

The Gold Standard for Defining and Training on Workplace Harassment

Workplace and sexual harassment is a persistent and challenging issue for organizations across the country. Given the prominence of recent news on the topic, many organizations are seeking guidance on the best approach to defining and training employees and other stakeholders on what constitutes harassment and what training is required, based on best practice expectations and applicable regulations.

The Scope of Workplace Harassment Regulations

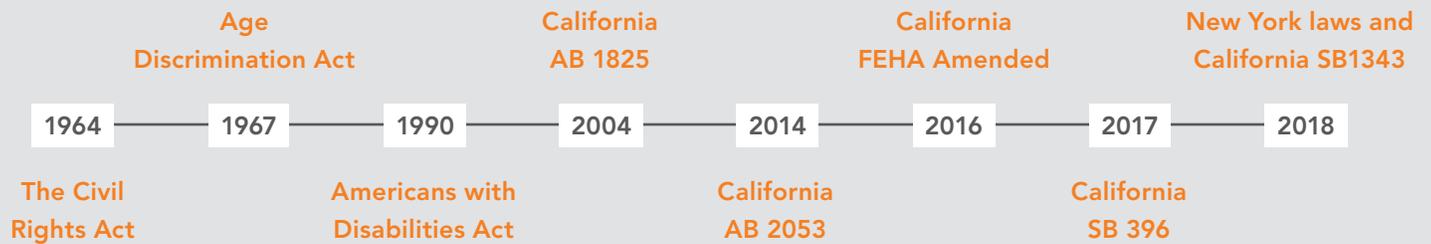
Workplace harassment is a form of discrimination and often the vehicle through which a person attempts to or successfully exerts control over another through sexual harassment, bullying, religious or ethnic stereotyping, gender bias or political speech. The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against job applicants or employees due to a person's race, color, religion, sex, gender identity and sexual orientation, national origin, age, disability or genetic information. Most employers in the U.S. with at least 15 employees are covered by most discrimination laws, which apply to all types of work situations, including hiring, firing, promotions, harassment, training, wages and benefits.

Keeping Pace with the Evolution of Harassment Legislation

For most organizations it makes sense to develop a singular anti-harassment approach for all their employees and stakeholders. Typically, they will build their organization-wide policies to address the best-defined and most stringent federal and state regulations. Sexual harassment definitions and training requirements have evolved since the Civil Rights Act of 1964. More recently, California and New York regulations have set the standard for the country as a whole.

The state of California has been a national leader in defining workplace ethics and compliance standards, including workplace and sexual harassment. In 2018, New York State and New York City each passed anti-sexual harassment legislation that requires organizations doing business in each jurisdiction to abide by significant new policy and training requirements. Though these laws only legally apply to organizations doing business in each jurisdiction, these laws can be viewed as benchmarks against which harassment definitions and training requirements can be evaluated. Though we recommend you review your legal requirements with your legal counsel, in a general sense, if your organization complies with these requirements your anti-harassment program is likely applicable at the national level.

Brief History of Harassment Regulations



The following five California regulations are often cited – nation-wide – as best practices for managing and training employees on harassment.

AB 1825

The first law of its kind to include both a definition of sexual harassment and detailed training requirements for educating employees, it is designed to reduce sexual harassment in the workplace. It requires organizations with 50 or more employees (including temporary and contractual employees) to:

- » Provide at least two hours of harassment training every two years to all employees with supervisory responsibilities
- » Train newly hired or promoted supervisors within six months and every two years thereafter
- » Maintain records of training completion

Furthermore, the training should be provided by individuals or organizations with legal expertise and should include interactive scenarios and comprehension questions. It should include practical guidance regarding federal and state laws about sexual harassment, education on the correction of sexual harassment, and remedies available to victims of sexual harassment.

AB 2053

Extends on AB 1825 to require training for managers on abusive conduct.

Fair Employment and Housing Act (FEHA)

Protects employees from discrimination or harassment based on their race, religion, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation and military/veteran status. FEHA requires organizations with five or more employees to create policies detailing avenues for sharing complaints, complaint management processes, reporting requirements and anti-retaliation standards.

SB 396

Mandates that employers provide harassment training that addresses gender identity, gender expression and sexual orientation.

SB 1343

Requires all organizations with five or more employees in California to deliver all non-supervisors one hour of anti-harassment training every two years. This law extends the existing requirements of all supervisors to receive two hours of anti-harassment training every two years to non-supervisors (one hour of training every two years).

