New statutes and regulations will change how California employers:

- Communicate rights and obligations to employees,
- Draft and enforce employment agreements,
- Post jobs and set pay ranges,
- Manage layoffs, closures, and relocations,
- Track time, pay employees, and administer tips,
- Use AI and automated tools in hiring and workforce management, and
- Defend against Equal Pay Act and PAGA claims.

Not all of these new laws will impact day-to-day operations; however, all employers with personnel in California should be aware of these new laws, understand how they may affect their operations, and consult with counsel to address any compliance issues.

SB 294: Employer Notice and Emergency-Contact Requirements

The first law of the new year, SB 294, the "Workplace Know Your Rights Act," adds new compliance obligations for California employers on rights notices and emergency-contact procedures. By February 1, 2026, and annually thereafter, SB 294 requires all employers to provide a stand-alone written notice to all California employees (and any collective bargaining representative, if applicable) describing specified workers' rights. These will be included in a new model notice, which the law requires the California Labor Commissioner to post on the Department of Industrial Relations (DIR) website by January 1, 2026. Employers will need to provide a compliant notice to all new employees upon hire and to all employees every year.

In addition, on or before March 30, 2026, for current employees, and thereafter for new hires, the new law requires employers to give employees the opportunity to designate an emergency contact, to update that contact information over the course of their employment, and to indicate whether the emergency contact should be notified if the employee is arrested or detained on the worksite and/or off the worksite during work hours if the employer has

actual knowledge of the arrest or detention. If an employee has so indicated, employers must notify an employee's designated emergency contact if the employee is arrested or detained while at the worksite, or if the arrest or detention has occurred off the worksite but during work hours, and the employer has actual knowledge of it.

AB 692: Ban on Worker Stay-or-Pay Contract Terms

Effective January 1, 2026, AB 692 expands the reach of California's ban on worker non-competes to encompass "stay-or-pay" contract terms that require workers to reimburse or repay costs associated with certain work-related training programs (such as a job or skills training program), relocation stipends, or other costs or debts upon termination. However, the ban will not apply to some of the most common arrangements, like tuition reimbursement and retention bonus repayment, so long as employers stay within new statutory guardrails. "Worker" is defined broadly to include any "person who is permitted to work for or on behalf of an employer or business entity, or who is permitted to participate in any other work relationship, job training program, or skills training program, and includes employees and prospective employees." "Debt" is defined under the statute as "money, personal property … employment-related costs, [and] education-related costs," among other things.

The bill creates a private right of action authorizing a worker or worker representative who has been subjected to a violation of AB 692 to bring a civil action on behalf of that worker, other persons similarly situated, or both. Employers found liable for violations of AB 692 will be subject to monetary damages in the amount of the worker's actual damages or $5,000, whichever is greater. In addition, workers can seek injunctive relief and their reasonable attorneys' fees and costs incurred in bringing the lawsuit. The new law does not have any retroactive applicability, so it will not apply to employment contracts entered into before January 1, 2026.

SB 642: Expansion of Equal Pay and Pay Transparency Requirements

California's Equal Pay Act prohibits employers from paying employees at wage rates less than the wage rates paid to employees of another sex, race, or ethnicity for substantially similar work, except under specified circumstances. SB 642 expands the definition of "wages" and "wage rates" broadly to include all forms of pay, including but not limited to, "salary, overtime pay, bonuses, stock, stock options, profit sharing and bonus plans, life insurance, vacation and holiday pay, cleaning or gasoline allowances, hotel accommodations, reimbursement for travel expenses, and benefits." SB 642 also amends California's Equal Pay Act, which previously prohibited pay disparity between employees of the "opposite sex," to prohibit pay disparity between employees of "another sex" – thereby including non-binary genders in the law's protections. The amendment also expands the statute of limitations to

bring a civil action for violations of California's Equal Pay Act from two to three years after the last date the cause of action occurs and further provides that an employee is entitled to obtain relief for the entire period of time in which a violation exists, up to six years.

In addition to the Equal Pay Act component, SB 642 impacts California's Pay Transparency Law (California Labor Code section 432.2), which requires employers with 15 or more employees to include "pay scale" information in all job postings. SB 642 amends the definition of "pay scale" to require employers to include in all job postings "a good faith estimate of the salary or hourly wage range that the employer reasonably expects to pay for a position upon hire," rather than the salary or wage range the employer "reasonably expects to pay for the position."

