



CALIFORNIA LAW UPDATE

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Proposed Regulations for California's Mandatory Harassment Training Law

California's Fair Employment and Housing Commission released proposed regulations on the state's new mandatory harassment training law for public comment in December 2005. These regulations interpret the state's new law, enacted in January 2005, which requires employers with fifty or more employees to provide harassment training to supervisors. (Cal. Gov't Code § 12950.1) The law requires two hours of training every two years. The proposed new regulations are intended to assist employers with training requirements. The new regulations attempt to define statutory terms and provide guidelines for effective compliance.

Under the proposed regulation, acceptable harassment training will be conducted by 1) classroom training; 2) an internet-based seminar created by qualified instructional designers and taught by qualified trainers; or 3) individualized, computer-based training created by qualified instructional designers. Computer-based learning must allow employees to ask questions, get answers, and have testing that measures retention. They also must incorporate a participation component at least once every 15 minutes so that employees are measurably engaged in the training. Examples of required training topics include: definitions of unlawful harassment; state and federal statutory provisions and case law; practical examples of harassment; remedies available; strategies to prevent workplace harassment; description of a complaint process; resources for victims of unlawful harassment; guidance on conducting an effective investigation of a complaint; what to do if the supervisor is personally accused; and the employer's harassment policy.

Some proposed regulations potentially expand liability for employers under the law. For example, the proposed definition of "employee" provides that employees both

inside and outside California must be counted to determine whether a particular employer has the requisite number of employees to be covered. Further, the regulations would also cover out-of-state supervisors who supervise California employees. Other proposed regulations may potentially limit employer liability. For instance, the regulations state that harassment training for an employee creates no inference that the employee is a supervisor. Harassment training, therefore, may be offered safely to a variety of non-supervisory employees.

The full text of the proposed regulations can be found at www.fehc.ca.gov/pub/pdf/Prp_Regs.pdf. Written comments about the proposed regulations may be submitted until 5:00 p.m. on February 10, 2006. The Commission will also be holding a public hearing in Los Angeles on that date.

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