

## Preventing Sexual Harassment in the Workplace

### Sample Participants' Guide

# **Mandatory Training Requirements**

**This course meets all the mandatory training requirements for Federal Title VII**

## **Federal Law Requires Broader Workplace Discrimination Training.**

All managers must be trained on basic “Title VII” principles –avoiding discrimination based on the “protected categories” of age, race, disability, and gender.

Employers must

- Provide a policy and
- Educate employee

**This course meets the Individual State Training Requirements listed below-**

### **California – AB-1825**

Businesses with over 50 employees

An act to add Section 12950.1 to the Government Code, relating to employment practices. LEGISLATIVE COUNSEL'S DIGEST AB 1825, Reyes. Sexual harassment: training and education. Existing law makes certain specified employment practices unlawful, including the harassment of an employee directly by the employer or indirectly by agents of the employer with the employer's knowledge. Existing law further requires every employer to act to ensure a workplace free of sexual harassment by implementing certain minimum requirements, including posting sexual harassment information posters at the workplace and obtaining and making available an information sheet on sexual harassment. This bill would require employers with 50 or more employees to provide 2 hours of training and education to all supervisory employees, as specified, within one year of January 1, 2005, unless the employer has provided sexual harassment training and education to employees after January 1, 2003.

The bill would require each employer to provide sexual harassment training and education to each supervisory employee once every 2 years, after January 1, 2006. The bill would require the state to incorporate this training into the 80 hours of training provided to all new supervisory employees, using existing resources. The bill would provide that a claim that the training and education did not reach a particular individual does not automatically result in the liability of an employer for sexual harassment and that an employer's compliance with these provisions does not insulate the employer from liability for sexual harassment of any current or former employee or applicant. The bill would specify that the statute establishes a minimum threshold for training and education and that employers may provide training and education beyond that required by the statute to prevent and correct sexual harassment and discrimination.

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS: SECTION 1. Section 12950.1 is added to the Government Code, to read: 12950.1. (a) By January 1, 2006, an employer having 50 or more employees shall provide at least two hours of classroom or other effective

interactive training and education regarding sexual harassment to all supervisory employees who are employed as of July 1, 2005, and to all new supervisory employees within six months of their assumption of a supervisory position. Any employer who has provided this training and education to a supervisory employee after January 1, 2003, is not required to provide training and education by the January 1, 2006, deadline. After January 1, 2006, each employer covered by this section shall provide sexual harassment training and education to each supervisory employee once every two years. The training and education required by this section shall 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 shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation, and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation.

(b) The state shall incorporate the training required by subdivision (a) into the 80 hours of training provided to all new supervisory employees pursuant to subdivision (b) of Section 19995.4 of the Government Code, using existing resources.

(c) For purposes of this section only, "employer" means any person regularly employing 50 or more persons or regularly receiving the services of 50 or more persons providing services pursuant to a contract, or any person acting as an agent of an employer, directly or indirectly, the state, or any political or civil subdivision of the state, and cities.

(d) Notwithstanding subdivisions (j) and (k) of Section 12940, a claim that the training and education required by this section did not reach a particular individual or individuals shall not in and of itself result in the liability of any employer to any present or former employee or applicant in any action alleging sexual harassment. Conversely, an employer's compliance with this section does not insulate the employer from liability for sexual harassment of any current or former employee or applicant.

(e) If an employer violates the requirements of this section, the commission shall issue an order requiring the employer to comply with these requirements.

(f) The training and education required by this section is intended to establish a minimum threshold and should not discourage or relieve any employer from providing for longer, more frequent, or more elaborate training and education regarding workplace harassment or other forms of unlawful discrimination in order to meet its obligations to take all reasonable steps necessary to prevent and correct harassment and discrimination.

