



Gavin Newsom
Mayor

Philip A. Ginsburg
Human Resources Director

MEMORANDUM
DHR #02-2005

DATE: January 26, 2005

TO: All Appointing Officers
Departmental Personnel Officers

FROM: Philip A. Ginsburg
Human Resources Director

SUBJECT: **Mandatory Harassment Prevention Training for Supervisors**

A handwritten signature in black ink, appearing to read "Philip A. Ginsburg".

I. California's New Law

On September 29, 2004, Governor Schwarzenegger signed A.B.1825 into law. This legislation adds a new provision to California's Fair Employment and Housing Act ("FEHA") requiring employers to provide harassment prevention training to supervisors.

The law requires employers with 50 or more employees to provide harassment prevention training to supervisors of "at least two hours of classroom or other effective interactive training and education regarding sexual harassment." The training must include information and practical guidance regarding federal and state laws against harassment as well as "practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation." The law requires that the presenters have knowledge and expertise in the prevention of harassment, discrimination and retaliation.

The law establishes the following deadlines by which the training must occur:

- Supervisors employed as of January 1, 2005 must be trained by January 1, 2006.
- However, if a supervisor has received harassment prevention training at some time after January 1, 2003, he/she need not be retrained before the January 1, 2006 deadline.
- After January 1, 2006, supervisors must be retrained every 2 years.
- A supervisor hired after January 1, 2006 must be trained within 6 months of hire.

II. Identifying Employees for Supervisor Training

The law requires training of "supervisors," but Departments need to take some care in identifying supervisors to be trained. As noted below, the law broadly defines the term "supervisor."

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A. Supervisor Defined

The FEHA definition of "supervisor" includes "any individual having authority... to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment." Therefore, any employee who meets this broad definition must attend the training, including employees who serve as supervisors in an acting capacity. We recommend that Department Heads err on the side of over-inclusiveness, even if it means training employees who might not fall with the FEHA definition of "supervisor." Should you need assistance in determining who should attend the training, please contact your Deputy City Attorney on the Labor Team. Should you be unsure whom to contact, please call Deputy City Attorney Janie Richardson at 554-3923 for assistance.

B. Compiling Your List of Supervisors

You will be responsible for identifying all of your department's personnel to receive supervisor training. To assist you with this task, DHR is in the process of compiling a draft list of employees to be considered for such training. You will need to carefully review and edit the list and add any personnel who you believe should receive the supervisor training, consistent with the principles described in the foregoing section, IIA. The draft list will be sent to your departmental personnel officer within the next few weeks.

Please note that if a supervisor has received two hours of harassment prevention training since January 2003, this supervisor must be retrained by January 1, **2008**. If you believe your department has trained its supervisors in this area since January 2003 and therefore need not meet the January 1, 2006 deadline, please contact Dorothy Yee, DHR EEO Director, who will review your training program to determine whether your department is exempt from the January 1, 2006 deadline.

III. Training Offered by CCSF and Tracking Compliance

DHR and the City Attorney's Office are developing a training program that will fulfill the requirements of the new law. The first sessions of the supervisor training are scheduled for March 8, 9, and 16; and April 6, 20 and 27, 2005, with one two-hour session in the morning and one in the afternoon. Instructions for registration for these classes will be released in the next month. As this training is an unanticipated cost and is not included in our budgets, a fee will be charged for each employee to cover costs of materials, equipment and rental of facilities.

It will also be necessary to accurately track compliance with this new training requirement. DHR will train departments to use the HRMS system to record and track attendance. In addition, at the training, each attendee will receive and sign a certificate of attendance, which the respective department will need to place in the employee's personnel file.

For more information or should you have any questions, please contact Dorothy Yee at DHR at 557-4982.