



## **ANTI-BULLYING TRAINING MANDATORY AS OF 2015**

In September 2014 California amended the law that requires employers to provide sexual harassment prevention training to supervisors within six months of their start date, and every two years generally. Lawmakers supporting AB 2053 wanted to change existing law by mandating training to prevent bullying in the workplace before it happens. Beginning January 1, 2015, the sexual harassment prevention training required by California must include anti-bullying training.

California employers with 50 or more employees anywhere were already required to regularly train supervisors to prevent and address harassment and discrimination in the workplace. Existing law (applicable to almost all employers regardless of size) prohibits harassment or discrimination based on certain protected characteristics - race, gender, religion, disability, national origin, etc. - but does not explicitly prohibit bullying. Because certain types of bullying, if directed at a particular person, could amount to unlawful harassment, expanded training to address bullying was added to the existing law that already required harassment training. Supporters of the amended law hope that it will decrease bullying behavior by ensuring supervisors know what type of conduct is not permitted in the workplace.

In the amended law, bullying is referred to as “abusive conduct”, which is defined as:

“... conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer’s legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person’s work performance. A single act shall not constitute abusive conduct, unless especially severe and egregious.” (AB 2053.)

Note that the definition includes a requirement that the conduct be “with malice”, meaning the perpetrator must be willfully acting in a bullying manner toward the colleague or intending to do harm to the person being bullied.

Employers with 50 or more employees should review their policies and practices to make sure they are complying with all of the training requirements related to harassment, discrimination, and bullying. The two hour training must be conducted by trainers with knowledge and expertise in the subject area and must include practical examples that will help prevent harassment, discrimination, and retaliation. Now, the training must also cover bullying in the workplace. The training must be provided to new supervisors within the first six months of his or her employment, and to all supervisors every two years.

Often, disgruntled current or former employees will claim they have been treated poorly by co-workers or company management. If the employee claims that he or she was subject to unlawful harassment or discrimination, employers who have failed to provide the required training will be accused of failing to take all reasonable steps to prevent harassment and discrimination in the workplace by not even bothering to provide the training required by law.

By providing the training as required, employers can: 1) reduce the risk that unlawful conduct will occur; 2) increase the likelihood that potentially unlawful conduct will be promptly reported; 3) mitigate the appearance that improper conduct was tolerated or ignored; and 4) better defend against employment claims involving harassment or bullying.

We regularly conduct supervisor training that covers prevention of sexual harassment and discrimination and anti-bullying, as well as a “best practices” training to enhance supervisors’ understanding of important laws that apply to them and practical considerations for managing a diverse and demanding workforce.

If you would like to schedule an interactive supervisor training with one of our attorneys, please contact us.

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