California has recently adopted a number of new laws that may substantially impact nonprofit employers. Below is an overview of some of the most important new laws. (See below for update on new City of Los Angeles "Fair Chance Ordinance").

State and Local Minimum Wage Increases

Senate Bill 1063 and Assembly Bill 1767 add new protections to California's Equal Pay Act. The Equal Pay Act prohibits employers from paying an employee a wage rate less than the rate paid to an employee of the opposite sex "for substantially similar work," based on each employee's composite level of skill, effort, and responsibility, performed under similar working conditions. An employer does not violate the Equal Pay Act if it can prove that any wage differential is based upon a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or a bona fide factor other than sex, such as education, training, or experience. For more information on the Equal Pay Act, see the January 2016 newsletter. Senate Bill 1063 amends the Equal Pay Act to cover race and ethnicity, as well as sex. Assembly Bill 1767 also amends the Equal Pay Act by providing that "[p]rior to salary shall not, by itself, justify any disparity in compensation" between employees. An employer may still inquire about prior salary history. Both amendments are effective January 1, 2017.

Single User Toilets Must Be Identified as All-Gender

Assembly Bill 1732 requires all single-user toilet facilities in any business establishment, place of public accommodation, or state or local government agency to be identified as all-gender toilet facilities by appropriate signage beginning March 1, 2017. The toilet facilities must be designated for use for only one occupant at a time, or for family or assisted use.

Notice of Rights to Victims of Domestic Violence, Sexual Assault, or Stalking

Assembly Bill 2337 requires employers with 25 or more employees to provide written notice to new employees upon hire (and to current employees upon request) of existing protections for victims of domestic violence, including that victims of domestic violence, sexual assault, or stalking, have the right to take time off from work, participate in safety planning, obtain psychological counseling, and seek medical attention, and that employers may not retaliate against them for doing so. The Labor Commissioner is required to develop a form for employers to use to comply with the notice requirement on or before July 1, 2017 - employers are not required to comply with the notice requirement until the form is available.

Prohibition on Seeking Information on Juvenile Criminal History

Effective January 1, 2017, Assembly Bill 1843 prohibits employers from asking applicants to disclose, or taking into consideration, information pertaining to an arrest, detention, processing, diversion, supervision, adjudication, or court disposition that occurred while the person was subject to the process and jurisdiction of a juvenile court. Existing law already prohibits employers from seeking information regarding arrests or detentions that did not result in a conviction, or referral or participation in a diversion program, or convictions that were judicially dismissed or sealed, except in specified circumstances. See below for information on the City of Los Angeles new Fair Chance Ordinance, which bars employers from asking about a criminal history until a conditional offer is made.

Unfair Immigration Related Practices

Effective January 1, 2017, Senate Bill 1001 prohibits employers who are in the process of verifying that workers have the necessary documentation to work in the United States from requesting that such workers provide more or different documents than are required under federal law, to refuse to honor documents or work authorization based on the specific status or term of status that accompanies the authorization to work, or to re-investigate or re-verify an incumbent employee's authorization to work. Please note, the U.S. Citizenship and Immigration Services issued a revised Form I-9 (used for employment eligibility verification), which employers must begin using no later than January 22, 2017. Employers may continue to use the current Form I-9 with a revision date of March 8, 2013 through January 21, 2017.

Nonprofit Employers in Los Angeles May Not Ask Job Applicants about Criminal History Until Conditional Offer is Made - New Fair Chance Ordinance Goes into Effect January 1, 2017

Senate Bill 1063 and Assembly Bill 1767 add new protections to California's Equal Pay Act. The Equal Pay Act prohibits employers from paying an employee a wage rate less than the rate paid to an employee of the opposite sex "for substantially similar work," based on each employee's composite level of skill, effort, and responsibility, performed under similar working conditions. An employer does not violate the Equal Pay Act if it can prove that any wage differential is based upon a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or a bona fide factor other than sex, such as education, training, or experience. For more information on the Equal Pay Act, see the January 2016 newsletter. Senate Bill 1063 amends the Equal Pay Act to cover race and ethnicity, as well as sex. Assembly Bill 1767 also amends the Equal Pay Act by providing that "[p]rior to salary shall not, by itself, justify any disparity in compensation" between employees. An employer may still inquire about prior salary history. Both amendments are effective January 1, 2017.