#### **Connecticut – Agency Regs. §46a-54-204**

Businesses with over 50 employees

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### **Maine – 26 Me. Rev. Stat. §807**

In workplaces with 15 or more employees, employers shall conduct an education and training program for all new employees within one year of commencement of employment that includes, at a minimum, the following information: the illegality of sexual harassment; the definition of sexual harassment under state and federal laws and federal regulations, including the Maine Human Rights Act and the Civil Rights Act of 1964, 42 United States Code, Title VII, Sections 2000e to 2000e-17; a description of sexual harassment, utilizing examples; the internal complaint process available to the employee; the legal recourse and complaint process available through the commission; directions on how to contact the commission; and the protection against retaliation as provided under Title 5, section 4553, subsection 10, paragraph D. Employers shall conduct additional training for supervisory and managerial employees within one year of commencement of employment that includes, at a minimum, the specific responsibilities of supervisory and managerial employees and methods that these employees must take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints. Education and training programs conducted under this subsection by the State, a county or a municipality for its public safety personnel, including, but not limited to, law enforcement personnel, corrections personnel and firefighters, may be used to meet training and education requirements mandated by any other law, rule or other official requirement.

### **Required for Government Agencies-**

#### **Illinois – Comp. Statute 5/2-105 (B)(5)**

State Agencies with over 1000 employees must (c) Provide training on sexual harassment prevention and the agency's sexual harassment policy as a component of all ongoing or new employee training programs.

#### **Florida – Admin.Code,Tit. tit. 60L, § 21.004;**

All supervisors in Florida executive branch agencies must be trained reaffirmative action/equal opportunity.

#### **Oklahoma – Merit Sys. of Personnel Admin. Rules §530:10-3-22**

All state personnel who investigate complaints of discrimination must be trained regarding discrimination laws, including sexual harassment.

#### **Tennessee – Tenn. Code Ann. §4-3-1703(a)**

State department of personnel must provide sexual harassment training to all public employees.

#### **Texas – Tex. Lab Code §21.010**

State agencies required to provide employment discrimination training, including sexual harassment training within 30 days of hiring and then every two years.

#### **Utah – Admin Code § 477-25-7**

All public employers required to provide sexual harassment training.

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### **Strongly Suggested-**

#### **Colorado – Civil Rights Commission Rule 80.11**

The commission encourages all persons subject to the Act to take steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under the Act, and developing methods to sensitize all concerned.

#### **Hawaii – Admin Rules §12-46-109**

Prevention is the best tool for the elimination of sexual harassment. Employers should affirmatively raise the subject, express strong disapproval, develop appropriate sanctions, inform employees of their right to raise and how to raise the issue of sexual harassment, and take any other steps necessary to prevent sexual harassment from occurring.

#### **Massachusetts – Mass. Gen. Laws 151B, §3A**

Massachusetts encourages employers to provide sexual harassment training, and employers must distribute a written version of their sexual harassment policy annually to all employees and to each new employee at the beginning of employment.

#### **Michigan – Comp. Laws §37-1212**

Encourages sexual harassment training.

#### **Rhode Island – RI Gen. Laws §28-51-2(a)**

Encourages employers to provide sexual harassment training to all new employees within one year of hiring and to new supervisory and managerial employees within one year after they are promoted to a supervisory position.

#### **Vermont – 21 Vt. Stat. Ann. Tit. 21 §§495h(a), (f)**

Encourages employers to provide sexual harassment training within one year of hiring.

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# Understanding State Requirements

Increasingly, individual states are adopting mandatory anti-harassment training laws. **California Assembly Bill 1825** is one of these.

New California Law Assembly Bill 1825 (AB 1825) requires mandatory sexual harassment prevention training **by January 1, 2006**.

Employers with 50 or more employees must provide ALL of their supervisory employees and all new supervisory employees within six months of their assuming the position, with at least two hours of sexual harassment prevention training every two years.

Training must provide practical examples of harassment, discrimination, and retaliation. Training must meet quality standards that it be developed or taught by knowledgeable experts in preventing harassment, discrimination, and retaliation. Training must also be conducted via “classroom or other effective interactive training.”

