

California Mandatory Sexual Harassment Training FAQ

1) What is California's mandatory sexual harassment training requirement?

Pursuant to the passage of [SB1343](#) (Mitchell) in 2018, all California employers who employ 5 or more employees, including temporary or seasonal employees, must provide at least 2 hours of sexual harassment training to all supervisory employees and at least one hour of sexual harassment training to all nonsupervisory every two years. [SB778](#) (Committee on Labor) was passed on August 30, 2019 which requires that all current employees **receive the training by no later than January 1, 2021.**

2) How do I determine who is a supervisory employee and who is a nonsupervisory employee?

According to the [Department of Fair Employment and Housing \(DFEH\)](#), "A supervisor is anyone with authority to hire, fire, assign, transfer, discipline, or reward other employees. A supervisor is also anyone with the authority to effectively recommend (but not necessarily take) these actions if exercising that authority requires the use of independent judgment".

3) How do I handle training new hires, seasonal employees, or temporary employees?

[SB778](#) clarifies:

- New nonsupervisory employees must be provided training within 6 months of hire.
- New supervisory employees must still be trained within 6 months of assuming a supervisory position.
- Beginning January 1, 2020, seasonal, temporary and other employees hired to work for less than 6 months must be trained within 30 calendar days after the hire date or within 100 hours worked, whichever occurs first.

4) What has to be covered in the training?

According to [DFEH](#), any training must explain:

- The definition of sexual harassment under the Fair Employment and Housing Act and Title VII of the federal Civil Rights Act of 1964;
- The statutes and case-law prohibiting and preventing sexual harassment;
- The types of conduct that can be sexual harassment;
- The remedies available for victims of sexual harassment;
- Strategies to prevent sexual harassment;
- Supervisors' obligation to report harassment;
- Practical examples of harassment;
- The limited confidentiality of the complaint process;
- Resources for victims of sexual harassment, including to whom they should report it;
- How employers must correct harassing behavior;
- What to do if a supervisor is personally accused of harassment;
- The elements of an effective anti-harassment policy and how to use it;
- "Abusive conduct" under Government Code section 12950.1, subdivision (g)(2).

- Discuss harassment based on gender identity, gender expression, and sexual orientation, which shall include practical examples inclusive of harassment based on gender identity, gender expression, and sexual orientation.

Finally, any training must include questions that assess learning, skill-building activities to assess understanding and application of content, and hypothetical scenarios about harassment with discussion questions.

5) How may the training be provided?

According to the [DFEH](#), “Employers must provide sexual harassment prevention training in a classroom setting, through interactive E-learning, or through a live webinar. E-learning training must provide instructions on how to contact a trainer who can answer questions within two business days”.

6) Who is qualified to teach the training?

According to the [DFEH](#), there are three types of qualified trainers:

- Attorneys who have been members of the bar of any state for at least two years and whose practice includes employment law under the Fair Employment and Housing Act or Title VII of the federal Civil Rights Act of 1964;
- Human resource professionals or harassment prevention consultants with at least two years of practical experience in:
 - Designing or conducting training on discrimination, retaliation, and sexual harassment prevention;
 - Responding to sexual harassment or other discrimination complaints;
 - Investigating sexual harassment complaints; or
 - Advising employers or employees about discrimination, retaliation, and sexual harassment prevention.
- Law school, college, or university instructors with a post-graduate degree or California teaching credential and either 20 hours of instruction about employment law under the FEHA or Title VII.

7) What if I have provided or taken sexual harassment training in the past, do I have to be retrained?

All employers with 5 or more employees have to provide sexual harassment training to their employees in 2019, even if they provided training in 2018 or before. The training is 1 hour for non-supervisory employees. The training is 2-hours for supervisory employees. (A supervisor who has received training in 2019 from a prior or alternate employer need only be given, be required to read and to acknowledge receipt of, the employer's [anti-harassment policy](#) within six months of assuming the supervisor's new supervisory position to comply with the 2019 training requirement. The burden of establishing that the prior training was legally compliant is on the current employer.) After January 1, 2020, current employees must be retained again before January 1, 2022, and then every 2 years measured either from the individual or training year tracking method (see below).

8) For purposes of record keeping, what is the difference between an individual and a training year tracking methods?

Employers may choose their tracking year for training after January 1, 2020 – either “individual” tracking or “training year” tracking.

- “Individual” tracking means the employer tracks its training requirement for each employee, measured from the date of completion of the last training.
- “Training year” tracking means an employer may designate a “training year” in which it trains employees and thereafter must again retrain those employees by the end of the next “training year,” two years later. For example, employees trained in training year 2020 shall be retrained in 2022. For newly hired employees or employees promoted to supervisor who are trained in a different training year (e.g., because they were hired after a training year or promoted to a supervisory position after a training year), those employees would be trained within 6 months of hire/assuming a supervisory position, and then again in the employer’s next group training even though it occurs sooner than two years. For example, if the employer trained employees in 2020 and sets 2022 as the next training year, the new employee/new supervisor who is trained in 2021 would be included in the 2022 training to get the employee on the same schedule as everyone else.

9) Where can I get training?

The CVMA offers webinars that meet state requirements for the mandatory sexual harassment training periodically each year. Visit cvma.net and click on the Continuing Education section to check for upcoming trainings. Registration may be for an individual or a group and CVMA members will receive a discounted rate. Course completion certificates are given to all registered attendees following the training.

Also, according to California Government Code Section 12950.1(k): “The Department of Fair Employment and Housing shall develop or obtain two online training courses on the prevention of sexual harassment in the workplace in accordance with the provisions of this section. The course for nonsupervisory employees shall be one hour in length and the course for supervisory employees shall be two hours in length.” To check for course availability, visit dfeh.ca.gov and select the Resources tab.