



One Year Reprieve: California Delays Employer Sexual Harassment Training Requirements to 2021

By [Sheppard Mullin](#) on September 30, 2019 Posted in [California Legislative Update](#), [Sexual Harassment](#)

On August 30, 2019, Gov. Gavin Newsom signed [SB 778](#), which effectively delayed employer sexual harassment training requirements established in 2018. As we have covered in previous [articles](#), in the wake of the #MeToo movement, California lawmakers passed legislation intended to curb sexual harassment in the workplace. One such example was [SB 1343](#), signed into law on September 30, 2018 by then Governor Jerry Brown. SB 1343 required employers with 5 or more employees, including temporary or seasonal employees, to provide at least 2 hours of sexual harassment training to all supervisors and at least one hour of sexual harassment training to all nonsupervisory employees by January 1, 2020, and once every two years thereafter. The law specified that an employer who had provided this training to an employee after January 1, 2019 was not required to provide sexual harassment training and education by the January 1, 2020 deadline. However, as discussed in prior blog [entries](#), this led to confusion among employers who were already providing anti-harassment training to their nonsupervisory employees. Under the letter of the current law, some of these employees would have to participate in the training **twice** in a 2-year period, at cost to the employer and providing little additional benefit to the employee.

SB 778 serves to clarify such issues, and provides additional cushion for employers to comply with the requirements of SB 1343. Below are the key effects of SB 778:

- It requires an employer with **5 or more employees** to provide sexual harassment training and education **by January 1, 2021** (not January 1, 2020), and thereafter once every 2 years.
- It requires that **new nonsupervisory employees** be provided sexual harassment training within 6 months of hire.
- It requires that **new supervisory employees** be provided sexual harassment training within 6 months of the assumption of a supervisory position.
- It clarifies that an employer who has provided this training and education in 2019 is not required to provide it again until 2 years thereafter.

Employers should be aware that under both SB 1343 and its amendment under SB 778, there are specific requirements regarding sexual harassment training that employers provide. Below are some important metrics for all employers to be aware of when creating sexual harassment training policies:

- Training may be completed by employees individually or as part of a group presentation, and may be completed in shorter segments, as long as the applicable hourly total requirement is met.
- The training and education required must include information and practical guidance regarding the federal and state statutory provisions concerning the prohibition against and the prevention and correction of sexual harassment and the remedies available to victims of sexual harassment in employment.
- The training and education must include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation, and must be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation.
- The Department of Fair Employment and Housing must provide a method for employees who have completed the training to save electronically and print a certificate of completion.
- To comply, the subject matter of the training must not just be limited to *sexual* harassment. Training provided must be inclusive of harassment based on gender identity, gender expression, and sexual orientation.

- These laws set a *minimum* threshold for training. Employers can choose to provide longer, more frequent or elaborate training and education.

While SB 778 largely benefits employers, employers should take note that it only provides a temporary reprieve. Although the extension of the deadline comes as a relief, employers should not postpone training employees. Given this recent amendment, it is unlikely there will be another extension to comply. Therefore, while these sexual harassment training requirements will not come into effect until January 1, 2021, employers should already begin thinking about compliance with these training requirements. We will continue to track current developments in this area.

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