

## **BARSAMIAN & MOODY**

A Professional Corporation

Attorneys at Law

1141 West Shaw Avenue, Suite 104

Fresno, California 93711-3704

E-mail: laborlaw@theemployerslawfirm.com

Tel: (559) 248-2360

Fax: (559) 248-2370

### **Effective July 1, 2018, New California Regulations Expand the Definition of National Origin Discrimination**

The Supreme Court's recent travel ban decision has further stoked the flames of the national debate concerning immigration and national security. In the midst of this heated debate, California has quietly amended its workplace regulations related to discrimination, harassment, and retaliation based on national origin. Not surprisingly, these new regulations intensify California's already strict regulations on this subject. It is important for all employers to understand these new regulations because they provide more protections for job applicants and workers, and significantly increase the potential for complaints against employers alleging discrimination, harassment, and retaliation based on national origin.

Effective July 1, 2018, the regulations expand the definition of "national origin" to expressly include a number of indicators of national origin. Language, accents, names, and practices associated with national origins are now included in the definition of national origin. The regulations even include "countries that are not presently in existence" in the new definition of national origin.

The regulations also condemn a number of employment practices. For example, requiring English proficiency may also be discriminatory, unless such proficiency is a "business necessity," which is narrowly defined by the regulations. The new regulations also prohibit height and weight requirements that disproportionately exclude members of a particular national origin from a position, unless the restriction is justified by a business necessity. Even then, such a requirement could be illegal if the requirement's purpose could be more effectively achieved with a less discriminatory measures.

#### **What This Means for Employers:**

California employers seeking to limit FEHA exposure should closely review the new regulations and carefully compare their current policies and practices to ensure compliance with the new laws. It will likely be necessary for employers to amend their practices, policies, handbooks, and training materials to reflect the new provisions. It is also important for employers to understand that the Department of Fair Employment and Housing (DFEH) will be more closely scrutinizing complaints of national origin discrimination, harassment, and retaliation in the workplace. If you have any questions about these new regulations, or how they affect your company, please contact Barsamian & Moody. The new regulations can be accessed at: <https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2018/05/FinalTextRegNationalOriginDiscrimination.pdf>

*The goal of this article is to provide employers with current labor and employment law information. The contents should neither be interpreted as, nor construed as legal advice or opinion. The reader should consult with Barsamian & Moody at (559) 248-2360 for individual responses to questions or concerns regarding any given situation.*

*"The Employers' Law Firm"*

www.theemployerslawfirm.com