



LEGAL ALERT

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STAYING IN STEP WITH CALIFORNIA'S SEXUAL HARASSMENT TRAINING LAWS

The 2008 Training Cycle is Here.

Sexual harassment training became *mandatory* for California employers when the state legislature passed a law in 2004, now known as Government Code § 12950.1. Employers with 50 or more employees must give *two hours* of sexual harassment training to their supervisors *every two years* and new supervisors must get this training within six months after they start.

The first deadline for this government-mandated education was in January 2006. While it may seem that this initial training cycle just ended, the January 2008 cycle is already here. Therefore, it is imperative for employers to evaluate their training needs and existing programs now in order to avoid any potential training gaps.

New Regulations Became Effective August 17, 2007.

In an effort to provide clarity to employers on the specific requirements of the California sex harassment training law, as well as practical guidelines for compliance, the Fair Employment and Housing Commission (FEHC) implemented regulations on how to conduct sex harassment training that became effective on August 17, 2007. All sexual harassment training conducted after this date must comply with the new regulations. For more information and access to the text of the sexual harassment training regulations visit: <http://www.fehc.ca.gov/act/harass.asp>.

The good news is that these regulations adopted many suggestions from employers and trade associations, so that they are relatively clear and flexible. Most importantly, they endorse internet training programs, with certain conditions



and clarify that HR professionals, as well as attorneys and qualified teachers, can conduct live training sessions. The most significant components of the new regulations are:

- Course Designers/Trainers Should Be:
 - Attorneys admitted for two or more years to the bar of any state in the U.S.; or
 - HR professionals with two or more years of specifically delineated experience; or
 - Professors and instructors in law schools, colleges or universities.
- Training Must Have:
 - Questions that assess learning
 - Skill-building activities
 - Hypothetical scenarios with discussion questions
- Required Policy Incorporation
 - Employers must cover the elements of their anti-harassment policy and how to handle complaints.
- Two Year Re-training Requirements & Training Records
 - Employers must track sexual harassment training for each supervisor using the "Individual Tracking Method," the "Training Year Method," or a combination of both.

- Training Can and Should Address Other Types of Discrimination.
- Training Must Be Two Hours, But Can Be Conducted in Shorter Segments.

Failure to Comply Opens the Door to Harassment Lawsuits and Intensive Government Scrutiny.

While monitoring was intentionally low key in the beginning, the FEHC says it will be doing more audits and demanding more proof of compliance starting now, in the second training cycle. Failure to provide the required training will result in the agency issuing binding orders backed up by court enforcement and will put companies on the short list of "non-cooperative employers." More importantly, failure to provide the required training will almost always be used as "evidence" of an employer's failure to take all reasonable steps preventing harassment in the workplace.

We Are Committed to Providing the Most Current and Effective Training Solutions.

Snell & Wilmer L.L.P. provides employers with a range of the most current and effective training solutions. Contact us today to learn more about how your organization can best stay in step with California's sexual harassment training laws.

For more information on this topic, please contact Nathan W. Hicks, 714.427.7424 or nhicks@swlaw.com