

# Employment Law Overview for Managers – Half Day

## Workshop Overview



This course provides an overview of the employment laws that supervisors should know. We address legal obligations, organizational rules, and difficult situations that supervisors can encounter.

Besides identifying the common problem areas, this course provides practical tips and applies the material to real world examples.

The last decade has seen hundreds of employers sued for millions of dollars for employment law violations. A big reason for these lawsuits is the difficulty faced by employers trying to apply the complex legal requirements.

This course identifies and explains problem areas such as consistency with employees, preventing discrimination and harassment, and disciplining and terminating employees. Supervisors who take this course will be better prepared to recognize, respond to, and prevent situations that violate the law.

### Presented by: Angela Walterscheid

**Angela Walterscheid** is dedicated to helping companies develop their human resources. With over 17 years of corporate and consulting experience, Angela's focus is on design, development, and facilitation of custom learning experiences in management, leadership, customer service, time management, team development and many areas of professional development that result in improved business unit and individual performance.

## Participants will learn:

- I. The Spirit of the Laws
- II. The Four Key Concepts of Employment Law
  - Be consistent
  - Have a legitimate business reason for decisions
  - Document: importance, electronic files, how to write it
  - Call the experts: your management, HR and legal team
- III. Rules for Preventing Wrongful Action
  - Treat employees fairly: good reason, progressive discipline, performance appraisals
  - Keep your promises: policies, handbooks, oral promises
- V. Preventing Discrimination
  - The protected classifications
  - Stereotyping, glass ceilings, reasonable accommodation
  - Hiring interviews: illegal questions, behavior-based questions, references policy
- VI. Understanding Harassment
  - Recognizing harassment: factors that determine hostile environment
  - Manager's responsibility to prevent and respond
  - The platinum rule for avoiding harassment

# What the states currently require for Employment Law Training:

## **California**

California Law AB 1825 requires employers who operate in California and who employ 50 or more persons to **provide all supervisory employees two hours of sexual harassment training every two years**. Employers must have completed the first round of training for supervisors by January 1, 2006. To read an article on the requirements of AB 1825 that was published by the Society for Human Resource Management (SHRM).

The final AB 1825 anti-harassment training regulations issued by the California Fair Employment and Housing Commission (FEHC) became effective on August 17, 2007.

In addition to the requirements of AB 1825, the California Fair Employment and Housing Act (FEHA) requires employers to take "all reasonable steps to prevent harassment from occurring." Cal. Gov Code § 12950. According to the California Department of Fair Employment and Housing (DFEH), such reasonable steps include providing *all employees* sexual harassment training. Indeed, according to the DFEH, a sexual harassment training program for all employees "is not only required by law, but it is the most practical way to avoid or limit damages if harassment should occur despite preventative efforts." According to the DFEH, "all employees should be made aware of the seriousness of violations of the sexual harassment policy." In addition to sexual harassment training, all employees must receive from their employers a copy of the DFEH pamphlet "Sexual Harassment is Forbidden by Law" (DFEH-185) or an equivalent document.

## **Colorado**

The Colorado Sex Discrimination Rules, as adopted by the Colorado Civil Rights Commission, encourage employers to "sensitize" employees regarding issues relating to sexual harassment. See 3 Colo. Code Regs. § 708-1, Rule 80.11(C).

## **Connecticut**

The Connecticut Human Rights and Opportunities Act requires all private and public employers with

fifty or more employees to provide two hours of sexual harassment training to all supervisory employees within six months of the assumption of a supervisory position. Conn. Gen. Stat. § 46a-54(15)(B). The sexual harassment training must cover topics such as the laws prohibiting sexual harassment, the definition of sexual harassment and examples of prohibited conduct, remedies available for sexual harassment, and strategies for avoiding sexual harassment in the workplace. The state has also promulgated regulations describing in detail the sexual harassment training requirements. Conn Agencies Regs. § 46a-54-204.

Because of concerns about whether online courses could provide for interactive training, the State of Connecticut's Commission on Human Rights and Opportunities originally ruled that online courses would not suffice. However, on May 19, 2003, the Commission issued a letter opinion stating that an online sexual harassment course would comply with the law if the course "provides an opportunity for students to ask questions and obtain answers in a reasonably prompt manner."

## **Connecticut (Promoting Workplace Diversity Training)**

Connecticut law requires state agencies to provide three hours of diversity training to all supervisory and non-supervisory employees and to all new supervisory employees within six months of the assumption of a position with a state agency. The diversity training must include information on state and federal discrimination laws as well as hate crimes directed at protected classes. Conn. Gen. Stat. § 46a-54(16)(A).

## **Florida**

The Public Personnel Rules of Florida's Administrative Code require all supervisors in Florida executive branch agencies to receive training on affirmative action and equal opportunity, which would include sexual harassment training. See Fla. Admin. Code, Tit. 60L, § 21.004.

## **Illinois**

The Illinois Human Rights Act requires every

government agency to provide sexual harassment training as part of all new employee training programs. Ill. Comp. Stat., Chap. 775, § 2-105(B)(5).

