

California's Mandatory Sexual Harassment Training Requirements Amended

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New California Fair Employment and Housing Act regulations that went into effect April 1, 2016, requiring employers to have a discrimination, harassment, retaliation, and prevention policy also set new benchmarks for mandatory sexual harassment training procedures.

Since its enactment in 2005, California's AB1825 has governed mandatory sexual harassment training by employers. AB1825 requires employers with at least 50 employees to provide regular and legally compliant training to supervisors. The [new FEHA regulations](#) add to the already lengthy list of compliance requirements for training in terms of process, recordkeeping, and content.

Process Requirements:

While the existing regulations have referred to other means of training such as audio, video, or computer technology in conjunction with classroom, webinar, and e-learning trainings, the new regulations clarify that these "other" methods are merely "supplemental" and, by themselves, cannot fulfill the AB 1825 training requirements. Accordingly, employers should not rely on training that consists solely of these methods.

The requirements for trainers have also been expanded. In order to be considered a qualified trainer, in addition to previously outlined requirements, the trainer also must now have the ability to train supervisors on identifying behavior that may constitute unlawful harassment, discrimination, and retaliation under both California and federal law, as opposed to just defining these concepts. Additionally, trainers must be able to train on supervisors' obligation to report harassing, discriminatory, or retaliatory behavior of which they become aware.

Recordkeeping Requirements:

The new regulations set forth more stringent requirements for tracking compliance. These include:

- E-learning training – Requiring trainers to maintain all written questions received and responses or guidance provided for a period of two years after the date of the response.
- Webinar training – Requiring employers to keep a copy of the webinar, all written materials used by the trainer, and all written questions submitted during the webinar. Employers also must document all written responses or guidance the trainer provided during the webinar. These records must be kept for two years after the date of the webinar.
- Documentation of training – In addition to previous recordkeeping requirements,

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employers now must keep documentation of the training provided, including: the names of the supervisors trained, the date of the training, the sign-in sheet, a copy of all certificates of attendance or completion issued, and a copy of all written or recorded materials.

Content Requirements:

Additional content requirements under the new amended regulations expand the list of topics for discussion to include:

- Examples of questions to utilize during trainings – The new regulations spell out examples of methods trainers can use to engage participants, such as pre- or post-training quizzes or tests, small group discussion questions, discussion questions that accompany hypothetical fact scenarios, brief scenarios discussed in groups, any other learning activity geared towards ensuring interactive participation as well as the ability to apply what is learned to the supervisor's work environment.
- Remedies available for victims in civil actions, and potential employer or individual exposure or liability.
- Supervisory obligations to report sexual harassment, discrimination, and retaliation of which they become aware.
- Discussion of strategies to prevent harassment and steps necessary to take appropriate remedial measures to correct harassing behavior.
- Review abusive conduct (which was added as a training topic in January 1, 2015) in a “meaningful manner.”

Next Steps

Employers subject to California's AB1825 should review their training procedures and material content carefully to ensure they are up to date with these new requirements.

Jackson Lewis Training Programs

Jackson Lewis has developed management training programs that satisfy these new California requirements. For more information or to schedule training on-site, please contact the leads of our [Workplace Training Practice](#).

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