



LAW OFFICES OF SPECTOR, MIDDLETON, YOUNG & MINNEY, LLP

NEW LAW: SEXUAL HARASSMENT TRAINING NOW A LEGAL REQUIREMENT

Existing law makes certain employment practices unlawful, including the harassment of an employee by the employer or indirectly by agents of the employer with the employer's knowledge. Existing law further requires every employer to act to ensure a workplace free of sexual harassment by implementing at least minimum requirements, including (1) posting sexual harassment information posters at the workplace and (2) obtaining and making available an information sheet on sexual harassment. Employers must also maintain a clear and detailed policy which is designed to adequately protect against sexual harassment in the workplace.

In furtherance of these legal requirements, the Legislature has enacted a new law which will become effective on January 1, 2005, and will require employers with 50 or more employees, or entities that regularly contract for the services of 50 or more people (thereby including temporary workers, independent contractors, etc.), to provide 2 hours of training and education to all supervisory employees within one year of January 1, 2005. If an employer has provided such training and education at least once after January 1, 2003, then the employer must provide sexual harassment training and education to each supervisory employee once every 2 years after January 1, 2006. The law outlines the requisite elements of such education and training. Even if you do not have 50 or more employees, training is a critical component of your School's risk management plan.

Of course, compliance with this required training program does not automatically insulate the employer from liability for sexual harassment but it can go a long way to preventing such claims in the first place.

It is therefore not only important that employers subject to these requirements implement a training program consistent with these new legal requirements, but all employers must ensure that (1) all sexual harassment policies are up to date, (2) all employees are adequately trained on implementing or following such policies, (3) an objective, thorough investigation process is adopted and followed, and (4) employees are consistently notified of their rights and obligations regarding sexual harassment complaints and investigations. A well documented complaint and investigation process and proper notification of employees thereof is an employer's best defense to a sexual harassment claim.

If you should have any questions regarding this update, please contact Jim Young (jyoung@smymlaw.com) or Jessica Hawthorne (jhawthorne@smymlaw.com) at the Law Offices of Spector, Middleton, Young & Minney, LLP at (916) 646-1400.

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