It is important to note that California legislation does not require organizations to deploy a “California only” anti-harassment policy or training. Rather, California regulations set the bar for a preferred approach for effective sexual and workplace harassment approaches.

Prevention rather than Containment

Prevention is the best tool to eliminate sexual harassment in the workplace. Employers are encouraged to create clear anti-harassment policies, provide sexual harassment training and establish an effective compliance or grievance reporting process.

NAVEX Global's Workplace Harassment Training

NAVEX Global partners with thousands of customers around the world, delivering effective ethics and compliance training. Our market-leading Workplace Harassment course is designed to align with federal and state anti-harassment training requirements, including California and New York laws. Updated on a regular cadence, our course allows organizations to consistently train their managers and employees on the latest legal requirements and behavioral expectations, from New York to California and beyond.

The NAVEX Global ethics and compliance training solution is vetted by Baker McKenzie, one of the largest employment law firms in the world, and exclusively endorsed by The ACC and SHRM. Be sure your organization is training your employees and stakeholders with the gold standard Workplace Harassment course, from NAVEX Global.

Our Workplace Harassment course versions allow customers to meet or exceed the specific training requirements defined in the California and New York laws, by offering a 30-minute course for employees, a 60-minute course for employees and a 60-minute course for managers as well as a 120-minute course for managers. This course and our LMS allow customers to track the duration of and completion rates of harassment training for each learner, ensuring customers comply with the legal requirements defined in the New York and California legislation.

Employers should treat AB 1825 as the catalyst for comprehensive harassment training across the organization.

Federal case law suggests that both managers and employees should be training on workplace and sexual harassment to successfully establish an affirmative defense to harassment claims brought in federal court.

Three Ways NAVEX Global Helps You Surpass Expectations

1. Delivering the Legal Expertise Required for Harassment Training

NAVEX Global has been delivering the market's leading workplace harassment course for more than 15 years. Updated every two years with all new content, scenario models and interactive exercises, our workplace harassment training not only complies with the letter of the New York, California and other state laws, but covers the implication and meaning of the law in a workplace context. Built upon decades of workplace and employment law expertise, our workplace harassment course is trusted by thousands of organizations and completed by millions of employees around the world.

Our latest edition of Workplace Harassment has been vetted for legal and scenario accuracy by Baker McKenzie, one of the leading employment law firms in the world. This, combined with broad subject matter expertise and endorsements from SHRM, the ACC and the market ensure that the NAVEX Global workplace harassment course delivers the training required by the most demanding anti-harassment legislation in the US.

2. Interactive Harassment Training That Drives Learning and Retention

New York, Maine, Delaware and California legislation on workplace harassment training specifically requires interactive course content that engages with learners and drives understanding and retention. Interactivity that places learners in challenging situations and tests them on how best to behave, react to and report workplace harassment ensures that learners are attentive, contemplative and absorbing the instruction.

Every NAVEX Global course engages learners using story-based, real-world scenarios to situate learners in familiar and participative environments. Empathetic characters help develop a nuanced understanding of when, where and how laws apply, and highlight the legal requirement that managers are to recognize, report and protect employees from all forms of harassment.

3. Harassment Training That Addresses Specific Legal Requirements

Applicable state anti-harassment laws designate protected categories within the employee population. Accordingly, workplace harassment training, while addressing the persistent issue of sexual harassment, must also address other types of harassment. The NAVEX Global Workplace Harassment course addresses all the protected categories listed in the California AB 1825, AB 2053, FEHA FEHA, SB 396 and SB 1343 rulings, as well as New York, Maine, Delaware and other state laws.

Both New York and California laws require that every online training program provide a link to or directions on how to contact a trainer or the organization's HR department, as well as providing access to policies that address procedures for maintaining a complainant's anonymity, ensuring a timely response, impartial investigations by qualified personnel, applying appropriate punishment for discovered malfeasance and completing investigations in a timely manner.

NAVEX Global training can always include links to internal resources within the organization including applicable policies, a hotline or helpline, and the ability for employees to attest to understanding training content. This information appears automatically at the end of our Workplace Harassment course and must be acknowledged before the course can be marked as completed.

ABOUT NAVEX GLOBAL

NAVEX Global's comprehensive suite of ethics and compliance software, content and services helps organizations protect their people, reputation and bottom line. Trusted by 95 of the FORTUNE 100 and more than 13,000 customers, our solutions are informed by the largest ethics and compliance community in the world.