

California Employment Compliance Checklist

FOR THE MEDTECH INDUSTRY

Below is an employment compliance checklist that can be used as a tool for Human Resources Professionals. This is not an exhaustive list of all state laws, nor is it a complete explanation of each referenced state law. Additionally, states regularly change or add requirements. Accordingly, this should not be interpreted as legal advice. For details regarding these and other potential laws, please consult your employment counsel

NEW HIRE LOGISTICS

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Pre-Hire Considerations:

- CA prohibits an employer from seeking salary history from applicants, including prohibiting questions about salary on job applications and asking about "compensation and benefits (including vacation)"
- Starting January 1, 2025, employers with at least 15 employees will have to include pay ranges in job postings. Employees will also be able to ask for the pay range for their own position, and larger companies will have to provide more detailed pay data to California's Civil Rights Department than previously required. Consult with legal counsel.
- CA has its own Equal Pay Act, which differs from the federal statute. Consult with legal counsel.
- There are very limited circumstances in which an employer can conduct a credit background check in CA. Consult with legal counsel.
- CA state and many municipalities have "ban the box" laws which limit the use of criminal background checks. Consult with legal counsel.

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Business Registration

A foreign filing entity must file an application for registration with the California Secretary of State's Office if it "transacts business" in California. Generally, a foreign entity is transacting business in California if it has an office or an employee in California or is otherwise pursuing one of its purposes in California. bizfileOnline.sos.ca.gov

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Tax Reporting

All California employers must register with the Employment Development Department of California ("EDD"). The EDD handles payroll taxes, unemployment insurance, and state disability insurance programs. For more information, please consult: <https://edd.ca.gov/en/employers/>

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Worker's Compensation Insurance

Workers' compensation is a state-regulated insurance system that ensures medical bills and some lost wages are paid for employees injured on the job. CA requires most employers to have workers' compensation insurance coverage, and provide proof of this coverage to new hires.

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New Hire Notices

CA requires that certain forms, brochures, and pamphlets be provided to all new employees. Consult legal counsel.

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WAGE AND HOUR

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Minimum Wage/OT

- CA has its own state minimum wage rate. On January 1, 2025, the minimum wage is \$16.50 per hour for all employers, not otherwise covered by a higher minimum wage specific to an industry or a locality. Effective January 1, 2026, the minimum wage will rise to \$16.90 per hour for all employers, not otherwise covered by a higher minimum wage specific to an industry or a locality. In addition to the state minimum wage, various municipalities in California have higher minimum wage requirements. Consult legal counsel regarding the applicable minimum wage.
- CA has both daily overtime as well as weekly overtime. California's daily overtime requirements are as follows: one and one-half times the employee's regular rate of pay for all hours worked in excess of eight hours up to and including 12 hours in any workday, and for the first eight hours worked on the seventh consecutive day of work in a workweek and double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight on the seventh consecutive day of work in a workweek.
- CA excludes exempt employees from overtime. CA exemptions differ significantly from the FLSA. Consult legal counsel.

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Bonuses and Commissions

CA has specific requirements for bonus and commission plans. Consult legal counsel.

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Payroll Practices

- Employers in CA must generally pay exempt employees (as defined under state law) at least once a month on or before the 26th day of the month. All other employees must be paid at least twice during each calendar month on days designated in advance as regular paydays. Weekly, biweekly (every two weeks), or semimonthly (twice per month) pay periods are acceptable. Alternatively, wages earned between the 1st and 15th day of any calendar month must be paid no later than the 26th day of the month during which the labor was performed and wages earned between the 16th and the last day of the month must be paid by the 10th day of the following month.
- Employers may elect to pay wages via direct deposit to employees when authorized by the employee to do so.

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Wage Statement

- Employers must give each employee a written, itemized wage statement that shows:
 - (1) gross wages earned;
 - (2) total hours worked by the employee;
 - (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
 - (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item;
 - (5) net wages earned;
 - (6) the inclusive dates of the period for which the employee is paid;
 - (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number;
 - (8) the name and address of the legal entity that is the employer;
 - (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.
- Employers must also include an employee's paid sick leave balance on the wage statement, including the employee's balance for supplemental paid sick leave for COVID-19.
- If an employer provides employees with paid vacation, the vacation balance must also be identified on the wage statement.

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Wage Deductions

- Employers may not make deductions unless:
 - (1) Required to do so by state or federal law OR
 - (2) When a deduction is expressly authorized in writing by the employee to cover insurance premiums, benefit plan contributions or other deductions not amounting to a rebate on the employee's wages OR
 - (3) When a deduction to cover health, welfare, or pension contributions is expressly authorized by a wage or collective bargaining agreement.
- Employers can advance an employee's wages upon written authorization, but an employer cannot deduct from an employee's final wages any outstanding amount for such an advance or loan.
- Employers cannot auto deduct amounts for a cash shortage, breakage, or loss of equipment.
- Wage garnishment is a lawful deduction, but an employer cannot discharge an employee because a garnishment of wages has been threatened or if the employee's wages have been subjected to a garnishment for the payment of one judgment.

