



News & Types: Employment, Labor & Benefits Update

Sexual Harassment Prevention Training Redefined, Again

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Practices: Employment, Labor & Benefits

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EXECUTIVE SUMMARY

California employers with 50 or more employees are required to provide sexual harassment training to their supervisory employees under a 2004 law commonly known as AB 1825. A new proposed law (SB 1343), if adopted, will reduce the threshold for mandatory sexual harassment training to employers with 5 or more employees including non-supervisory employees.

Under the administration of the Department of Fair Employment and Housing (“DFEH”), California’s current law requires all employers with 50 or more employees to provide at least two hours of sexual harassment prevention training to all of its supervisory employees, and once every two years thereafter. In addition, all newly hired supervisory employees must receive the training within six months of being hired.

As most California employers know, the existing law was amended last year which added a requirement that training and education discuss the issues concerning harassment based on gender identity, gender expression, and sexual orientation. The same amendment also expanded the definition of “individual with employment barriers” to include transgender and gender nonconforming individuals. However, these changes were only the beginning.

As the “anti-sexual assault and women’s empowerment” movements such as #MeToo and Time’s Up have emerged and gained popularity since last year, three new bills were introduced and awaiting approval to expand the existing law even further. Senate Bill No. 1343 in particular, if passed, will impose even more stringent rules on employers than the current version. The following is a digest of the new bill:

| CURRENT | NEW |
|-------------------------------------|---|
| Employers with 50 or more employees | Employers with 5 or more employees |
| Supervisory employees only | All employees including temporary or seasonal |

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| Two hours of training to supervisory employees | Two hours of training to supervisory employees; one hour of training to all non-supervisory employees |
| After the initial training session, once every two years thereafter | No Change, but the applicable employers must provide the initial training prior to January 1, 2020. |

If signed by Gov. Jerry Brown, the new law will obligate many California employers to revise their employee handbook. However, the new law permits online video training courses, and will require DFEH to create the course materials as well as make them available on its website. In addition, the training may be conducted as a group or by individual.

Action Steps: All employers with 5 or more employees should monitor the progress of SB 1343, as it will bring significant changes for HR compliance. However, other than making the relevant changes on their handbooks, there will be no requirement to prepare new training material or create special programs.