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Another Conundrum for Employers

Sexual harassment prevention.

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Are Sexual Harassment Claims an Occasional Nuisance or Yet Another Cost of Doing Business?

In a rare act of comity between the legislative and executive branches of government, in September 2004 Governor Arnold Schwarzenegger signed into law Assembly Bill 1825. The law which became effective on January 1, 2005 (Government Code section 12950.1; full text available at www.leginfo.ca.gov) requires employers with 50 or more employees to provide two hours of training and education by January 1, 2006 to all supervisory employees employed as of July 1, 2005. Supervisory employees are already defined in Government Code section 12926(r0 as persons with the authority to "hire, transfer, suspend, lay off, recall, promote, discharge,

assign, reward, or discipline other employees."

In the ten year period from 1994 to 2004, the Equal Employment Opportunities Commission has resolved 164,449 cases and collected from employers and distributed to employees victimized by sexual harassment monetary benefits totaling more than \$ 453.7 million and the EEOC hastens to point out these sums do "not include monetary benefits obtained through litigation." According to published reports the EEOC has handled more than 25,000 sexual discrimination charges each and every year since 2000.

Suits by disgruntled employees are commonplace. Among the recent wave of workplace issues suits for sexual harassment claims have moved to the forefront not only because of their sheer numbers but also because of their large economic impact. Even if the firm is protected by employment practices liability insurance, sexual harassment claims still cost a company a lot of money due to loss of productivity, departure of valued workers, and finding, hiring and training replacement employees and the self-insured retention (deductible) paid to insurance carriers. However, these are not the only expenses burdening companies.

There are other costs that have to be accounted for. These include the monetary value of administrative and executive time consumed to deal with investigators, lawyers and insurance adjusters. There is loss of business opportunity, damage to reputation, bad press reviews, tarnishing of image in the marketplace, increased cost of recruiting future employees, and escalation in premiums and deductibles on future insurance policies. Eventually, there may be more intense regulatory scrutiny by federal governmental agencies such as the Equal Employment Opportunities Commission (EEOC) or comparable state agencies such as California's Fair Employment and Housing Commission (DFEH).

Yet another expense is the damage done to employee relations in the company. Our knowledge-based economy is heavily dependent on teamwork, collaboration, and continuous learning. Accordingly, employees and their relationship with the company in today's economy are perhaps an organization's most important assets. Sexual harassment always creates conflict, loss of productivity, damage to morale, and disruption of the collaborative spirit among the staff. By the time litigation ensues, the offended employee has usually left the company and is working somewhere else having taken away the intangible asset of his or her familiarity with customers, suppliers, industry trends, perhaps even some proprietary information or trade secrets. These losses may not be readily quantifiable but they are real. Therefore the employer has significant incentives to stop such disruption and prevent harm to the morale of the entire workforce occasioned by the departure, quite apart from settlement costs or payment of compensatory or punitive damage assessments.

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Thus, sexual harassment prevention training for supervisors is part of an overall sound business strategy for any company that wants to maintain and enhance its competitive advantage in the marketplace vis-avis its rivals. The December 31, 2005 deadline for compliance with AB 1825 is rapidly approaching. Prudent managers of companies will not leave this task to the last minute.

Opus Group LLC has been coaching executives and training managers in the rules that define sexual harassment and implement systems for its prevention in the workplace. Opus will come to the employer's site and train top executives and supervisors in accordance with the requirements of AB 1825, test their comprehension of the law, and provide a certificate of compliance for each attendee. For further information please visit our website at www.opusgroupedu.com.

About the author...



Nicholas J. Toghia is a senior corporate business executive and attorney and licensed real-estate broker with over twenty years of experience in the industry. During this time, he has occupied key roles and leadership positions in business development, marketing, lead generation, and client acquisition for various business units including architecture, engineering, design-build, general construction, and real estate development. Nicholas has extensive expertise in risk mitigation, crisis management, CRM, and work place HR issues.

He is the founder of the Opus Group LLC, located in Pacific Palisades, CA. The Opus Group coaches executives and trains managers in the rules that define sexual harassment and implement systems for its prevention in the workplace.

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