

Sexual Harassment and Abusive Conduct Prevention Training Information for Employers

S.B. 1343 requires that all employers of 5 or more employees provide 1 hour of sexual harassment and abusive conduct prevention training to non-managerial employees and 2 hours of sexual harassment and abusive conduct prevention training to managerial employees once every two years. Existing law requires the trainings to include harassment based on gender identity, gender expression, and sexual orientation and to include practical examples of such harassment and to be provided by trainers or educators with knowledge and expertise in those areas. The bill also requires the Department to produce and post both training courses to its website, which employers may utilize instead of hiring a trainer.

There is no requirement that the 5 employees or contractors work at the same location or that all work or reside in California.

Under the DFEH's regulations, the definition of "employee" includes full-time, part-time, and temporary employees.

By what date must employees be trained?

Both managerial and non-managerial employees must receive training by January 1, 2020. After January 1, 2020, employees must be retrained once every two years. That means that all employees statewide must be retrained by January 1, 2022.

What if my employees were trained between January 1 and December 31, 2018?

The law requires that employees be trained during calendar year 2019. Employees who were trained in 2018 or before will need to be retrained.

When will the Department of Fair Employment and Housing's online training courses be available?

S.B. 1343 requires that DFEH make online training courses available on the prevention of sexual harassment and abusive conduct in the workplace. DFEH expects to have such trainings available by late 2019. [In the interim period, DFEH is offering a sexual harassment and abusive conduct prevention toolkit, including a sample sexual harassment and abusive conduct prevention training.](#) Employers may use the training in conjunction with an [eligible trainer](#) to provide sexual harassment and abusive conduct prevention training.

What if my employees are not trained by January 1, 2020?

DFEH accepts complaints from employees that their employers have not complied with the law requiring that sexual harassment prevention training be provided. Complaints filed with DFEH after January 1, 2020, regarding an employer's failure to provide required sexual harassment and abusive conduct prevention training will be reviewed in light of the totality of the

circumstances, which may include the availability of DFEH’s online training courses or the availability of qualified trainers. If DFEH finds that the law has been violated, it will work with employers to obtain compliance with the law.

What are the laws and regulations governing the sexual harassment and abusive conduct prevention trainings?

The law requiring sexual harassment and abusive conduct prevention training is Gov. Code 12950.1. The regulations governing such trainings are 2 CCR 11024.

Does the employer have to pay for sexual harassment abusive conduct prevention training?

Does the employer have to provide paid time for such training?

California law specifies that, “An employer . . . shall provide” sexual harassment and abusive conduct prevention training. Gov. Code 12950.1(a)-(b). The Department is authorized to seek a court order that “the employer” has not complied with this requirement. Gov. Code 12950.1(f). This language makes clear that it is the employer’s—not the employee’s—responsibility to provide the required training, including any costs that may be incurred. This language also makes clear that employees may not be required to take such training during their personal time; the training must be “provided” by the employer as part of an individual’s employment.



Additional Information on Training

Training Format and Content

Training format. Training may be provided in a classroom setting with an in-person trainer, through “e-learning” programs, and through online seminars. The content of classroom and online seminar training programs must be created and taught by a trainer—as defined in the [regulations](#). E-learning programs must be created by a trainer and an instructional designer who has expertise in current instructional best practices. An e-learning program must provide a link to a trainer who can answer a trainee’s questions within 2 business days. Other types of technology (e.g., audio, video, computer) may be used in conjunction with classroom, online, and e-learning programs.

Training content. The training and education must include information and practical guidance about federal and state provisions on the prohibition against and the prevention and correction of sexual harassment, as well as remedies available for victims of sexual harassment. Other required components include questions that assess learning, “skill-building activities” that assess the supervisor’s application and understanding of training content, and numerous hypothetical scenarios that include discussion questions. The training should include practical examples of what is considered sexual harassment, along with instruction about the prevention of harassment, discrimination, and retaliation.

Trainers

The regulations define “trainers” as:

- Attorneys admitted for 2 or more years to any state bar and whose practice includes employment law under the FEHA and/or Title VII.
- Human resources professionals or harassment prevention consultants working as employees or independent contractors who have 2 or more years practical experience in one of the following:
 - Designing or conducting discrimination, retaliation, and sexual harassment prevention training;
 - Responding to sexual harassment or other discrimination complaints;
 - Conducting investigations of sexual harassment complaints; or
 - Advising employers or employees regarding discrimination, retaliation, and sexual harassment prevention
- Professors and instructors in law schools, colleges, or universities who have a postgraduate degree or California teaching credential; and either 20 instruction hours or 2 or more years of experience in a law school, college, or university teaching about employment law under the FEHA and/or Title VII.

Trainers or educators

The training must be conducted by trainers or educators with knowledge and expertise about the subjects of the training. According to the regulations, to be a trainer or educator, a person must have the training and experience to train supervisors on:

- What constitutes unlawful harassment, discrimination, and retaliation under the FEHA and federal law
- What steps to take when harassing behavior occurs in the workplace
- How to report harassment complaints
- How to respond to a harassment complaint
- The employer’s obligation to conduct a workplace investigation of a harassment complaint
- What constitutes retaliation and how to prevent it

- Essential components of an anti-harassment policy; and
- The effect of harassment on harassed employees, co-workers, harassers, and employers

Questions and answers

A trainer must be available to answer questions from training participants. This requirement applies to classroom, e-learning, and online seminar training programs. In e-learning programs, after a trainee submits a question through the link provided for that purpose, a trainer must provide an answer within 2 business days.

Training by previous employer

Newly hired employees who received the training required by the law from their previous employer within the prior 2 years need only be given a copy of the new employer's sexual harassment policy in order to comply with California's requirements. However, the new employer is responsible for showing that the prior training met the law's requirements.

A claim that the training and education required did not reach a particular individual or individuals does not in and of itself make an employer liable in a suit brought by a present or former employee or applicant alleging sexual harassment. Conversely, an employer's compliance with the requirements does not insulate the employer from liability for sexual harassment of any current or former employee or applicant.

The requirements set a minimum threshold, and employers are encouraged to implement more elaborate or frequent training measures.

Get in touch with DFEH

For general information, get in touch with us:

- Call the Communication Center at 800-884-1684 (voice), 800-700-2320 (TTY) or California's Relay Service at 711
- Email contact.center@dfeh.ca.gov
- Write to: 2218 Kausen Drive, Suite 100 Elk Grove, CA 95758
- [Statewide office locations](#)

Accessibility information

Accessibility information

If you need help accessing our information because you have a disability, please contact us to arrange an accommodation:

- Call 800-884-1684 (voice), 800-700-2320 (TTY) or California's Relay Service at 711
- Email accommodations@dfeh.ca.gov

For a translation

DFEH assists anyone who needs a translation into his or her native language:

- [Información en Español](#)
- DFEH Language Access Coordinator:
 - Llamar 1-844-821-3465
 - Fax 1-916-405-4010
 - Email language.access@dfeh.ca.gov