

LABOR & EMPLOYMENT

>>ALERT

CALIFORNIA EMPLOYERS REQUIRED TO PROVIDE SEXUAL HARASSMENT PREVENTION TRAINING TO ALL EMPLOYEES BY JANUARY 1, 2020

UPDATE AS OF SEPTEMBER 2019

The deadline to comply with some of the new California training requirements described below has been extended by 1 year, to **January 1, 2021**. The new extended deadline means that:

- >> California employers with 50 or more employees now have until **January 1, 2021** to provide at least 1 hour of sexual harassment prevention training to all non-supervisory employees, within 6 months after non-supervisory employees are hired, and every 2 years thereafter.
- >> California employers with 5 or more employees now have until **January 1, 2021**, to:
 - > Provide at least 2 hours of sexual harassment prevention training to all supervisors, within 6 months after supervisors are hired or promoted into their position, and every 2 years thereafter; and
 - > Provide at least 1 hour of sexual harassment prevention training to all non-supervisory employees, within 6 months after non-supervisory employees are hired, and every 2 years thereafter.

In further statutory recognition of the #MeToo movement, California – like New York – has implemented more stringent training requirements for employers.

On September 30, 2018, California passed [SB 1343](#), a bill requiring all California employers with five or more employees to provide sexual harassment prevention training to all employees – both supervisory and non-supervisory – by January 1, 2020 and biannually thereafter. The bill significantly expands existing California law, which previously only required employers with at least 50 employees to provide such training to supervisory employees every two years.

THE BOTTOM LINE

California employers should begin preparing to comply with the bill's training requirements by the January 1, 2020 deadline. This is particularly important for smaller employers who may not have any sexual harassment prevention training programs in place due to the 50-employee threshold previously established by the state.

Employers with operations across multiple states should be aware that certain other jurisdictions – including New York State, New York City and Delaware – have also recently passed sexual harassment prevention training requirements, each with their own employee thresholds and mandatory timeframes. (For instance, the New York State and New York City laws both require annual training; the New York State law mandates that the first such training be conducted by October 9, 2019. Additional information on the New York State law can be found [here](#)).

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EMPLOYER OBLIGATIONS

By January 1, 2020, California employers with five or more employees must provide:

- >> at least 2 hours of sexual harassment prevention training to all supervisory employees; and
- >> at least 1 hour of sexual harassment prevention training to all non-supervisory employees.

This training must also be provided within six months of the employee's assumption of a supervisory or non-supervisory position (including hiring), as applicable. Employers who provide the required training to an employee after January 1, 2019 are not required to provide training again before January 1, 2020. After January 1, 2020, covered employers must provide sexual harassment prevention training to employees once every two years.

The training may be completed by employees individually or as part of a group presentation, and may be completed in shorter segments, as long as the applicable hourly total requirement is met.

TRAINING FOR SEASONAL AND TEMPORARY EMPLOYEES

Beginning on January 1, 2020, California employers with five or more employees also must provide sexual harassment prevention training to seasonal and temporary employees (or any other employee who is hired to work for less than six months) within 30 calendar days of the employee's hire date, or within 100 hours

worked for that employer, whichever occurs first. Notably, in the case of a temporary employee engaged through a temporary staffing agency, the bill clarifies that it is the agency – rather than the entity receiving the services – that is responsible for providing the training.

GOVERNMENT OBLIGATIONS

The bill also imposes certain requirements on the California Department of Fair Employment and Housing (DFEH). Specifically, DFEH must develop or obtain two online sexual harassment prevention training courses – a two-hour course for supervisors and a one-hour course for non-supervisors. Both courses must contain an interactive component that requires viewers to periodically answer questions in order for the course to continue to play.

The courses, along with the DFEH's existing poster and information sheet on sexual harassment prevention, must be made available to employers on the DFEH website in English and a variety of other languages (including Spanish, Chinese, Tagalog, Vietnamese, Korean and any other language spoken by a "substantial number of non-English speaking people").

The bill clarifies that an employer may direct its employees to complete the online trainings provided by DFEH on its website or it has an option to develop its own training program, as long as the content of the employer's training includes the following components (established

under existing California law but reiterated in the bill):

- >> Information and practical guidance on federal and state laws prohibiting sexual harassment and remedies available to victims of sexual harassment;
- >> Practical examples aimed at training employees in the prevention of harassment, discrimination and retaliation;
- >> Training addressing harassment on the basis of gender identity, gender expression and sexual orientation; and
- >> Training addressing the prevention of abusive conduct in the workplace.

Finally, the bill requires DFEH to provide a method for employees who have completed the required trainings – whether the online program provided by DFEH or the employer's own training module – to electronically save and print a certificate of completion.

FOR MORE INFORMATION

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