



LAW UPDATE

LABOR AND EMPLOYMENT

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SB 1343 Will Require Phase-In of New Sexual Harassment and Abusive Conduct Prevention Training (All Employees/Volunteers Will Need to be Trained by 2020)

In response to the heightened awareness generated by the “#Me Too” movement, the California Legislature responded with various bills intended to further address the issue of sexual harassment in the workplace.¹ Among these bills was Senate Bill (SB) 1343 which will mandate requirements for new sexual harassment and abusive conduct prevention training for all employees. In 2019, the law will begin to phase in. This bill amends Sections 12950 and 12950.1 of the Government Code to take effect during 2019-2020.

Since 2005, California employers with at least 50 employees and all California public employers have been required to train and educate all personnel in supervisory positions in sexual harassment prevention. SB 1343 lowers the number of employees to five and includes non-supervisors in the mandate.

Now, under amended Government Code section 12950.1, by January 1, 2020, an employer having five or more employees must provide at least two hours of training and education regarding sexual harassment prevention to all supervisory employees and at least one hour of training to all non-supervisory employees within six months of their assumption of a position.

Additionally, beginning January 1, 2020, for seasonal and temporary employees or any employee hired to work for less than six months, employers must provide the training within 30 calendar days after the hire date or within 100 hours worked, whichever occurs first. This new requirement may well apply to all substitute, temporary, or walk-on coaching staff members.

¹These bills include SB 1300, SB 280, and Assembly Bill 3109 and generally provide for changes in the legal standard for determining a “hostile work environment” and implement new limitations and requirements in employee settlement agreements for sexual harassment claims.

The Department of Fair Employment and Housing (DFEH) is developing new online compliant training courses and regulations regarding implementation of this mandate. Of note, the current draft of the new regulations proposed by DFEH will define unpaid volunteers as employees who are subject to the training requirement.

Like the currently required supervisory training, the training for all employees will need to include matters related to prevention of sexual harassment, abusive conduct, harassment based on gender identity, gender expression, and sexual orientation, and may include bystander training. The new training for non-supervisors will also need to be interactive. Similar to the supervisory employees, once a non-supervisory employee has been trained, re-training will need to occur once every two years.

Under Government Code section 12950.1(a), an employer may provide this new prevention training in conjunction with other training provided to employees. Therefore, we recommend considering incorporating the new non-supervisory training as part of your district's beginning or end of school training cycle.

Schools Legal Service will be developing new compliant training materials beginning in early 2019. We will also update clients on the applicability of volunteer training requirements in the proposed DFEH regulations to parent volunteers in the public school setting.

If you have any questions concerning this or related issues, do not hesitate to contact our office.

— Darren J. Bogié

Education Law Updates are intended to alert Schools Legal Service clients to developments in legislation, opinions of courts and administrative bodies and related matters. They are not intended as legal advice in any specific situation. Consult legal counsel as to how the issue presented may affect your particular circumstances.