Single User Toilets Must Be Identified as All-Gender

Assembly Bill 1732 requires all single-user toilet facilities in any business establishment, place of public accommodation, or state or local government agency to be identified as all-gender toilet facilities by appropriate signage beginning March 1, 2017. The toilet facilities must be designated for use for only one occupant at a time, or for family or assisted use.

Notice of Rights to Victims of Domestic Violence, Sexual Assault, or Stalking

Assembly Bill 2337 requires employers with 25 or more employees to provide written notice to new employees upon hire (and to current employees upon request) of existing protections for victims of domestic violence, including that victims of domestic violence, sexual assault, or stalking, have the right to take time off from work, participate in safety planning, obtain psychological counseling, and seek medical attention, and that employers may not retaliate against them for doing so. The Labor Commissioner is required to develop a form for employers to use to comply with the notice requirement on or before July 1, 2017 - employers are not required to comply with the notice requirement until the form is available.

Prohibition on Seeking Information on Juvenile Criminal History

Effective January 1, 2017, Assembly Bill 1843 prohibits employers from asking applicants to disclose, or taking into consideration, information pertaining to an arrest, detention, processing, diversion, supervision, adjudication, or court disposition that occurred while the person was subject to the process and jurisdiction of a juvenile court. Existing law already prohibits employers from seeking information regarding arrests or detentions that did not result in a conviction, or referral or participation in a diversion program, or convictions that were judicially dismissed or sealed, except in specified circumstances. See below for information on the City of Los Angeles new Fair Chance Ordinance, which bars employers from asking about a criminal history until a conditional offer is made.

Unfair Immigration Related Practices

Effective January 1, 2017, Senate Bill 1001 prohibits employers who are in the process of verifying that workers have the necessary documentation to work in the United States from requesting that such workers provide more or different documents than are required under federal law, to refuse to honor documents or work authorization based on the specific status or term of status that accompanies the authorization to work, or to re-investigate or re-verify an incumbent employee's authorization to work. Please note, the U.S. Citizenship and Immigration Services issued a revised Form I-9 (used for employment eligibility verification), which employers must begin using no later than January 22, 2017. Employers may continue to use the current Form I-9 with a revision date of March 8, 2013 through January 21, 2017.
Dear LA Seniors United,

LA Seniors United (soon to be LA/BA Seniors United)

Sincerely,

How do we accomplish this? Is there anything we need to do?

Beginning July 1, 2017, employers will be assessed penalties and administrative fines for violations of the Ordinance. Violations may result in the following: 

1. A penalty of $100 for each violation
2. A penalty of $500 for each violation
3. A penalty of $1,000 for each violation
4. Penalties for repeated violations

The ordinance also contains provisions regarding advertising job openings. Specifically, employers must state in every advertisement seeking applicants for employment that they will consider qualified applicants with criminal histories in a manner consistent with the requirements of the Fair Chance Ordinance. Employers must all post a notice informing job applicants of the provisions of the Fair Chance Ordinance at every workplace site a job applicant may visit and must send copies of the notice to each labor union with which they have a collective bargaining agreement.

The prohibition on inquiring about criminal history does not apply where:
1) the employer is legally required to obtain information regarding convictions;
2) the applicant would be required to possess or use a firearm in the course of his or her employment;
3) an individual convicted of a crime is legally prohibited from holding the position (even if the conviction has been expunged or sealed); or
4) the employer is legally prohibited from hiring someone convicted of a crime.

Individuals violating a provision of the Ordinance must first make an administrative complaint to the City Department of Public Works within one year of the alleged violation. After completing the administrative enforcement process, employers may bring a civil action against the employer.