SB 464: Pay Data Reporting Records

SB 464, approved on October 13, 2025, amends Government Code section 12999 to tighten employer pay data reporting. Existing California law requires employers with 100 or more employees and at least one employee in California to submit annually to the California Civil Rights Department (CRD) a data report on the pay, hours worked, and demographics of their California employees within certain job categories (e.g., professionals, sales workers, service workers, etc.). This new law requires employers and labor contractors who already report pay data to segregate demographic data from personnel files immediately, and beginning January 1, 2027, expands the job categories that must be reported from 10 to 23.

Employers should treat this as a data-governance obligation, not a mere filing nuance. Employers should set up a distinct repository for reporting demographics with role-based access controls, document a retention schedule aligned to the CRD's 10-year retention period, and ensure the generated reporting file remains searchable and sortable using readily available software.

In addition, SB 464 forces employers using labor contractors to immediately tighten their vendor governance. The separate report requirement for contractor-supplied workers continues. Employers must disclose the suppliers of all labor contractors used, and labor contractors are required to provide all necessary pay data.

SB 513: Expanded Response to Personnel Record Requests

Existing California law (California Labor Code section 1198.5) gives current and former employees the right to inspect and request a copy of personnel records maintained by the employer that relate to the employee's performance or any grievance concerning the employee. Employers generally must respond to written requests within 30 days of receipt of the request and must retain personnel records for at least three years after separation. SB

513 expands the definition of “personnel records” under section 1198.5 to include employee education and training records. Specifically, employers must maintain the following information regarding employee education or training:

- Employee’s name,
- Name of training provider,
- Date and duration of training,
- Core competencies covered, including skills in equipment or software, and
- Resulting certification or qualification.

SB 648: Gratuities Enforcement Authority and Remedies Expanded

Effective January 1, 2026, SB 648 strengthens existing California law forbidding employers from keeping any portion of employee tips, directly or indirectly. SB 648 permits the Labor Commissioner to investigate gratuities violations under Labor Code section 351, issue citations using Labor Code section 1197.1 procedures, and bring civil actions to recover unlawfully retained tips, interest, and penalties. Employers should consider reviewing any tip policies and practices to ensure they are aligned with California requirements.

SB 261: Increased Liability for Unpaid Wages

Effective January 1, 2026, California employers with unpaid wage judgments will be subject to significantly increased liability as a result of SB 261. Under existing law, the Labor Commissioner is authorized to investigate employee complaints and to provide for a hearing in any action to recover unpaid wages, penalties, or other demands for compensation. The Labor Commissioner’s final order is filed with the superior court, which becomes a judgment that may be enforced.

According to the California Legislature, employees collect only a small percentage of final wage judgments. Accordingly, SB 261 was enacted in an effort to provide employees with additional tools to enforce wage judgments and to incentivize employers to pay, through harsher penalties for non-compliance.

SB 261 strengthens California’s wage-judgment enforcement by, among other things, requiring courts to award reasonable attorneys’ fees and costs to prevailing plaintiffs in actions to enforce wage judgments – whether brought by the employee, the Labor Commissioner, or a public prosecutor.

SB 261 also adds the potential for treble (triple) penalties. If a final wage judgment for work performed in California remains unsatisfied 180 days after the appeal period ends, the judgment debtor/employer faces a civil penalty of up to three times the outstanding amount

(including post-judgment interest), unless the judgment debtor/employer entered into—and fully complied with—an approved accord with the judgment creditor/employee before day 180. Courts must grant the full requested penalty unless the employer proves good cause by clear and convincing evidence to reduce it. These penalties – split evenly – 50% to the employees and 50% to the DLSE (to support enforcement) – are in addition to other penalties, and apply jointly and severally to successors. Therefore, company sales and reorganizations, among other things, will not shield employers from liability.

AB 406: Paid Sick Leave Expansion

In 2025, a portion of this new law went into effect. California expanded the reasons for which an employee may use paid sick time to include time off in connection with a "qualifying act of violence," which includes domestic violence, sexual assault, stalking, or acts involving bodily injury or death, a dangerous weapon, or a threat of physical injury or death. Specifically, effective October 1, 2025, AB 406 amended California's paid sick leave law to reflect that employees may use their accrued sick leave for jury duty, subpoenaed witness appearances, and other court-related services and bridged some statutory gaps between the California Government Code and Labor Code.

In addition, effective January 1, 2026, an employee who is a victim or a family member of a victim may also take unpaid time off, or use paid sick time, to attend judicial proceedings related to certain crimes, including any delinquency proceeding, a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding where a right of that person is an issue. Furthermore, an employer may not discharge or retaliate against an employee for taking time off for these purposes.