Topics must include information and practical guidance regarding federal and state statutory laws about sexual harassment. Information about the correction of sexual harassment and the remedies available to victims of sexual harassment must be included along with practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation.

### **Who Must Be Trained?**

- ALL “Supervisory Employees”
- Any individual having authority “to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees.”

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# Sample Sexual Harassment Policy

**Here is an example of a sexual harassment policy. Note that it is critical to have the support and endorsement of company leadership.**

Consistent with ABC Manufacturing Company's policy of equal employment opportunity, harassment in the workplace based on a person's race, color, sex, religion, national origin, age or disability will not be tolerated concerning employees or applicants for employment. Any employee in violation of this policy will be subject to appropriate disciplinary action up to and including termination of employment.

One aspect of our policy requiring some clarification is the prohibition of any form of sexual harassment in the workplace. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature. For example, sexual harassment may consist of the following types of behavior, although it is not limited to these examples:

- Jokes, comments, innuendo, or other remarks that are "off color" or derogatory to a person based on his or her sex.
- Pictures, cartoons, articles, or centerfolds that are sexist or otherwise derogatory with respect to a person's sex.
- Unwanted, inappropriate, or offensive looks, touches, gestures, or other physical conduct with respect to or targeted at a person because of his or her sex.
- Explicit or implicit pressure for a sexual or romantic relationship as a condition of employment or as a condition for any employment decision or benefit.

No employee shall threaten or insinuate, either explicitly or implicitly, that another employee's or applicant's refusal to submit to sexual advances will adversely affect that person's employment, work status evaluation, wages, advancement, assigned duties or any other term or condition of employment or career development. Similarly, no employee shall promise, imply or grant any preferential treatment in connection with another employee or applicant engaging in sexual conduct.

Harassment of any kind, including, but not limited to, any of the conduct listed above, by a management official, co-worker, or visitor should be immediately reported to either the EEO Officer, Victoria Spencer, at extension 6773, or the President.

Retaliation against anyone who complains of harassment or who cooperates in a harassment investigation is prohibited and will be treated as seriously as the harassment itself.

Thomas K. Melvin, President

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# Questions for Discussion

- Do you think there might be more to sexual harassment prevention than you might have assumed?
- When does joking around or flirting become outright sexual harassment?
- Is computer use and e-mail private?
- The consensual romantic relationship between Suzanne and Thomas is falling apart. Will it become harassment?
- The situation between Carmen and George gets worse. It affects Carmen's work. Should Frank take action?
- Have you witnessed, or heard of, a sexual harassment complaint being filed in the workplace? What were the consequences?
- Any thoughts about smart computer use?
- Thomas and Suzanne are romantically involved in the workplace. Is this sexual harassment? What are the potential problems with this situation? Why or why not?
- Does the fact that Suzanne dealt with George's advances make Carmen's situation less of a problem?
- What is a fair standard for a "professional" work environment?
- How many of you have seen improper use of e-mail or computers?
- What might be an appropriate way to determine discipline if a complaint is upheld?

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### A-1 Self-Assessment

The assessments throughout this course are designed to help you learn and understand key concepts of the materials presented. Before you begin, complete the following exercise to evaluate what you may already know about preventing sexual harassment in the workplace.

Rate your own awareness and readiness. Relax and be candid. This is not a graded exercise. This is a tool to help you evaluate and prepare.

#### Select the best response

1. I use a formal complaint process when I encounter sexual harassment.  

<b>Never</b>	<b>Rarely</b>	<b>Sometimes</b>	<b>Usually</b>	<b>Always</b>
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2. I maintain awareness of the legal liabilities associated with cases of sexual harassment.  

<b>Never</b>	<b>Rarely</b>	<b>Sometimes</b>	<b>Usually</b>	<b>Always</b>
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3. I immediately report instances of sexual and gender-based harassment in my workplace.  

