

AB 1825

Mandatory Sexual Harassment Training

Effective – 1/1/05

Beginning 1/1/05, California employers with 50* or more employees are required to provide 2 hours of sexual harassment training to supervisors within one year of the effective date of the law. Beginning 1/1/06, employers must provide sexual harassment training to supervisors once every two years.

*For purposes of determining the number of employees, the law requires that the employer count temporary employees and any independent contractors. In addition, the law does not require that all 50 employees be located within California.

TRAINING REQUIREMENTS

Training must include "information and practical guidance" regarding federal and state laws that prohibit sexual harassment, including prevention and correction of harassment, and remedies available to victims. Employers are required to use "practical examples" aimed at preventing harassment. In addition, the training **must be presented** by "trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation." Furthermore, the training must be in a classroom or an equally effective interactive environment. Because of the term "interactive," a video presentation alone without questions and answers, role playing, and other interactive methods may be insufficient.

WHO MUST BE TRAINED?

Initial Training

California law has a broad definition of who qualifies as a "supervisor". This means that an employer cannot simply rely upon a job title in determining who must receive training. The California Fair Employment and Housing Act defines a "supervisor" as "any individual having the authority . . . to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

Employers should include all personnel who are involved in personnel actions in the required training program.

Note: If an employer has provided training that is consistent with the requirements of this law to applicable employees after 1/1/03, the employer is not required to provide training before 1/1/06. However, such employers will be required to conduct bi-annual training after 1/1/06.

New Hires/Promotions

An employee who is hired or promoted to a position that involves the handling of personnel matters must receive two hours of sexual harassment training within six months of the date work begins in that job position.

Bi-Annual Training

Beginning 1/1/06, employee supervisors or individuals who handle personnel matters must receive two hours of sexual harassment training every two years.

LIABILITY TO EMPLOYERS

Employers who fail to conduct training can be ordered to provide training by the Department of Fair Employment and Housing.

The law does not provide for a fine or penalty for a failure to provide training. However, since training is now mandated by law, a failure to provide such training can be used to demonstrate an employer's reckless disregard for the law in the event of any sexual harassment complaint.

This law specifically states that providing training does not imply automatic protection from liability in a sexual harassment complaint nor is the provision of training considered proof of a proactive position on eliminating sexual harassment in the workplace.

RECORDKEEPING

Because the law mandates training and bi-annual training, employers must maintain records of training sessions and proof of the attendance of specific employees at such sessions. Employers must also be diligent in ensuring the training of newly hired employees who qualify for training requirements.

EXPERIENCED TRAINERS

Bolton and Company recommends that employers utilize professional trainers. We are pleased to announce that the law firm of Silver and Freedman has developed a seminar series to meet the requirements of the law. The seminar can be conducted on the Internet where your staff is connected via speakerphones – allowing an interactive question and answer session. Silver and Freedman is also available to conduct a training session in their office or on-site at your location. The training can also be conducted in Spanish. Contact Beth Schroeder of the law firm Silver and Freedman at (310) 282-9442 or Client Services at (310) 282-9417.

View more information about this law

http://www.leginfo.ca.gov/pub/03-04/bill/asm/ab_1801-1850/ab_1825_bill_20040930_chaptered.html