

CALIFORNIA EMPLOYERS WILL FINALLY GET A MODEL WHISTLEBLOWER POSTING: YOUR 5-STEP ACTION PLAN

Insights
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Thanks to a new law just signed into effect by Governor Newsom, California employers that post a soon-to-be-released notice about whistleblower protections will be deemed in compliance with state law. AB 2299, signed into effect on July 15, will require the California Labor Commissioner to develop a model template and for the first time offer employers a concrete path to compliance. What are the five things you should do before the new protection comes online on January 1, 2025?

Huge Gap in Existing Law

Under existing California law, employers are required to post certain workplace notices, including a list of employees' rights and protections under whistleblower laws such as California Labor Code section 1102.5. However, the current law provides little guidance as to exactly what the posting should include and does not require that the Labor Commissioner develop a model posting that employers may post to ensure compliance with workplace posting requirements.

Existing Template Notice Falls Flat

And while the Labor Commissioner has issued a sample notice for employers to use, it includes a disclaimer that the posting doesn't necessarily fulfill the requirements of California law – which seems like a pretty big problem for employers.

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New Law Provides Employers With Clear Path to Compliance

Thankfully, Governor Newsom just signed Assembly Bill 2299 on July 15, which provides employers with the legal certainty that posting a model notice to be developed by the Labor Commissioner will fulfill their existing obligations to display information and employees' rights and responsibilities under existing whistleblower laws. The law requires California's Labor Commissioner to develop a model list of employee rights and responsibilities under existing whistleblower laws.

Not a Requirement – But Certainly a Best Practice

Beginning January 1, 2025, employers that post the model notice will be deemed in compliance with the requirement to prominently display the list of employees' whistleblower rights and responsibilities. Importantly, the law does not mandate you use this Labor Commissioner's model notice. You may still use your own notices, but after the turn of the year, you will lose the benefit of being automatically deemed in compliance.

What We Know

We don't yet know much about what the model notice will look like. What we do know is that it will be accessible on the California Labor Commissioner's website by the end of the year, written in a font larger than 14 point, and contain the telephone number of the state whistleblower hotline.

This is a small step that will help California employers to more easily comply with existing law without limiting the information or protections provided to workers.

What Should Employers Do Now?

California employers should take the following five steps to put yourself in the best position to guard against costly whistleblower actions and state intervention:

1. Ensure your **handbook and policies** regarding whistleblower rights and unlawful retaliation are up to date.
2. Provide **guidance to managers and supervisors** on how to respond to whistleblower complaints. Instruct managers and supervisors to escalate whistleblower

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complaints to Human Resources if they are unsure about how to assess or respond to the complaint.

3. Ensure Human Resources is **well trained** on the particular aspects of whistleblower rights and unlawful retaliation.
4. Stay in the know and **keep an eye out for the model notice** that we should see issued in the coming months. The best way to stay prepared is to make sure you are subscribed to [Fisher Phillips' Insight System](#) for the timeliest updates.
5. Ensure you have some type of whistleblower protection notice posted now – but beginning January 1, 2025, consider **posting the model notice** soon to be provided by the California Labor Commissioner's Office. As noted above, you'll then gain the benefit of legal certainty knowing you have fulfilled your existing obligations to display information and employees' rights and responsibilities under existing whistleblower laws.

Conclusion

Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. If you have questions, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in [any of our California offices](#).