

SEXUAL HARASSMENT TRAINING IS NOW REQUIRED

11.2004

Employment Law Reporter, Ervin Cohen & Jessup LLP

Employers are well aware that existing law prohibits sexual harassment in the work law place. Existing law also requires every employer to take steps to insure a workplace free of sexual harassment by, for example, posting sexual harassment information. However, commencing January 1, 2005, California employers with fifty or more employees must also provide sexual harassment training and education to all supervisory employees.

Recently enacted Government Code §12950.1 specifies that at least two hours of classroom or other effective interactive training and education regarding sexual harassment must be provided to all supervisory employees who are employed as of July 1, 2005, and to all new supervisory employees within six months of their assumption of a supervisory position. The employer must complete this process no later than January 1, 2006. However, any employer who has previously provided this training and education to a supervisory employee after January 1, 2003, is not required to provide duplicate training and education by the January 1, 2006 deadline. Following January 1, 2006, each employer covered by the statute must provide follow-up sexual harassment training and education to each supervisor every two years.

The education and training required by the statute include information and practical guidance regarding federal and state statutory provisions concerning the prohibition against and the prevention and correction of sexual harassment, as well as the remedies available to victims of sexual harassment. The statute specifically states that the training shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination and retaliation and “shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation.”

While the law only applies to employers with fifty or more employees, the message to all California employers is clear: periodic training on sexual harassment is a must. The failure to provide training by an employer is already a common tactic used by plaintiffs’ lawyers in arguing an employer failed to

PROFESSIONALS

Kelly O. Scott

PRACTICE AREAS

Employment

take reasonable steps to prevent harassment from occurring as required by law. This new legislation only makes that argument easier. Employers are therefore advised to implement a system - - including written schedules and documented attendance, follow-up and curriculum - - which will result in interactive sexual harassment training and education for all supervisory employees.