

CLIENT NEWS BRIEF

State Clarifies Compliance Timeline For Employer Harassment Prevention Training

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Senate Bill (SB) 1343, enacted in September 2018, required employers with five or more employees to provide two hours of interactive sexual harassment prevention training to supervisory employees, and at least one hour of interactive sexual harassment training to nonsupervisory employees by January 1, 2020. The harassment training must include information regarding sexual harassment, abusive conduct, and harassment based on gender identity, gender expression, and sexual orientation. SB 1343 also mandated, beginning January 1, 2020, that covered employers provide harassment trainings to all seasonal employees, temporary employees, and any employee hired to work for less than six months, within 30 calendar days of hire, or within 100 hours worked, whichever comes first. ([See 2018 Client News Brief Number 86.](#))

On August 30, 2019, Governor Gavin Newsom resolved confusion about SB 1343 compliance timelines by signing SB 778 into law. As urgency legislation, SB 778 went into effect immediately upon signing. SB 778 amends Government Code section 12950.1, part of the Fair Employment and Housing Act, to clarify that sexual harassment prevention training for both supervisory and nonsupervisory employees must occur by January 1, 2021, as opposed to the previous SB 1343 requirement that all applicable harassment training be conducted by January 1, 2020. Thus, under the revised law, employers with 5 or more employees must now provide the above-described training and education by January 1, 2021, and thereafter once every 2 years. If an employer with 5 or more employees already provided the required training and education to its employees in the 2019 calendar year, the original SB 1343 provision allowing those employers to wait 2 years before repeating the training remains.

Takeaways

Employers who have not yet provided sexual harassment training, now have until January 1, 2021 to complete the training. Employers who began complying with the law already, do not have to redo the training before January 1, 2021, but must provide refresher training within two years of their first training.

DFEH specifies three types of qualified trainers to conduct SB 778-compliant trainings:

(1) Attorneys who have been members of the bar of any state for at least two years and whose practice includes employment law under the Fair Employment and Housing Act or Title VII of the federal Civil Rights Act of 1964;

(2) Human resource professionals or harassment prevention consultants with at least two years of practical experience in:

- Designing or conducting training on discrimination, retaliation, and sexual harassment prevention;
- Responding to sexual harassment or other discrimination complaints;



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As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.

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- Investigating sexual harassment complaints; or
- Advising employers or employees about discrimination, retaliation, and sexual harassment prevention.

(3) Law school, college, or university instructors with a post-graduate degree or California teaching credential and either 20 hours of instruction about employment law under the FEHA or Title VII.

For more information about SB 778, including Lozano Smith training opportunities, please contact an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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