

# 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 to train employees and other stakeholders on what constitutes harassment and what training is required, based on best practice expectations and aligned to 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

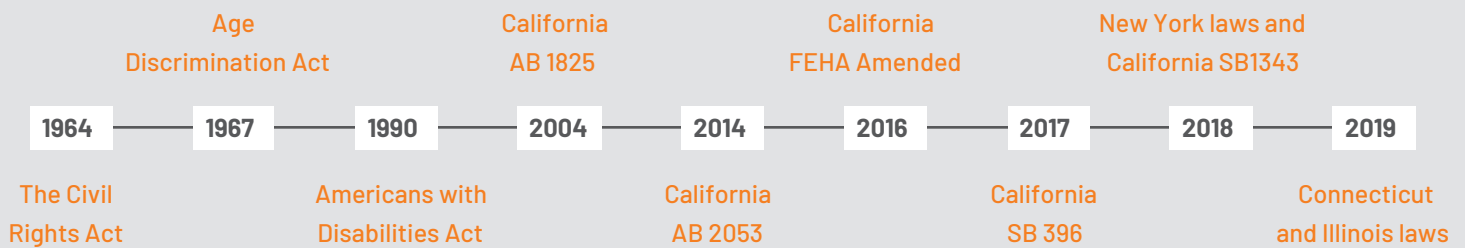
For most organizations, it makes sense to develop a singular anti-harassment approach for all their employees and stakeholders. Typically, they will build their organization-wide policies to address the best-defined and most stringent federal and state regulations. Sexual harassment definitions and training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

While anti-harassment has been on the legislative radar for many jurisdictions for many years, the AB1825 law passed in California in 2005, has set the stage for state laws against harassment. Subsequent laws in California and beyond have further defined harassment and mitigation requirements. Of note, 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. In June 2019, Connecticut enacted a new state law that requires anti-harassment training for all supervisors as well as for employees in any organization with three or more employees. In 2019, Illinois passed SB75, which includes the Workplace Transparency Act (WTA), requiring anti-harassment training for all employees in Illinois, including any employees with 20 or more calendar weeks in a year in Illinois.

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. In 2019, California amended FEHA and passed SB 188 (CROWN Act) which protects against discrimination based on traits historically associated with race, such as hair texture and protective hairstyles, in workplaces and in schools.

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.

### ■ **New York**

Both New York State and New York City enacted anti-sexual harassment legislation in 2018. The new laws require organizations doing business in New York to train all employees and managers on sexual harassment every year. The laws apply to any organization with employees in New York.

### ■ **Connecticut**

Connecticut enacted a new state law in June 2019 that requires two hours of anti-harassment training for all employees and supervisors in any organization with three or more employees in Connecticut.

### ■ **Illinois**

In 2019, Illinois has passed SB75, which requires anti-harassment training for all employees in Illinois, including any employees with 20 or more calendar weeks in a year in Illinois.

## 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 Workplace Harassment Training

NAVEX 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, New York, Connecticut and Illinois 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.

The NAVEX 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.

Our Workplace Harassment course versions allow customers to meet or exceed the specific training requirements by offering a 30-minute course for employees, a 60-minute course for employees, a 120 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.

## Three Ways NAVEX Helps You Surpass Expectations

### ■ 1. Delivering the Training Required on Harassment

NAVEX 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 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, California, Connecticut and Illinois 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 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 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, Connecticut, Illinois and other state laws.

It's typical for state laws to 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 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.