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Meal and Break Periods

- Except for certain salaried employees, CA law requires employers to provide meal periods for employees who work more than five hours in a workday. Such employees must be provided with an uninterrupted thirty-minute meal period free from all duty that begins no later than the end of the fifth hour of work. A second uninterrupted thirty-minute meal period free from all duty must be provided no later than the end of the tenth hour of work. In limited circumstances, meal periods can be waived and employees may enter into on-duty meal period agreements. Consult legal counsel.
- CA law requires employers to provide non-exempt employees with rest periods. Rest periods must be a net ten minutes and be provided for every four hours of work or major fraction thereof, taken so far as practicable in the middle of each four-hour work period. Rest periods are paid and "on the clock". Consult legal counsel.
- CA law requires employers to provide recovery periods when working conditions exceed 80 degrees Fahrenheit. Consult legal counsel.

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Vacation

- CA does not require that an employer provide paid vacation, but, if an employer chooses to do so, certain requirements must be adhered to.
- Paid vacation is treated as a “wage” in CA, which means that use it or lose it policies are not allowed and vacation must be included on an employee’s wage statement.
- Paid vacation must rollover from year-to-year, but an employer can set a maximum accrual cap. Consult legal counsel regarding suggested amounts.
- Paid vacation must be paid at termination of employment.

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Paid Sick Leave

- CA state law and several municipalities have mandatory, paid sick leave requirements.
- Many municipalities in CA also have supplemental paid sick leave requirements for COVID-19.
- Consult legal counsel.

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Reimbursement of Business Expenses

CA requires employers to reimburse all “necessary” and “reasonable” expenses incurred by employees in direct consequence of discharging their duties or at the direction or request of their employer.

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Worker’s Compensation Insurance

- Employers must give each employee a written, itemized wage statement that shows:
 - (1) gross wages earned;
 - (2) total hours worked by the employee;
 - (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
 - (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item;
 - (5) net wages earned;
 - (6) the inclusive dates of the period for which the employee is paid;
 - (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number;
 - (8) the name and address of the legal entity that is the employer;
 - (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.
- Employers must also include an employee’s paid sick leave balance on the wage statement, including the employee’s balance for supplemental paid sick leave for COVID-19.
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Terminated Employee Pay

- An employee who is terminated must be paid all wages, including accrued but unused vacation, at the time of termination.
- An employee who resigns and provides at least 72 hours of notice, must be paid all wages, including accrued but unused vacation, on the last day of employment.
- An employee who resigns and provides less than 72 hours of notice, must be paid all wages, including accrued but unused vacation, within 72 hours of providing notice.
- Final wages can be paid by direct deposit if and only if there is a separate authorization from the employee (versus a general authorization to receive normal wages through direct deposit).
- Additional documents must be provided to employees who are terminated or resign. Consult legal counsel.

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DRUG AND ALCOHOL TESTING

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- Pre-employment testing is generally permissible.
- Reasonable suspicion testing only unless employees are in safety-sensitive positions or working in certain industries. Consult legal counsel.

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POSTERS

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- There are a number of pamphlets and forms that must be provided to new hires. Consult legal counsel.
- In addition, employers with physical worksites must post state and federal notices. We recommend purchasing the annual notice from the Cal Chamber - <https://store.calchamber.com/10032178-mastpost/products/posters/california-labor-law-posters>

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HARASSMENT, DISCRIMINATION AND RETALIATION

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- CA has its own state law protecting against harassment, discrimination, and retaliation. Employers with one employee in CA are subject to the law's harassment requirements; employees with five employees in CA are subject to the law's other requirements. Consult legal counsel.
- CA mandates harassment training for most employees. If covered, such employees must be provided with the requisite training every two years. Consult legal counsel.
- CA requires employers to provide all employees an information sheet on unlawful harassment. Consult legal counsel.

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LEAVE OF ABSENCE LAWS

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Jury Duty or Witness Duty

- Employers must provide unpaid leave to employees who comply with jury duty summons.
- Employers must provide unpaid leave to employees who receive a subpoena to appear in court.

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Voting Leave

- Any employee whose work schedule does not provide him/her two consecutive hours to vote while polls are open, must be granted reasonable time off in order to vote. This time off must be paid.

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Leave for Emergency Rescue Personnel

- Employees who are volunteer firefighters, reserve peace officers, members of a disaster medical response team, or emergency rescue personnel may receive unpaid leave to perform their duties. For employers with 50 or more employees, such employees may also take an unpaid leave of absence to engage in training. Consult legal counsel.

