



**LEGISLATION &
COMMUNICATIONS UNIT**
1831 K Street
Sacramento, CA 95811-4114
Tel: (916) 504-5800
TTY: (800) 719-5798
Intake Line: (800) 776-5746
Fax: (916) 504-5807
www.disabilityrightsca.org

June 1, 2021

Honorable Mark Stone
Chair, Judiciary
California State Assembly
1040 N Street, Room 104
Sacramento, CA 95814

RE: SB 331 (Leyva) as amended April 15, 2021 – SUPPORT

Dear Chair Stone:

Disability Rights California (DRC), a non-profit advocacy organization that advances and protects the rights of Californians with disabilities, **supports SB 331**. This bill is scheduled for hearing before Assembly Judiciary Committee on June 8, 2021.

This bill would expand the prohibition on non-disclosure agreements (NDA's) in settlement agreements involving sexual harassment, sexual assault, and sex discrimination to cover settlement agreements involving all forms of harassment or discrimination. SB 331 would also expand the prohibition on overly broad confidentiality and non-disparagement clauses in employment agreements to cover workers who are required to sign these types of clauses as part of a severance agreement.

SB 331 is critical to addressing the role that "secret settlements" play in perpetuating hostile work environments by silencing workers and allowing complaints to be swept under the rug. In 2018, the Legislature passed the STAND (Stand Together Against Non-Disclosures) Act to specifically ban non-disclosure agreements in cases of sexual harassment, sexual assault, and sex discrimination. Of course, 'secret settlements' play as much a role in perpetuating workplace discrimination, harassment and bias based on

race, ethnicity, sexual orientation, age, disability, religion, etc., because here complaints are kept secret and those who raise the complaints are effectively silenced.

Title I of the Americans with Disabilities Act (ADA) prohibits disability-based discrimination by private employers. Discrimination includes unequal treatment, retaliation and harassment against employees and job applicants with disabilities. Employers shall not discriminate against a person with a disability in regard to job application procedures, the hiring or advancement, discharge of employees, employee compensation, job training, and other conditions and privileges of employment.¹

According to the United States Equal Employment Opportunity Commission, there were 26,379 claims of job bias citing disability in 2012. Most people who are discriminated against at work have a perceived mental health disability. One in three employers say they do not hire people with disabilities because they cannot perform required tasks. Only 35% of people, who claim to have at least one disability are employed. Many employers view employees with disabilities as a burden. People with disabilities are often paid less than others who do not have disabilities. Many employers have a stigma against people with disabilities and treat the disabled community based on that perception.²

SB 331 will also address silencing mechanisms used to bar or intimidate workers from speaking out about harassment or discrimination. These types of confidentiality and non-disparagement agreements are now banned as a condition of employment under SB 1300 (Jackson, 2018), but many employers still force workers to sign these types of provisions as part of severance packages when a worker leaves a job. Whether a worker is taking a job or leaving a job, they should never have to give up their right to speak out about harassment or discrimination. Especially now, when critical public discourse about racism and ableism is happening across this country, workers must be able to speak about their own experiences if we are going to have meaningful and public conversations about effectuating real change.

¹ 42 U.S.C. Section 12112(a) [“Return to Main Document”](#)

² 21 Amazing Disability Discrimination Statistics. <https://brandongaille.com/20-amazing-disability-discrimination-statistics/>. May 22, 2017 [“Return to Main Document”](#)

For these reasons, DRC supports this bill. Please contact me if you have any questions about our position or if I can provide any further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Harris". The signature is fluid and cursive, with a prominent "E" and "H".

Eric Harris
Director of Public Policy
Disability Rights California

cc: Honorable Members, Assembly Judiciary Committee
Honorable Connie Leyva, California State Senate
Jessica Golly, Office of Senator Leyva