<b>Never</b>	<b>Rarely</b>	<b>Sometimes</b>	<b>Usually</b>	<b>Always</b>
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4. I attend regular training sessions to increase awareness and prevention of sexual harassment.  

<b>Never</b>	<b>Rarely</b>	<b>Sometimes</b>	<b>Usually</b>	<b>Always</b>
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5. I readily communicate my discomfort when I encounter sexual or gender-based harassment.  

<b>Never</b>	<b>Rarely</b>	<b>Sometimes</b>	<b>Usually</b>	<b>Always</b>
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6. I avoid consensual relationships that could be construed as favoritism or bias.  

<b>Never</b>	<b>Rarely</b>	<b>Sometimes</b>	<b>Usually</b>	<b>Always</b>
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7. I refrain from using the Internet and e-mail for non-business activity.  

<b>Never</b>	<b>Rarely</b>	<b>Sometimes</b>	<b>Usually</b>	<b>Always</b>
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8. I communicate the positive benefits of a harassment-free workplace.  

<b>Never</b>	<b>Rarely</b>	<b>Sometimes</b>	<b>Usually</b>	<b>Always</b>
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9. I avoid workplace gossip, jokes, and speculation on sexual themes and relationships.  

<b>Never</b>	<b>Rarely</b>	<b>Sometimes</b>	<b>Usually</b>	<b>Always</b>
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# Preventing Sexual Harassment in the Workplace

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### **A-2 Interactive Review**

**Before you can know what IS or IS NOT sexual harassment, you must know the law.**

Based on what we've covered, take a break to interactively review this first section. This is not a graded test. Its purpose is to promote understanding of the topic and group discussion.

Here are a series of statements concerning sexual harassment. Based on what you've just covered, check TRUE or FALSE next to each statement.

1. The sole purpose of sexual harassment law is to protect women from harassment by men.

**TRUE**                      **FALSE**

2. It is easier to make a claim for hostile work environment harassment if job-related performance is affected.

**TRUE**                      **FALSE**

3. Employees who refuse sexual advances are protected from retribution by harassers and employers.

**TRUE**                      **FALSE**

4. Sexual harassment law has its basis in the Equal Pay Act.

**TRUE**                      **FALSE**

5. Laws pertaining to sexual harassment are enforced by the Equal Employment Opportunity Commission.

**TRUE**                      **FALSE**

6. Same-sex harassment is mainly unwanted homosexual behavior in the workplace.

**TRUE**                      **FALSE**

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**A-3 Interactive Review**

**Based on what has been covered, indicate whether you AGREE or DISAGREE with the conclusion.**

1. Daniel overdoes it at the company party and makes a pass at Anna. The next day he apologizes, but she files a complaint for sexual harassment anyway. She thinks she's got a pretty good case.

AGREE      DISAGREE

2. Rose is infatuated with Juan. She stares at him constantly and sends him notes and e-mails every day. She's never touched him or even asked him out, but Juan has asked her to stop pestering him. Rose considers her behavior harmless.

AGREE      DISAGREE

3. Larry, a manager at the construction site, suggests Karen stick to "women's work" and often belittles her inability to "do a man's job." There is no sexual behavior involved, but Karen thinks she has a case for sexual harassment.

AGREE      DISAGREE

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# **A-4 Employer Assessment**

If you are a supervisor, manager, or employer, it is important that you understand the necessary steps involved in preventing sexual harassment in the workplace.

Rate your own awareness and readiness. Relax and be candid, this is not a graded exercise. This is a tool to help you evaluate and prepare.