SB 590: "Designated Person" Added to Paid Family Leave Benefits

SB 590 expands Paid Family Leave (PFL) availability for California employees to cover care for a "designated person" effective July 1, 2028. A "designated person" is defined as anyone related by blood or whose association with the employee is the equivalent of a family relationship. The core PFL construct remains intact: up to eight weeks of wage-replacement benefits through the State Disability Insurance program for qualifying absences, with the existing benefit formula unchanged. When an individual first requests PFL to care for a designated person, they must identify that person and attest under penalty of perjury to the blood relationship or the equivalent family relationship. The statute also clarifies that it does not abridge rights or responsibilities under the California Family Rights Act (CFRA) or pregnancy disability leave.

For employers, the immediate implication is policy adjustment and process readiness alignment ahead of the 2028 operative date. Handbooks, leave policies, intranet content, and

manager guidance should be revised to add care for a “designated person” as a covered reason for PFL. Because PFL provides wage replacement but not job protection on its own, employers should review how CFRA and other job-protected leave entitlements may apply when an employee seeks time off to care for a designated person, and make sure internal communications are clear about which requests trigger job protection and which do not. Anti-interference and anti-retaliation safeguards should be reinforced, including training for HR and managers to handle designated-person requests neutrally and without probing into unnecessary medical or relationship details.

AB 858: Extension of Rehiring Protections for Workers Laid Off Due to COVID-19 Pandemic

AB 858 was passed on October 13, 2025, and extends the statewide “right to recall” framework for workers laid off due to the COVID-19 pandemic in the hotel, private club, event centers, airport hospitality and airport service provider sectors and that provide building services to office, retail, and other commercial buildings. AB 858 extends recall and reinstatement rights for said workers from December 31, 2025, to January 1, 2027.

Under existing law (California Labor Code section 2810.8), within five business days of establishing a role, covered employers must notify all qualified laid-off employees by post and, where available, email and text. Preference runs by length of service among qualified candidates. Each candidate must have at least five business days to accept. If employers hire someone else for “lack of qualifications”, employers must send the laid-off employee a written explanation within 30 days. The Division of Labor Standards Enforcement has exclusive jurisdiction and can secure reinstatement, back or front pay, the value of lost benefits, interest, injunctive relief, and per employee penalties, including daily liquidated damages until cured.

Two coverage points warrant immediate review. First, “Laid off employee” continues to mean someone employed for six months or more whose most recent separation occurred on or after March 4, 2020, for a COVID-19 related reason, with a presumption that “nondisciplinary,” economic separations were pandemic related unless employers prove otherwise. Second, compliance turns on disciplined workflows, tracking, and documentation. Employers should refresh recall rosters, verify contact details, configure any Applicant Tracking System in place, establish hiring processes to trigger outreach within five business days, track the statutory acceptance window, and apply the length of service preference consistently. Employers should retain the relevant records for at least three years from the layoff notice and issue timely, detailed written explanations whenever passing over a laid-off employee for a reinstated or new position. Accordingly, it becomes crucial to train HR and hiring managers on the rules, build in right-to-recall checks, and address the statute

expressly in collective bargaining agreements if a waiver is intended, ensuring any such waiver is clear and unambiguous.

SB 477: Fair Employment and Housing Act (FEHA) Group/Class Enforcement

SB 477 is designed to overhaul the Civil Rights Department's (CRD) group/class complaint procedure. The CRD enforces the California Fair Employment and Housing Act (FEHA), which prohibits employment and housing discrimination based on protected characteristics. The CRD investigates complaints, pursues enforcement actions, and seeks to eliminate unlawful practices. Its right-to-sue notice is a prerequisite to filing a civil employment-related complaint for discrimination, harassment, or retaliation in state or federal court.

Effective January 1, 2026, SB 477 clarifies FEHA's enforcement procedures regarding complaint processing, deadlines, and right-to-sue provisions in an attempt to strengthen the investigatory and prosecutorial tools available to the CRD. Collectively, these changes provide the CRD with the flexibility to pursue larger, more complex, and potentially class-action or pattern-or-practice claims with greater depth and fewer administrative hurdles.