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Civil Air Patrol Leave

- If an employer has 15 or more employees total, unpaid leave of up to ten days per calendar year, must be provided to volunteer members of the California Wing of the Civil Air Patrol who are called to emergency operational missions. Consult legal counsel.

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Military Leaves of Absence

- Employees who require time off from work to fulfill military duties must be provided leave.
- For employers with 25 or more employees in CA, spouses and registered domestic partners of military personnel who are home on leave during a period of military deployment must be provided with up to ten days of unpaid leave.
- Consult legal counsel.

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Leave for Victims of Felony Crimes

Employees who are victims of certain felonies, or related to such victims in certain ways, must be provided with unpaid time off from work to attend judicial proceedings related to that crime or to be heard at such proceedings. Consult legal counsel.

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Leave for Victims of Domestic Violence, Sexual Assault, or Stalking

For employers with 25 or more employees, employees who are victims of certain crimes, or related to such victims in certain ways, must be provided with unpaid time off from work to obtain relief to ensure their own health, safety, or welfare. Consult legal counsel.

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School Disciplinary Action Leave

Employees who are requested by their child's school to appear at the school in connection with the suspension of their child from school must be provided unpaid time off. Consult legal counsel.

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Unpaid Family School Partnership Leave

For employers with 25 or more employees in one location, parents and those in certain parental-like relationships must be provided with unpaid leave to participate in school-related activities. Consult legal counsel.

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Leave for Organ and Bone Marrow Donation

For employers with 15 or more employees total, certain employees are entitled to receive paid job protected leave for the purposes of organ or bone marrow donation. Consult legal counsel.

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Pregnancy Disability Leave of Absence

For employers with 5 or more employees, female employees must be provided with a leave of absence up to four months for disabilities related to pregnancy, childbirth, or related medical conditions. Consult legal counsel.

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California Family Rights Act

For employers with 5 or more employees, the California Family Rights Act provides eligible employees the opportunity to take unpaid, job-protected leave for certain specified reasons. The maximum amount of leave an eligible employee may use is 12 weeks within a 12-month period. Consult legal counsel.

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STATUTORY PROTECTIONS**COMPLETE**

State EEO (Fair Employment and Housing Act)

Race (including traits historically associated with race, such as hair texture and protected hairstyles, including braids, locks, and twists), ethnicity, religion, color, sex (including childbirth, breast feeding, and related medical conditions), gender, gender identity or expression, sexual orientation, national origin, ancestry, citizenship status, uniform service member and veteran status, marital status, pregnancy, age, protected medical condition, genetic information, disability.

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Workers' Compensation Rights

- Employers may not discharge or discriminate against an employee because the employee has:
 - (1) filed or made his or her intention to file a workers' compensation claim known;
 - (2) received a rating, award, or settlement related to a workers' compensation claim; or
 - (3) testified or made his or her intention to testify in another employee's workers' compensation case known.

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Privacy

Employers may have to adhere to California's Consumer Privacy Act. Consult legal counsel.

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Firearms in the Workplace

Firearms may be prohibited from the workplace.

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COVID-19 Vaccination Policies

Employers in CA can require COVID vaccines as long as the employer does not discriminate on the basis of a protected characteristic, provides reasonable accommodations for disability or sincerely-held religious beliefs or practices, and does not retaliate against anyone for engaging in protected activity.

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Lactation Breaks

CA has lactation accommodation requirements that differ significantly from federal law. In addition, San Francisco has separate lactation accommodation requirements. Consult legal counsel.

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MISCELLANEOUS**COMPLETE**

Arbitration

CA has very specific requirements for arbitration agreements to be deemed enforceable. Consult legal counsel.

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State Mandated Insurance Benefit Programs

- CA law requires employers to deduct a certain amount from employees' wages for State Disability Insurance. These monies are available to employees who cannot work because of illness or injury unrelated to employment.
- CA law requires employers to deduct a certain amount from employees' wages for Family Temporary Disability Insurance to fund the state Paid Family Care Leave Program, which allows employees to receive compensation to provide care for certain family members.

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Literacy Assistance

Employers with 25 or more employees must reasonably accommodate and assist employees with their literacy needs, provided the requested accommodation does not create an undue hardship for the Company.

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- State discrimination laws – retain all personnel records for at least four years following an employee's last day of work
- Unemployment – retain all records relating to employees' wages and other compensation, as well as all unemployment tax records, for at least four years
- Wages – retain payroll and timekeeping records for at least four years.
- Workers' Compensation – keep all records of injuries for at least 5 years from the last day of the year in which the injury occurred or the period of time required by OSHA, whichever is longer.

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