



SAFETY NEWS BULLETIN

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Injury and Illness Reporting & California Transgender Rights in the Workplace

It is almost time to post the OSHA Form 300A - Summary of Work-Related Injuries for 2017 (Posting time: February 1, 2018 – April 30, 2018)

- **Review Log 300 for accuracy and correct any deficiencies;**
- **Summarize Work-Related Injuries for 2017 on the Form 300A;**
- **Certify the Form 300A; and**
- **Post the Form 300A in an area for all employee access**

Please ensure that you have correctly completed and are following all posting/recording requirements for the OSHA Form 300s. The list of businesses that are required to maintain these records can be found at www.osha.gov/recordkeeping.

The Occupational Safety and Health (OSH) Act of 1970 requires certain employers to prepare and maintain records of work-related injuries and illnesses Form/Log 300, 300A and 301. The resulting data collected by these forms is used to track and compile statistics on work-related injuries, illnesses, and deaths in order to develop a picture of the extent and severity of work-related incidents for the given year.

Form/Log 300 - Work-Related Injuries and Illnesses

During each year, OSHA's Form/Log 300, the "Log of Work-Related Injuries and Illnesses", must be used to classify work-related injuries, illnesses and deaths and to note the extent and severity of each case. When an incident occurs, employers must use the Log to record the specific details.

Form 301 - Injury and Illness Incident Report

OSHA's Form 301, the "Injury and Illness Incident Report", is one of the first forms employers must fill out when a recordable work-related injury or illness occurs. This form, or its equivalent, must be filled out within 7 calendar days after receiving information that a recordable work-related injury or illness has occurred.

Form 300A - Summary of Work-Related Injuries and Illnesses

At the end of the year, all establishments covered in 29 CFR Part 1904 must complete OSHA's Form 300A, the "Summary of Work-Related Injuries and Illnesses", even if no work-related injuries or illnesses occurred during the year. The total number of incidents in each category listed on OSHA's Form/Log 300 must be transferred to the Form 300A. Regulation requires employers to post the Form 300A from February 1 to April 30 of the following year in an area for all employee access. All forms and documents must be retained for a period of five years following the year to which it pertains.

Injury Tracking Application (ITA) - Electronic Submission of Injury and Illness Records to OSHA

If your establishment is located in a state that has a Fed OSHA-Approved State Plan (such as California) that has not yet adopted the requirements to submit the injury and illness reports electronically, you are not required to submit data at this time. If you are under federal jurisdiction, you are required to report (if you meet the reporting criteria). Once the State Plans are adopted, employers will be required to submit through the ITA.

California Transgender Rights in the Workplace

Harassment Prevention Training Regarding Gender Identity, Gender Expression, and Sexual Orientation

California expanded its sexual harassment prevention training requirements to address issues of gender identity. The California Fair Employment and Housing Act requires employers with 50 or more employees to provide 2 hours of sexual harassment prevention training to all supervisory employees within 6 months of their assumption of a supervisory position and once every 2 years. Under SB 396, the prevention training requirement has been expanded to include training regarding gender identity, gender expression, and sexual orientation.

In addition, the Department of Fair Employment and Housing has developed a poster regarding transgender rights, which must be posted in a prominent and accessible location in the workplace of employers with 5 or more employees (poster attached).

Another new law, S.B. 295, requires that farm labor contractors comply with existing requirements to conduct sexual harassment training for certain employees by providing the training in the language understood by the employee.

If you need OSHA forms 300/300A/301, or have questions about the new requirements, call your Safety Representative or contact our office at osha-updates@safetycompliance.com.

We at Safety Compliance Company wish you a safe and prosperous 2018!

Sincerely,

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Mission Statement: A worthy enterprise is based on educating and servicing.
Thomas Herold, President



TRANSGENDER RIGHTS IN THE WORKPLACE

WHAT DOES "TRANSGENDER" MEAN?

Transgender is a term used to describe people whose gender identity differs from the sex they were assigned at birth. Gender expression is defined by the law to mean a "person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth." People who identify as transgender are protected by the provisions of California's Fair Employment & Housing Act prohibiting discrimination based on sex, gender, gender identity, and gender expression.

THERE ARE TWO KINDS OF GENDER TRANSITION

- 1 "Social transition" involves a process of socially aligning one's gender with the internal sense of self (e.g. changes in name and pronoun, bathroom facility usage, participation in activities like sports teams).
- 2 "Physical transition" refers to medical treatments an individual may undergo to physically align their body with internal sense of self (e.g. hormone therapies or surgical procedures).

A transgender person does not need to complete any particular step in a gender transition in order to be protected by the law. An employer may not condition its treatment or accommodation of a transitioning employee upon completion of a particular step in a gender transition.

FAQ FOR EMPLOYERS

What is an employer allowed to ask? Employers may ask about an employee's employment history, and may ask for personal references, in addition to other non-discriminatory questions. An interviewer should not ask questions designed to detect a person's sexual orientation or gender identity, including asking about their marital status, spouse's name, or relation of household members to one another. Employers should not ask questions about a person's body or whether they plan to have surgery, because this information is generally protected by the Health Insurance Portability and Accountability Act (HIPAA).

How do employers implement dress codes and grooming standards? California law explicitly prohibits an employer from denying an employee the right to dress in a manner suitable for that employee's gender identity. An employer who requires a dress code must enforce it in a non-discriminatory manner. This

means, for instance, that a transgender woman may not be held to any different standard of dress or grooming than any other woman in the workplace. And, in general, an employer may not impose any dress or grooming standard that is inconsistent with an individual's gender identity or gender expression, unless the employer can establish business necessity.

What are the obligations of employers when it comes to bathrooms, showers, and locker rooms? All employees have a right to safe and appropriate restroom and locker room facilities. This includes the right to use a restroom or locker room that corresponds to the employee's gender identity, regardless of the employee's assigned sex at birth. In addition, where possible, an employer should provide an easily accessible unisex single stall bathroom for use by any employee who desires increased privacy, regardless of the underlying reason. Use of a unisex single stall restroom should always be a matter of choice. No employee should be forced to use one either as a matter of policy or due to continuing harassment in a gender-appropriate facility. Under state law, all single-user toilet facilities in any business establishment, place of public accommodation, or state or local government agency must be identified as all-gender toilet facilities.

FILING A COMPLAINT

If you believe you are a victim of discrimination you may, within one year of the discrimination, file a complaint of discrimination by contacting DFEH.

If you have a disability that prevents you from submitting a written pre-complaint form on-line, by mail, or email, DFEH can assist you by scribing your pre-complaint by phone or, for individuals who are Deaf or Hard of Hearing or have speech disabilities, through the California Relay Service (711), or call us through your VRS at (800) 884-1684 (voice). DFEH is committed to providing access to our materials in an alternative format as a reasonable accommodation for people with disabilities when requested.

To schedule an appointment or to discuss your preferred format to access our materials or webpages, contact the Communication Center at (800) 884-1684 (voice or via relay operator 711) or (800) 700-2320 (TTY) or by email at contact.center@dfeh.ca.gov.

FOR MORE INFORMATION

Department of Fair Employment and Housing
Toll Free: (800) 884-1684 TTY: (800) 700-2320 dfeh.ca.gov

Also find us on:

