

## **FACT SHEET**

### **AB 1825 MANDATORY SEXUAL HARASSMENT TRAINING**

The California agency responsible for enforcing the state's mandatory sexual harassment training law has finally completed its long awaited regulations governing the training. Here are some highlights of the regulations.

#### **A. Who must be trained?**

All supervisors. The term supervisor is broadly defined as **any individual** having the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, the responsibility to direct them, or to adjust their grievances. Whether an individual actually holds the title "supervisor" is not determinative of supervisory status. Rather, it is the actual authority of the individual in question which will determine whether the individual is a supervisor who must undergo training.

#### **B. How many California based employees must a company have to be covered under this regulation?**

Only two! As so long as your business has at least 50 employees and/or contractors somewhere in the US, the mandatory training must be done so long as there is *at least one employee* and *one* supervisor working in California.

#### **C. Frequency of Training.**

Supervisors must be re-trained every two years. Newly hired or promoted supervisors must be trained within six months of their hire or promotion

A supervisor who has received harassment training from a prior employer within the previous two years can satisfy the law by reading and acknowledging receipt of the employer's harassment policy. However, the new employer has the burden of establishing that the prior training was legally compliant.

An employer may use either an individual tracking method or a "training year" tracking method for calculation. Under an individual tracking, a

supervisor must be trained two years from the date of completion of his or her last individual training. Under a training year tracking, an employer may designate a training year in which it trains some or all of its supervisors, and must thereafter train these same supervisors by the end of the next training year, two years later.

**D. Interactivity.**

Most educational experts believe that in-person training has the most lasting impact and is best suited for compliance matters. In recognition of this fact, the legislature and the state's compliance agency have mandated that the training be "interactive."

Though in-person training may be best, the state permits remote training vehicles like web based seminars ("webinars") and computer based training. Employers that opt for some kind of on-line training (referred to as "e-learning" in the regulations), should carefully investigate whether the provider can verify in writing that the program meets all legal requirements and that the sessions are a minimum of two hours without the ability of attendees clicking through in a shorter length of time. Such programs must have definitive audio files that add up to at least two hours to complete.

To satisfy the interactivity requirement, on-line courses must contain links permitting the supervisors to contact the trainers and ask them questions. For an e-learning program, trainers must answer questions within two business days. When using a "webinar" program, supervisors must have the opportunity to ask questions and have them answered during the program.

Throughout the year, BRGS presents in-house training, public webinars and live public training classes.

**E. Trainer Expertise.**

BRG&S trainers have the requisite experience and knowledge to do this training. The regulations require that persons conducting the training be experts in the field. To be a subject matter expert, the trainer must have practical experience in harassment, discrimination and retaliation training, and knowledge of relevant California and federal laws for a minimum of two years. If you go another route, be certain that the provider will certify in writing that the trainer has the requisite experience.

**F. Keep Records of the Training.**

You must keep documentation of the training to track compliance. These records should include the name of the supervisory employee trained, the date of the training, the type of training and the name of the training provider. Also,

keep a copy of the training materials. These records must be retained for a *minimum* of two years.