First, SB 477 amends the statutory definition for the term "group or class complaint" to clarify that it includes any complaint that alleges a pattern or practice of unlawful activity. While the CRD already has jurisdiction over such cases, this provision acts to clarify and codify existing law and indicates a legislative intent to identify and handle discrimination and harassment cases as a collective matter from the outset, when it is appropriate to do so. This means a single employee complaint, if it points to a broader company-wide issue, will now be treated as a company-wide CRD investigation, necessitating a broader and more comprehensive defense strategy by the employer.

Beyond the clarification of "group or class complaint," one of the most significant changes ushered in by SB 477 is the tolling (pausing) of the deadline to file a civil action when a complainant timely appeals the closure of a complaint by CRD, signs a written agreement with CRD, or CRD extends the complaint investigation period due to a petition to compel cooperation. Under prior law, the one-year clock to sue began running after the CRD issued a right-to-sue notice. Beginning on January 1, 2026, SB 477 provides for a new tolling period that applies if the employee appeals the CRD's decision to close their complaint. If the CRD affirms its initial closure on appeal, the employee is granted an additional one year from the date of the appeal decision to file a civil action. This means the timeline for potential litigation after a CRD closure is substantially extended, moving the focus from a single closure notice to a potentially protracted period of administrative review followed by a renewed threat of suit. For employers, this necessitates preserving all records related to the complaint and internal investigation for a much longer and more uncertain period.

Finally, SB 477 also clarifies the CRD's deadline to issue a right-to-sue notice, which is no later than one year for an individual complaint and two years for a group or class complaint. The law now explicitly allows the CRD, when both the respondent (the employer) and the CRD agree in writing, to toll the deadline for issuing a right-to-sue notice if the investigation requires more time for a thorough review. SB 477 also directs the CRD to issue a right-to-sue notice to a complainant whose complaint relates to a complaint filed in the name of the director or a group or class complaint upon request by the person claiming to be aggrieved or, if the person claiming to be aggrieved does not request such notice, after the complaint has been fully and finally disposed of and all related proceedings, actions, and appeals conclude.

SB 809: Construction Trucking Classification, Reimbursement, and Amnesty

SB 809 is declarative of existing law that ownership of a vehicle used to provide labor or services does not create an independent-contractor relationship. It makes clear that the ABC test still governs independent contractor status and that an employer's duty to indemnify employees for necessary expenses includes the use of a vehicle owned by the employee and used in the discharge of their duties. With respect to construction trucking, an employee commercial motor vehicle driver who owns the truck, tractor, trailer, or other commercial vehicle they use is entitled to reimbursement for the use, upkeep, and depreciation of that vehicle, as provided. SB 809 also creates the Construction Trucking Employer Amnesty Program, which can relieve eligible construction contractors of liability for statutory or civil penalties associated with misclassification of construction drivers if the contractor executes a settlement agreement negotiated with, or approved by, the Labor Commissioner before January 1, 2029.

For employers, the immediate implications are to evaluate contractor and driver classifications in construction trucking, update reimbursement practices for employee-owned commercial vehicles, and consider the amnesty pathway to resolve past misclassification exposure via a qualifying settlement before the 2029 deadline. Handbooks, onboarding documents, contracts (especially any independent contractor agreements), and payroll processes should be revised to reflect the clarified reimbursement duty and to ensure consistent treatment across projects.

SB 53: Regulation of AI Safety and Transparency

On September 29, 2025, Governor Newsom approved the Transparency in Frontier Artificial Intelligence Act (TFAIA), which establishes a transparency and risk management regime for the most advanced AI developers operating in California. This landmark legislation targets only the largest, most advanced AI systems and their developers, i.e., "frontier models" (very

large AI systems trained with extremely high computing power) and “large frontier developers” (entities with over $500 million in annual revenue). SB 53 requires large AI developers in these categories to implement safety protocols, report catastrophic risks (like chemical / biological / radiological / nuclear misuse threats, major cyberattacks without meaningful human oversight, and loss of control) to the state, provide whistleblower protections to employees, and publish risk assessments to build trust in advanced AI models.

By passing SB 53, California becomes the first state in the U.S. to directly regulate developers of “frontier” foundation models. Before or at launch, the employer must publish an enterprise-wide “frontier AI framework” that explains how the company identifies, assesses, and mitigates catastrophic risks, incorporates national and international standards, secures unreleased model weights, and governs internal use of frontier models, among other things. Redactions are permitted to protect trade secrets, cybersecurity, public safety, or national security, but an unredacted version must be retained for five years. Misleading statements about catastrophic risk or framework compliance are prohibited, and the Attorney General may seek civil penalties up to $1,000,000 per violation.