Beginning July 1, 2017, employers will be assessed penalties and administrative fines for violations of the Ordinance up to $500 for the first violation, $1,000 for the second violation, and $2,000 for the third and subsequent violations.

Legal Services for Nonprofits

The Community Development Project builds strong foundations for healthy, vibrant and economically stable communities by providing comprehensive legal and capacity building services to organizations serving people with lower-incomes in the Los Angeles area.

If your organization needs legal assistance, please call (213) 385-2977, ext. 200 or email cdp@publiccounsel.org

CDP eNewsletter Archive

Have you recently joined our mailing list and feel like you’ve been missing out on great information? If so, we have good news! Previous issues of the CDP eNewsletter are available on our website.
Congratulations on your expansion! You are right in thinking that there are steps that will need to be completed to effectuate your name change and implement your new programs.

**Name changes**

First, carefully consider whether a name change is strategically beneficial for your organization. You should thoroughly review your current legal documents and contracts, and evaluate any strong name recognition with your former name. To move forward with the name change, you should check to see if the new name is available on the California Secretary of State’s website. If the name is available, you can reserve it for up to 60 days. Please visit [http://www.sos.ca.gov/business-programs/business-entities/name-availability/#reserving](http://www.sos.ca.gov/business-programs/business-entities/name-availability/#reserving) for more information on how to reserve a corporate name.

Next, review your articles of incorporation ("articles") and bylaws for the procedures required to incorporate the new name into the articles and bylaws by amendment, which can commonly be done by board approval. Once the board approves the name change by amending the articles and bylaws, then your organization must notify the appropriate regulatory agencies - the California Secretary of State, Internal Revenue Service (IRS), California Franchise Tax Board (FTB), and California Attorney General (AG).

To notify the California Secretary of State, a Certificate of Amendment must be filed with the California Secretary of State. Once filed and processed by the California Secretary of State, you can notify the IRS by reporting the name change on the Form 990 or Form 990-EZ. Organizations that use a Form 990-N should submit a request for an affirmation letter reflecting the name change by submitting a letter, including a copy of the amendment to the articles and proof of filing with the California Secretary of State, to IRS Exempt Organizations Determinations. Similarly, you should notify the FTB by reporting the name change on your next Form 199. If you file a Form 199N, you may report the name change by sending a certified copy of the Certificate of Amendment and letter to the FTB Exempt Organizations Unit. Finally, the AG should be notified of the name change by reporting it on your next RRF-1, and you can also attach your amended bylaws to the RRF-1. In the alternative, you can send separately the amended bylaws to the AG so long as there is an accompanying cover letter.

**Change in Mission or Purpose**

Your organization should be careful in amending its mission or exempt purpose since certain changes could impact your organization's tax-exempt status. A nonprofit's assets can only be used for the charitable purposes outlined in its articles. Editorial changes to clean up the wording of a mission statement may not likely trigger such an impact on an organization's tax-exempt status, but a more significant change should be carefully evaluated. Review your original Form 1023, articles, and bylaws to determine whether these proposed new programs and activities are beyond the scope of your current mission and purpose. Since this determination can be complex, be sure to seek the advice of an attorney.

If your nonprofit implements new programs and activities that are outside the scope of the purposes outlined in the articles then, under the "charitable trust doctrine," you may only use funds acquired after the articles have been amended to fund the new programs and activities. If you want to use assets acquired before the amendment to the articles to fund the new programs and activities, you may seek pre-clearance from the AG by sending a letter requesting a determination as to whether the proposed action is consistent with the requirements of a charitable trust. The letter must be signed on behalf of the corporation and include a detailed description of the proposed article amendment and all material facts concerning the article amendment. Please contact an attorney for assistance with this process.

Like with a name change, review your articles and bylaws for the procedures required to amend the articles and bylaws to incorporate the new purpose(s). Once approved by the board, your organization will have to notify the appropriate regulatory agencies.

