

California Joins States That Require Compliance Training

On September 30, 2004, California Governor Arnold Schwarzenegger signed into law a bill called AB 1825. This new law requires employers who operate in California and who employ 50 or more persons to provide all supervisory employees two hours of sexual harassment training every two years . Employers must complete the first round of training for supervisors by January 1, 2006.

In addition to the requirements of AB 1825, the California Fair Employment and Housing Act (“FEHA”) requires employers to take “all reasonable steps to prevent harassment from occurring.” Cal. Gov Code §12950. According to the California Department of Fair Employment and Housing (“DFEH”), such reasonable steps include providing all employees sexual harassment training. Indeed, according to the DFEH, a sexual harassment training program for all employees “is not only required by law, but it is the most practical way to avoid or limit damages if harassment should occur despite preventative efforts.” According to the DFEH, “all employees should be made aware of the seriousness of violations of the sexual harassment policy.” In addition to sexual harassment training, all employees must receive from their employers a copy of the DFEH pamphlet “Sexual Harassment is Forbidden by Law” (DFEH-185) or an equivalent document.

Colorado

The Colorado Sex Discrimination Rules, as adopted by the Colorado Civil Rights

Commission, encourage employers to “sensitize” employees regarding issues relating to sexual harassment. See 3 Colo. Code Regs. § 708-1, Rule 80.11(C).

Connecticut

The Connecticut Human Rights and Opportunities Act requires all private and public employers with fifty or more employees to provide two hours of sexual harassment training to all supervisory employees within six months of the assumption of a supervisory position. Conn. Gen. Stat. § 46a-54(15)(B). The sexual harassment training must cover topics such as the laws prohibiting sexual harassment, the definition of sexual harassment and examples of prohibited conduct, remedies available for sexual harassment, and strategies for avoiding sexual harassment in the workplace. The state has also promulgated regulations describing in detail the sexual harassment training requirements. Conn Agencies Regs. § 46a-54-204.

Because of concerns about whether online courses could provide for interactive training, the State of Connecticut’s Commission on Human Rights and Opportunities originally ruled that online courses would not suffice. However, on May 19, 2003, the Commission issued a letter opinion stating that an online sexual harassment course would comply with the law if the course “provides an opportunity for students to ask questions and obtain answers in a reasonably prompt manner.”

Connecticut (Promoting Workplace Diversity Training)

Connecticut law requires state agencies to provide three hours of diversity training to all supervisory and non-supervisory employees and to all new supervisory employees within six months of the assumption of a position with a state agency. The diversity training must include information on state

and federal discrimination laws as well as hate crimes directed at protected classes. Conn. Gen. Stat. § 46a-54(16)(A).

Florida

The Public Personnel Rules of Florida's Administrative Code require all supervisors in Florida executive branch agencies to receive training on affirmative action and equal opportunity, which would include sexual harassment training. See Fla. Admin. Code, Tit. tit. 60L, § 21.004. Illinois

Illinois

The Illinois Human Rights Act requires every public employer to provide sexual harassment training as part of all new employee training programs. Ill. Comp. Stat., Chap. 775, § 2-105(B)(5).

Maine

Maine's Sexual Harassment Training and Education in the Workplace Law requires all private and public employers with fifteen or more employees to provide sexual harassment training to all new employees within one year of beginning employment. Me. Rev. Stat. § 807(3).

Massachusetts

The Massachusetts Fair Employment Practice Act requires all employers to promote "a workplace free of sexual harassment." Thus, the law encourages employers to provide sexual harassment training to all new employees within one year of beginning employment. Supervisors and managers should receive additional sexual harassment training on their responsibilities for preventing sexual harassment and responding to sexual harassment complaints. In addition, employers must distribute a written version of their sexual harassment policy annually to all employees and to each new employee at the beginning of employment. See Mass. Gen. Laws, Chap. 151B, § 3A.

Michigan

Michigan's Disability Bias Law requires the department of civil rights to offer training programs, which would include sexual harassment training, to employers, labor organization and employment agencies to assist in understanding the requirements of the Act. See Mich. Comp. Laws Ann., § 37.1212.

New Jersey

In the 2002 case *Gaines v. Bellino*, 173 N.J. 301 (2002), the New Jersey Supreme Court held that, in judging whether an employer has been negligent in preventing sexual harassment under state law, state courts should consider whether the employer made sexual harassment training available to all employees in its organization. The court stated that an employer that provides sexual harassment training helps demonstrate the employer's "unequivocal commitment from the top" to preventing sexual harassment.

Oklahoma

Oklahoma's "Fair Employment Practices Act", through its Rules of Personnel Management and Administration, requires that all state personnel who investigate complaints of discrimination be trained in the areas of equal employment opportunity, discrimination and burdens of proof. See Okla Stat., tit.

74, § 840.21(F.1); tit. 530, § 10-3-20. Thus, investigators should receive sexual harassment training and training on all other equal opportunity laws.

Rhode Island

Rhode Island's Sexual Harassment, Education and Training Law encourages employers to provide sexual harassment training to all new employees within one year of beginning employment. Employers are further encouraged to provide sexual harassment training to new supervisory and managerial employees within one year of their assumption of a supervisory position. Supervisory sexual harassment training should specifically address the responsibilities of supervisory and managerial employees to prevent sexual harassment and respond appropriately to sexual harassment complaints. See R.I. Gen. Laws, Chap. 118, §§ 28-51-2(c), 28-51-3.

Tennessee

The Tennessee State Employees' Sexual Harassment Law obligates the state department of personnel to provide sexual harassment training to all public employees. See Tenn. Code § 4-3-1703.

Texas

Texas' Employment Discrimination Law mandates that each state agency provide its employees with employment discrimination training (which should include, among other things, sexual harassment training) within thirty days after being hired and then on a supplemental basis every two years. See Tex. Lab. Code § 21.010.

Utah

The Utah Department of Human Resource Management Rules obligates all public employers to provide sexual harassment training consistent with standards established by the Department. See Utah Admin Code § 477-25-7.

Vermont

The Vermont Fair Employment Practices Act encourages employers to provide sexual harassment training to all current employees and to provide sexual harassment training to all new employees within one year of commencement of employment. Supervisory sexual harassment training should specifically address the responsibilities of supervisory and managerial employees to prevent sexual harassment and respond appropriately to sexual harassment complaints. See Vt. Stat. § 495h(f).

For further information please call 312-431-1767