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California Assembly Bill 1343 - Mandatory Training to Prevent Sexual Harassment

Assembly Bill 1343 (AB 1343) requires that all employers with 5 or more employees, including temporary or seasonal employees, to provide at least two hours of sexual harassment training to all supervisory employees and at least one hour of sexual harassment training to nonsupervisory employees by January 1, 2020, and once every two years thereafter. Employees appointed to supervisory positions are required to receive sexual harassment training within six months of their assumption of supervisory responsibility and every two years thereafter.¹ A newly hired supervisor can “carry over” training from a previous employer and need only receive and acknowledge a copy of the new employer’s anti-harassment policy within six (6) months of arriving at the new job.

Affected employees of the State of California will have the required training incorporated into the 80 hours of training required by law for new supervisors.²

Training Program

The training and education required includes information and practical guidance regarding federal and state laws concerning the prohibition against sexual harassment.³ Also, methods of prevention and correction and available remedies to victims of sexual harassment in the workplace must be addressed by the training program. Training must also include practical examples “. . . aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation.”⁴

An employer shall also include prevention of abusive conduct as a component of the training and education.⁵ Additionally, an employer shall provide training inclusive of harassment based on gender identity, gender expression, and sexual orientation. The training and education shall include practical examples inclusive of harassment based on gender identify, gender expression, and sexual orientation.⁶

The training and education required is intended to establish a minimum threshold and should not discourage or relieve any employer from providing for longer, more frequent, or more elaborate training programs concerning the prevention of workplace harassment or other forms of unlawful discrimination.⁷

Individuals conducting sexual harassment training are required to have knowledge and expertise in the prevention of harassment, discrimination, and retaliation.⁸ The knowledge and expertise is acquired through education and experience concerning the prevention of discrimination in the workplace. Educators, employment law attorneys, and human resource professionals with a minimum of two years of experience in advising, training, investigating, or advising employers concerning discrimination and sexual harassment prevention matters are qualified trainers under the Fair Employment and Housing Commission's final regulations.

Liability

A claim that an individual who was required to receive sexual harassment training, and who did not receive said training, shall not in and of itself result in the liability of any employer to any present or former employee or applicant in any action alleging sexual harassment. Conversely, an employer is not insulated from liability for sexual harassment of any current or former employee by the fact that employees received the required training.⁹

¹ California Gov. Code Sec. 12950.1(a),

² California Gov. Code Sec. 19995.4(b).

³ 42 U.S.C. 2000e-2(a)(1); California Gov. Code Sec. 12900 *et seq.*

⁴ California Gov. Code Sec. 12950.1(a).

⁵ California Gov. Code Sec. 12950.1(b).

⁶ California Gov. Code Sec. 12950.1(c).

⁷ California Gov. Code Sec. 12950.1(g).

⁸ California Gov. Code Sec. 12950.1(a).

⁹ California Gov. Code Sec. 12950.1(e)