

# Mandatory Harassment Prevention Training Checklist

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When you are reviewing a harassment prevention training course to determine the most effective training for your company, use this checklist to make sure that you have all of the necessary information on the course, curriculum and trainers.

The mandatory training must meet specific standards. Make sure that the course, curriculum and trainers you choose meet the following criteria.

## **Course Qualifications:**

The course and curriculum must meet the following criteria.

Does the course:

- Provide a minimum of two hours of training for supervisors and one hour for nonsupervisory employees, either in a classroom, a webinar or online through an e-learning program?
- Provide legally required interactivity through discussions, skill-building activities, quizzes or hypotheticals so the trainee is engaged throughout the training and can apply what is learned at work?
- Make a qualified expert available to answer questions, whether face-to-face or through email?

The content of the harassment prevention course must contain each of the following required components:

- The California Fair Employment and Housing Act (FEHA) and Title VII definitions of unlawful harassment, as well as additional definitions, training and discussions of other forms of harassment covered by FEHA.
- A discussion about how harassment of an employee can take several forms.
- An explanation of FEHA, Title VII and case law principles about the prohibition against and the prevention of unlawful harassment, discrimination and retaliation in employment.
- Examples of conduct that constitute harassment, including: practical examples that show real-life scenarios from case law, news and media accounts; hypothetical situations based on possible workplace interactions; and other sources that illustrate harassment, discrimination and retaliation through the use of role playing, case studies and group discussions.
- Remedies available to employees for harassment victims in civil actions, as well as the potential for legal exposure or liability to employers and individuals.
- Strategies to prevent harassment in the workplace.
- Supervisors' obligation to report harassment, discrimination and retaliation of which they become aware.
- An explanation of the limited confidentiality of the harassment complaint process.
- A listing of resources for harassment victims and the steps they should take to report any alleged harassment.
- An explanation of your obligation to conduct an effective workplace investigation of a harassment complaint, including the steps necessary to take appropriate remedial measures to correct harassing behavior.
- Information on what to do if a supervisor is personally accused of harassment.
- A discussion of the essential elements of an anti-harassment policy and how to use it if a complaint is filed.

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- A meaningful review of “abusive conduct” as defined in the law, including examples of abusive conduct and its negative impact on the workplace.
- A component on harassment based on gender identity, gender expression and sexual orientation that includes practical examples of such harassment.
- A sample policy, whether generic or company-specific so long as it includes all required information as outlined in the regulations.

### **Qualified Trainers:**

- Check the trainer’s credentials to make sure that he/she meets the qualifications under the regulations. If you decide to use an online e-learning course, confirm that a qualified trainer and instructional designer wrote and created the material.

The trainer must be one of the following:

- An attorney who has been admitted for two or more years to the bar of any U.S. state and whose practice includes employment law under the FEHA and/or Title VII of the federal Civil Rights Act of 1964.
- A human resources professional or harassment prevention consultant who has a minimum of two years of practical experience in harassment prevention training, responding to harassment complaints, conducting harassment complaint investigations and advising employers or employees about discrimination, retaliation and harassment.
- A professor or instructor in a law school, college or university who has a post-graduate degree or California teaching credential and 20 instruction hours or two or more years of experience teaching employment law under FEHA and/or Title VII of the federal Civil Rights Act of 1964.

Additional qualifications for the trainer include knowledge of the following topics:

- How to identify behavior that may constitute unlawful harassment, discrimination and retaliation, as defined by California and federal law.
- How California and federal law define harassment, discrimination and retaliation.
- What steps to take when harassing behavior occurs in the workplace.
- Knowledge and expertise in areas of harassment based on gender identity, gender expression and sexual orientation.
- Supervisors’ obligation to report harassing, discriminatory or retaliatory behavior of which they become aware.
- How to report harassment complaints.
- How to respond to a harassment complaint.
- Your obligation to conduct a thorough investigation of a harassment complaint.
- What constitutes retaliation and how to prevent it.
- The essential components of an anti-harassment policy.
- The effect of harassment on harassed employees, co-workers, harassers and employers.

### **Practical Considerations:**

- In addition to making sure that a harassment prevention training course meets legal requirements, pay attention to a course’s administrative features and ease of use.

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## **Employer Training Deadlines:**

California law requires employers to provide harassment prevention training within six months of hire or promotion and then every two years thereafter.

Seasonal and temporary employees, or employees hired to work less than six months, must be trained within 30 calendar days after hire or within 100 hours worked, whichever is earlier.