



Civil Rights Department

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Civil Rights Department Releases Guidance Addressing Confidentiality and Non-Disparagement Clauses

Recent legislation prohibits employers from including terms in employment, severance, and settlement agreements that would silence victims of discrimination, harassment, or retaliation

Sacramento – The California Civil Rights Department (CRD) has released [answers to frequently asked questions \(FAQs\)](#) to provide guidance on California’s new limitations on confidentiality and non-disparagement clauses in employment, separation, and settlement agreements.

“The Civil Rights Department is committed to ensuring that victims of all forms of harassment and discrimination can speak out, if they wish to do so,” said Kevin Kish, CRD Director. “The #MeToo movement led to changes in California law intended to end the silencing of victims and promote equality and the creation of safe and respectful workplaces for all.”

The release of CRD’s new guidance follows the enactment of Senate Bill 331 – known as the ‘Silenced No More Act’ – which went into effect on January 1, 2022. Senate Bill 331, authored by Senator Connie Leyva and signed by Governor Gavin Newsom, broadened the Fair Employment and Housing Act’s existing protections against overbroad and unnecessarily restrictive employment agreements, ensuring that employees, former employees, and job applicants can speak out against unlawful conduct in the workplace. The bill also expanded protections in the Civil Code related to settlement agreements.

Among the frequently asked questions answered are:

- Can an employment or severance agreement prohibit an employee from talking about discrimination, harassment, retaliation, or other unlawful acts at work?
- Can an employment agreement require a job applicant or employee to give up claims or rights in exchange for employment?
- Can a separation or settlement agreement prohibit a party from disclosing the amount of severance or settlement?
- Can a settlement agreement include a “no-rehire clause”?

The FAQs are slated for translation into Chinese, Korean, Spanish, Tagalog, and Vietnamese in 2023.

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CRD is the state agency charged with enforcing California’s civil rights laws. Formerly known as the Department of Fair Employment and Housing (DFEH), the mission of the CRD is to protect the people of California from unlawful discrimination in employment, housing, public accommodations, and state-fund programs and activities, and from hate violence and human trafficking. For more information, visit calcivilrights.ca.gov.