#### **Select the best response**

1. I participate in investigations of sexual harassment in my organization.  
**Never      Rarely      Sometimes      Usually      Always**
  
2. I conduct exit interviews and include questions about harassment.  
**Never      Rarely      Sometimes      Usually      Always**
  
3. I maintain awareness of the legal liabilities associated with cases of sexual harassment.  
**Never      Rarely      Sometimes      Usually      Always**
  
4. I keep accurate notes of all disciplinary and investigative procedures.  
**Never      Rarely      Sometimes      Usually      Always**
  
5. I frequently advocate and communicate a “zero tolerance” harassment policy.  
**Never      Rarely      Sometimes      Usually      Always**
  
6. I use regular training sessions to increase awareness and prevention of sexual harassment.  
**Never      Rarely      Sometimes      Usually      Always**
  
7. I promote employee awareness of anti-harassment policies and complaint procedures.  
**Never      Rarely      Sometimes      Usually      Always**
  
8. I use progressive discipline to deal with performance and conduct problems.  
**Never      Rarely      Sometimes      Usually      Always**

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9. I monitor my work area for signs of a hostile work environment.  
**Never      Rarely      Sometimes      Usually      Always**
10. I communicate the positive benefits of a harassment-free workplace.  
**Never      Rarely      Sometimes      Usually      Always**
11. I keep up with changes and policies relating to workplace harassment.  
**Never      Rarely      Sometimes      Usually      Always**
12. I am approachable and assure my employees of my empathy and confidentiality.  
**Never      Rarely      Sometimes      Usually      Always**

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# **A-5 Employer Assessment**

Here are a series of scenarios and situations, which may or may not require action by you, the supervisor. After listening to the scenario, note agree or disagree in your participants' guide where indicated. You may stop or pause the program to answer or discuss each scenario.

#### Scenario 1

Suzanne, a supervisor, and Thomas, her employee, are romantically involved in the workplace. This is not considered sexual harassment.

AGREE      DISAGREE

#### Scenario 2

Suzanne shows an e-mail on her computer to Frank. He feels it is inappropriate and offensive. He puts a stop to it immediately and circulates a memo regarding e-mail abuse at the workplace.

AGREE      DISAGREE

#### Scenario 3

Frank, a supervisor, can be held liable if he witnesses sexual harassment in the workplace and does nothing about it.

AGREE      DISAGREE

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## **A-6 Interactive Review**

These assessments are designed to help you learn key concepts of the course. Their purpose is to promote understanding of the topic and promote group discussion.

For the following scenarios, select the best response: **A**, **B**, or **C**

Jennifer enjoys being “one of the boys,” and cracks x-rated jokes with the best of them. Some of her coworkers object to this and feel it creates a hostile environment. As one of them, what should you do?

- A** File a complaint with management, supported by signatures from others who feel likewise.
- B** Talk to Jennifer privately about your concerns before taking any action.
- C** Avoid Jennifer and her crowd whenever possible.

John, a well-regarded supervisor, has been accused of sexual harassment by a subordinate. You have reason to believe this is a revenge claim filed after the relationship has gone bad.

- A** Ignore the issue, it is management's business, not yours.
- B** If you have factual information that either supports or refutes the claim, share it with management.
- C** Ask for a meeting with John and ask him how you can help resolve the issue.

Victor is coming on to Karen at an office party. When rebuffed, he makes a physical assault on her grabbing and groping inappropriately. What should Karen do at work the next morning?

- A** Report the incident to her supervisor immediately and to the head of the department.
- B** Try to set up a time with Victor to talk the situation over despite her anxiety.
- C** Because she has had no previous problems with Victor, ignore this isolated incident.

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### **A-7 Final Assessment**

Here is a series of scenarios and situations. After listening to the scenario, note agree or disagree in your participant's guide where indicated. You may stop or pause the program to answer or discuss each scenario using your participant's guide.

1. Only physical acts by one employee against another can constitute sexual harassment.

AGREE      DISAGREE

2. Jokes with sexual themes can be considered sexual harassment.

AGREE      DISAGREE

3. One employee staring persistently at another is not sexual harassment.

AGREE      DISAGREE

4. Failure to promote an employee because he/she will not date you is sexual harassment.

AGREE      DISAGREE

5. Sexually oriented behavior must be deemed unwelcome for it to be sexual harassment.

AGREE      DISAGREE