### **Maine**

Maine's Sexual Harassment Training and Education in the Workplace Law requires all private and public employers with fifteen or more employees to provide sexual harassment training to all new employees within one year of beginning employment. Me. Rev. Stat. § 807(3).

### **Massachusetts**

The Massachusetts Fair Employment Practice Act requires all employers to promote "a workplace free of sexual harassment." Thus, the law encourages employers to provide sexual harassment training to all new employees within one year of beginning employment. Supervisors and managers should receive additional sexual harassment training on their responsibilities for preventing sexual harassment and responding to sexual harassment complaints. In addition, employers must distribute a written version of their sexual harassment policy annually to all employees and to each new employee at the beginning of employment. See Mass. Gen. Laws, Chap. 151B, § 3A.

### **Michigan**

Michigan's Disability Bias Law requires the department of civil rights to offer training programs, which would include sexual harassment training, to employers, labor organization and employment agencies to assist in understanding the requirements of the Act. See Mich. Comp. Laws Ann., § 37.1212.

### **Nevada**

Nevada requires all state employees to take a certified class on sexual harassment within six months of their appointment, and to attend a refresher course every two years thereafter. If necessary, employees may be required to retake all or part of each class to be sure they have assimilated the training. See Nev. Admin. Code ch. 284, s. 496.

### **New Jersey**

In the 2002 case *Gaines v. Bellino*, 173 N.J. 301 (2002), the New Jersey Supreme Court held that, in judging whether an employer has been negligent in preventing sexual harassment under

state law, state courts should consider whether the employer made sexual harassment training available to all employees in its organization. The court stated that an employer that provides sexual harassment training helps demonstrate the employer's "unequivocal commitment from the top" to preventing sexual harassment.

### **New Mexico**

New Mexico's state code provisions dealing with primary and secondary education includes a section on Standards of Professional Conduct requiring all licensed school personnel to be educated at least once a year about sexual harassment by "attending periodic training" or "reviewing sexual harassment literature." See N.M.A.C. 6.60.9.9 (C)(11).

### **North Carolina**

The North Carolina Administrative Code requires all state agencies to develop a "plan on unlawful workplace harassment" that includes "utilization of training and other methods" to educate state employees. See 25 N.C.A.C. 1J.1101.

### **Oklahoma**

Oklahoma's "Fair Employment Practices Act", through its Rules of Personnel Management and Administration, requires that all state personnel who investigate complaints of discrimination be trained in the areas of equal employment opportunity, discrimination and burdens of proof. See Okla Stat., tit. 74, § 840.21(F.1); tit. 530, § 10-3-20. Thus, investigators should receive sexual harassment training and training on all other equal opportunity laws.

### **Pennsylvania**

Pennsylvania requires all state employees to be educated on sexual harassment. "Education may consist of written materials, formal training, educational videos, orientation sessions, workplace discussions or individual counseling." See 4 Pa. Code Sec. 7.595.

### **Rhode Island**

Rhode Island's Sexual Harassment, Education and Training Law encourages employers to provide sexual harassment training to all new employees within one year of beginning employment. Employers are further encouraged to provide sexual harassment training to new supervisory and managerial employees within one year of their assumption of a supervisory position. Supervisory

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sexual harassment training should specifically address the responsibilities of supervisory and managerial employees to prevent sexual harassment and respond appropriately to sexual harassment complaints. See R.I. Gen. Laws, Chap. 118, §§ 28-51-2(c), 28-51-3.

#### **Tennessee**

The Tennessee State Employees' Sexual Harassment Law obligates the state department of personnel to provide sexual harassment training to all public employees. See Tenn. Code § 4-3-1703.

#### **Texas**

Texas' Employment Discrimination Law mandates that each state agency provide its employees with employment discrimination training (which should include, among other things, sexual harassment training) within thirty days after being hired and then on a supplemental basis every two years. See Tex. Lab. Code § 21.010.

#### **Utah**

Utah requires state agencies to provide "liability prevention training" to their employees. This training must include among its topics new employee orientation, prevention of sexual harassment, and supervisor training on prevention of workplace violence, and must be approved by the Department of Human Resource Management and Risk Management. See Utah Admin Code

R477-10-4.

#### **Vermont**

The Vermont Fair Employment Practices Act encourages employers to provide sexual harassment training to all current employees and to provide sexual harassment training to all new employees within one year of commencement of employment. Supervisory sexual harassment training should specifically address the responsibilities of supervisory and managerial employees to prevent sexual harassment and respond appropriately to sexual harassment complaints. See Vt. Stat. § 495h(f).

#### **Virgin Islands**

The U.S. Virgin Islands has enacted a law requiring employers with five or more employees to train all new employees within one year of their start of employment regarding the sexual harassment policy. At a minimum, this training must cover certain mandatory sexual harassment policy topics. In addition to these topics, all new supervisors must be trained on their "specific responsibilities" and "the methods [they] should take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints." Furthermore, the new law is not meant to "discourage or relieve an employer from providing additional or more frequent training" as the employer deems necessary.