

CHANGES TO REQUIREMENTS REGARDING SEXUAL HARASSMENT TRAINING - EFFECTIVE APRIL 1, 2016

On April 1, 2016, new employment discrimination regulations will go into effect in California. Promulgated by the Department of Fair Employment and Housing (DFEH), Fair Employment & Housing Council (FEHC), these new regulations are updated to include recent case law and statutory changes. The regulations also make changes to the requirements for sexual harassment training and education (commonly referred to as AB 1825 training). This *Briefing* will discuss the changes to the training rules. A separate *Briefing* summarizes the other changes in the law.

QUALIFYING TRAINERS AND METHODS

The new regulations add to the qualifications of trainer an ability to train supervisors about their obligation to report harassing, discriminatory or retaliatory behavior when they become aware of it.

The regulations continue to allow effective training through classroom, e-learning or webinar methods. They set new recordkeeping criteria for e-learning and webinar-based training platforms. The trainer for an e-learning training will be required to maintain all written questions received and all written responses or guidance given for two years after the date of response. Similarly, an employer is required to maintain a copy of webinar training, all written materials used by the trainer, and all written questions submitted during the webinar as well as documenting all written responses or guidance the trainer provided during the webinar for two years after the response.

The regulations also qualify that other effective training methods that include the use of audio, video or computer technology in conjunction with classroom, webinar and/or e-learning training are supplemental tools that do not, by themselves, fill the requirements of AB 1825. Please note, the Keenan SafePersonnel AB 1825 training continues to meet the requirements of AB 1825.

The regulations also give new examples of the questions, skill building activities and hypothetical scenarios that the regulations require training to include. The regulations specify:

“pre-or post-training quizzes, small group discussion questions, discussion questions that accompany hypothetical fact scenarios, use of brief scenarios discussed in small groups or by the entire group, or any other learning activity geared towards ensuring interactive participation as well as the ability to apply what is learned to the supervisor’s work environment.”

OBJECTIVES AND CONTENT

The regulations add new objectives and content requirements to AB 1825 training. One of the new objectives of training is to foster a set of values in supervisory employees that will assist them in implementing mechanisms to promptly address and correct wrongful behavior. Training content now must include the potential employer and individual exposure to liability in a civil suit, and supervisors’ obligation to report sexual harassment, discrimination and retaliation of which they become aware. In addition to discussing strategies to

prevent harassment, the regulations provide that the training should cover the steps necessary to take appropriate remedial measures to correct harassing behavior.

The regulations governing the content of training have also been updated to include content regarding “abusive conduct,” in accordance with the recently enacted AB 2053 (Chapter 306, Statutes of 2014). Training must include a review of the definition of “abusive conduct” and explain the negative effects of abusive conduct on the victim, others in the workplace, and the employer. The training must include the elements of abusive conduct with examples. Finally, the training should emphasize that a single act is not “abusive conduct,” unless the act is especially severe or egregious.

DOCUMENTATION OF TRAINING

To track compliance, an employer is required by law to keep documentation of the training it has provided to employees for a minimum of two years. This documentation is to include at a minimum the names of employees trained, the date of training, the type of training, and the name of the training provider. The new regulations add that documentation kept must also include the sign-in sheet, a copy of all certificates of attendance or completion issued, and a copy of all written or recorded materials that comprise the training.

KEENAN RESOURCES

The AB 1825 online training courses provided on the Keenan SafePersonnel learning management platform meets the definition of e-learning and continues to be in compliance with the new regulations. These online training courses provide a convenient option for health care organizations to meet the requirements of AB 1825. A copy of the AB 1825 course list is available online. Written copies of the training courses and quizzes can be provided by your Keenan HealthCare Account Manager.

The Keenan SafePersonnel AB 1825 course can be customized to include contact information for the person supervisors should contact with questions regarding the training or for additional information regarding the organization’s sexual harassment policy. Any questions the organization receives, as well as their responses, must be maintained for two years after the response as indicated above.

For more information about this *Briefing* and/or Keenan SafePersonnel, please contact your Keenan HealthCare representative.

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