

# Engage PEO Client Alert:

## California Extends Deadline for Mandatory Sexual Harassment Prevention Training

**Compliance Deadline Delayed:** On August 30, 2019, California enhanced its anti-harassment statutory law in two significant ways.

**First, California extended the deadline by one year – until January 1, 2021 – for covered employers (employers with 5 or more employees) to complete their initial round of the enhanced, mandatory training for supervisory and non-supervisory employees.**

**Second, California explained that if a covered employer conducts the mandatory training in 2019, the employer is not required to provide refresher training until 2021 – and then every 2 years thereafter.**

### Overview of Training Requirements

Since 2004, California has required employers with 50 or more employees to provide 2 hours of sexual harassment “classroom or other effective training and education” to **supervisory employees** once every 2 years.

In late September 2018, California expanded its anti-harassment training requirements by: (1) extending the training requirements to small businesses – employers with 5 or more employees, and (2) requiring training of both **supervisory** and **nonsupervisory** employees.

These are the guidelines based on a worker’s classification:

- For supervisory employees, provide at least 2 hours of anti-harassment classroom or other effective interactive training and education to all supervisory employees within 6 months of their assumption of a position;
- For nonsupervisory employees, provide at least 1 hour of anti-harassment classroom or other effective interactive training and education within 6 months of their assumption of a position.
- For seasonal and temporary employees (or employees hired to work for less than 6 months), beginning January 1, 2020, train them within 30 calendar days after hire date or within 100 hours worked – whichever occurs first. Please note that if a temporary worker is supplied by staffing company, the staffing company must provide the training (not the client).

Notably, California now requires that the new anti-harassment training must include the following:

- Information and practical guidance on both state and federal statutory provisions concerning the prohibition against, prevention and correction of sexual harassment and the remedies availability to victims of sexual harassment in employment;

- Prevention of abusive conduct;
- Harassment based on gender identity, gender expression, and sexual orientation; and
- Practical examples aimed at instructing supervisors in the prevention of harassment, discrimination and retaliation as well as harassment based on gender identity, gender expression, and sexual orientation.

### Posting and Distribution Requirements

**Additionally, covered employers must post rights in prominent and accessible locations in their workplaces (1) sexual harassment posters, which can be found [English](#) and [Spanish](#); and (2) transgender rights in the workplace posters, which can be found in [English](#) and [Spanish](#).**

Covered employers must also distribute the California Department of Fair Employment and Housing's ("DFEH") sexual harassment pamphlet to new and current employees and ensure employees receive the pamphlet (i.e., include the pamphlet with employees' paychecks). **The DFEH's sexual harassment pamphlet can be found in [English](#) and [Spanish](#).**

To access the posters and brochure in languages other than English and Spanish, please **visit the DFEH's website by clicking [here](#).**

### Liability Limitations Addressed

The new rule expressly cautions that covered employers will not automatically be held liable for sexual harassment just because an employee claims that the employer failed to provide the mandated information sheet (or equivalent information) or to conduct the training. However, proof that the employer distributed the requisite information sheet (or equivalent information) or conducted the training will not insulate the employer from a finding of liability for sexual harassment.

### Recommended Next Steps

- **Mark January 1, 2020** as the date for covered employers to start providing training to seasonal, temporary employees, and other employees who work for less than 6 months;
- **Mark January 1, 2021** as the new deadline for covered employers to train their California supervisory and nonsupervisory employees;
- Ensure that you post the required sexual harassment and transgender rights posters; and
- Distribute the sexual harassment pamphlet to new and current employees.

**Please contact your Account Manager or HR Consultant if you have questions.**