Again, file a Certificate of Amendment with the Secretary of State (this can be done with the name change). Next, you should notify the IRS of any new programs by reporting it on the Form 990 or Form 990-EZ. If your organization files a Form 990-N, then a letter, including a certified copy of the Certificate of Amendment and amended bylaws reflecting the change in purpose, should be sent to the Exempt Organizations Determinations office. Then, notify the FTB by reporting the change(s) on your next Form 199. If filing a Form 199N, send the amended bylaws, certified copy of the Certificate of Amendment filed with the California Secretary of State, and a cover letter to the Exempt Organizations Unit. If there are editorial changes to the mission or purpose, then your organization should send the amended bylaws to the AG with a cover letter. If there are significant changes though, then a pre-clearance from the AG would be recommended.

Please see Public Counsel's publication "Notification Requirements for California Public Benefit Corporations" for more details on what was discussed in this article regarding name changes, change in mission and purpose, or other significant organizational changes. For assistance or questions, please contact the Community Development Project at 213-385-2977 ext. 200.

Best,

Annie and Uyen

*If you have a question which you would like to be addressed in the newsletter, please send an email to "Dear Annie and Uyen" at askcdp@publiccounsel.org*
About 10,000 students in California identified as being independently homeless on their 2013-2014 Free Application for Federal Student Aid (FAFSA). While this number does not capture students who might face homelessness with their families, those without a permanent home, or students experiencing food insecurity, it reveals the significant amount of homeless youth enrolled in school. Poor nutrition and not having a safe space to study or sleep are detrimental to a student's overall academic performance. While pursuing his PhD in mechanical engineering at UCLA, Louis Tse became determined to open a shelter for students that were experiencing homelessness after he surrendered his Westwood apartment and began to live out of his car.

Bruin Shelter, a nonprofit organization committed to providing a safe and supportive environment for college students facing homelessness in Los Angeles, opened its doors Fall of 2016 and is currently the second student operated shelter in the nation. Louis, currently Executive Director of Bruin Shelter, remembers how "when we started on this journey to open an emergency shelter for students experiencing homelessness, we knew it would not be easy." Navigating through the process of applying for tax exemption and incorporating a new nonprofit is no simple task, especially for someone with an unstable living environment. Louis found help through Public Counsel's Community Development Project (CDP), and with the assistance of pro bono attorneys at Latham & Watkins LLP, the path for Bruin Shelter began to take shape.

"The challenges we face have been made considerably less daunting now that we have received pro bono legal services from Latham & Watkins with the help of Public Counsel's placement service," Louis adds. After helping with incorporation and obtaining tax exemption, the pro bono attorneys were enthusiastic about continuing to work with Bruin Shelter and further solidifying its efforts to operate as soon as possible. James Klima at Latham & Watkins worked on preparing a release of liability waiver along with drafting an MOU with Mt. Olive Lutheran Church, both crucial steps necessary for Bruin Shelter to open its doors for students. "With Public Counsel's and Latham & Watkins help, Bruin Shelter opened in October of 2016. Words really cannot express the gratitude we feel toward these two fine law firms," said Louis.

Currently, Bruin Shelter provides UCLA and Santa Monica College students, ages 18-24, with beds, individual storage lockers, dinner, grab-to-go breakfast, and housing for 90 days with a goal to help students find permanent housing. Bruin Shelter's statement "A home for students, by students" captures the spirit and goal of how Bruin Shelter is paving the way for other universities and institutions to address the issues and misconceptions about student homelessness. The mission of Bruin Shelter is also "to empower shelter volunteers to become social justice leaders, philanthropists, and innovators" and "to be an open-source model for other universities to create student-run shelters."

Again, Bruin Shelter goes a step further from offering students emergency housing, as it encourages engagement and discussion about the conditions affecting those who are homeless. Its participation and commitment to working alongside foundations, local government officials, and community-based organizations allow Bruin Shelter to continue its goal of providing a safe and supportive space for students. For more information on Bruin Shelter, please click here.

CDP is also overjoyed to share that Louis received his PhD in May 2016 and accepted a position with the Jet Propulsion Laboratory in Pasadena as part of the design team on the Mars Rover slated for 2020.