Next, the Act creates safety incident reporting through the California Office of Emergency Services (OES). OES must provide channels for developers and the public to report critical safety incidents and for confidential submission of internal catastrophic risk assessments. Developers must report critical safety incidents within 15 days, or within 24 hours if there is an imminent risk of death or serious injury. Beginning in 2027, OES will publish anonymized, aggregate incident summaries annually and may recognize equivalent federal reporting regimes for compliance. Certain submissions, including critical incident reports, internal risk assessments, and whistleblower reports, are exempt from the California Public Records Act. Beginning in 2027, the Department of Technology will annually recommend whether to update the definitions of “frontier model”, “frontier developer”, and “large frontier developer” to reflect technological change, and the Attorney General will publish annual anonymized summaries of whistleblower reports.

Separately, the Act adds robust whistleblower protections in the Labor Code for covered employees who assess or manage safety risks in foundation models. Frontier developers may not gag or retaliate against covered employees who, with reasonable cause, report specific and substantial dangers to public health or safety, or violations of the Act, to designated authorities or internal channels. Large frontier developers must offer an anonymous internal reporting process, provide monthly status updates to the reporter, and share quarterly reports at board level (with safeguards where allegations involve an officer or director). Successful plaintiffs may recover attorney’s fees; evidentiary rules are employee protective; and injunctive relief is available.

SB 617: Cal-WARN Act Notice Expansion

Ideally, this new law will not impact California employers in 2026 or beyond. California's Worker Adjustment and Retraining Act (the "Cal-WARN Act," Labor Code § 1400, et seq.) requires employers to provide employees, the California Employment Development Department (EDD), and local agencies with 60-days' prior notice of certain mass layoffs, relocations, or terminations at covered establishments. SB 617 expands the information employers are required to include in their Cal-WARN Act notices to include the following additional information:

- whether the employer plans to coordinate services (such as a rapid response orientation) through the local workforce development board, another entity, or not at all;
- information regarding CalFresh, the statewide food assistance program;
- a functioning email and telephone number of the local workforce development board;
- a description of rapid response activities offered by the local workforce development board;
- a functioning email and telephone number of the employer for contact; and
- the following description: "Local Workforce Development Boards and their partners help laid off workers find new jobs. Visit an America's Job Center of California location near you. You can get help with your resume, practice interviewing, search for jobs, and more. You can also learn about training programs to help start a new career."

In addition, SB 617 provides that, if an employer chooses to coordinate services with the local workforce development board or another entity, they must arrange for such services within 30 days from the date of the notice. These new requirements constitute an additional difference between the requirements of the federal WARN Act and the Cal-WARN Act, as notices under the federal WARN Act do not require the inclusion of this information.

Immediate Employer Checklist for 2026 Planning

The 2026 California employment law landscape is not simply a checklist of new statutes—it is a redefinition of how regulators expect employers to design and document their systems. Notices, job postings, timekeeping, compensation, AI tools, and arbitration agreements should all be evaluated together when assessing your "compliance culture." Accordingly, your immediate employer checklist for 2026 planning should include:

- **Map scope and ownership.** Identify internal stakeholders (legal, HR, payroll, safety, operations, labor relations) and assign bill-by-bill owners for impact assessment and implementation.
- **Inventory policies and agreements.** Flag handbooks, policies, offer letters, arbitration agreements, confidentiality/IP, compensation plans, schedules, and CBAs that may require updates.

- **Budget and systems readiness.** Assess potential cost impacts (wage rates, leave accruals, training hours, safety programs) and needed changes to HR Information Systems, timekeeping, payroll, reporting, and recordkeeping.
- **Training and communications.** Prepare manager training and employee communications playbooks keyed to effective dates; plan translation needs and posting updates.
- **Multi-jurisdiction alignment.** Coordinate with other state/local requirements to avoid conflicts, ensure consistent definitions, and harmonize nationwide policies where feasible.
- **Monitor rulemaking and guidance.** Track agency regulations, FAQs, template notices, and enforcement advisories that may clarify or expand obligations.
- **Plan for bargaining/meet-and-confer.** Where unionized, evaluate whether changes trigger bargaining obligations or side letters and sequence accordingly.

As you navigate this evolving California employment law landscape, remember: our team is here to help. We encourage you to reach out with any questions you have concerning these new laws and their impact on your specific business operations. Tucker Ellis remains committed to supporting your compliance efforts and ensuring a smooth transition into the new year.

Additional Information

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