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Sexual Harassment Prevention Training

The New Law – Which Employers Must Comply? California Assembly Bill 1825 took effect on January 1, 2005, and requires many employers to provide specific sexual harassment prevention training to supervisors. Employers with more than 50 employees, including independent contractors, temporary employees, and out-of-state employees, are now required to provide all supervisors with 2 hours of interactive sexual harassment prevention training every 2 years.

Who Must Be Trained? This new law requires that training must be provided to all employees who have “supervisory authority.” This term includes anyone having the authority to exercise independent judgment to:

1. Hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees;
2. Direct the work of other employees or adjust their grievances; or
3. Effectively recommend any of these actions (employees who make recommendations about such matters must receive training if their recommendations are likely to be acted upon by management).

What Must The Training Include, and Who Can Be a Trainer? The required training must include information and practical guidance regarding federal and state sexual harassment laws, including harassment prevention and correction, and remedies available to victims. The training must be “interactive.” It appears that video training is not sufficient without discussion, role-playing, a question-and-answer session, or other similar techniques. The training must be provided by a qualified individual with knowledge and expertise in the prevention of harassment, discrimination and retaliation. Qualified trainers include attorneys and certain human resource professionals.

By When Do Employers Need to Comply? This law is implemented in two phases:

1. For supervisors employed as of July 1, 2005, employers must provide training by January 1, 2006, except for supervisors who already received this training after January 1, 2003. Supervisors hired or promoted after July 1, 2005 must receive training within six months of their hire or promotion date;
2. After January 1, 2006, employers must provide 2 hours of ongoing training once every 2 years to all supervisors; this training must be given within 6 months of the employee attaining supervisor status.

What Should Employers Do? To ensure compliance with California's new sexual harassment prevention training law, Employers should:

1. Determine if the law applies, based on their total number of employees and independent contractors.
2. Determine which supervisors were trained in 2003 and 2004, and how much training each received in that time period. If supervisors received 2 hours of training in this time period, it need not be repeated in 2005.
3. Determine which supervisors will need training in 2005 to comply with the January 1, 2006 deadline.
4. Include funds for training in the company budget.
5. Determine who will conduct training for your company, making certain to obtain an experienced trainer with the necessary qualifications.
6. Establish and implement a training program.
7. Maintain a tracking system to keep accurate records of which supervisors completed training and when.
8. Remember that non-supervisory employees should also receive 1 hour of sexual harassment training every year.
9. Remember to comply with all other sexual harassment training, posting, and notice requirements (See, California Government Code §§ 12950(a), (b)).

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