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LITTLER MENDELSON, P.C.
THE NATIONAL EMPLOYMENT & LABOR LAW FIRM®

CONTACT:

Maria Amor
or Jennifer Myres
Formula
(619) 234-0345
amor@formulapr.com
myres@formulapr.com

EMPLOYERS ADVISED TO PREPARE FOR 2007 REVISED HARASSMENT TRAINING REGULATIONS

Littler Mendelson Offers Companies Guidance to Comply with California's A.B. 1825 Law

SAN FRANCISCO (Dec. 12, 2006) – In time for the New Year, the California Fair Employment and Housing Commission concluded an almost year-long process by approving the agency's final regulations on California's A.B. 1825 law. As companies prepare their 2007 policies, they need to ensure that their programs observe the latest A.B. 1825 provisions, which mandate training of larger employers' supervisors on sexual harassment, advises Littler Mendelson, the nation's largest employment and labor law firm.

"A.B. 1825 has undergone extensive modifications requiring most employers to re-train according to new criteria included in the final and most comprehensive version of the law," said David Goldman, managing attorney of Littler Mendelson's Legal Learning Group, based in San Francisco. "To circumvent sexual harassment suits, companies must be well-informed and prepared entering into 2007. Littler Mendelson's employer surveys show that it takes most organizations four to seven months to implement a training program. Thus, taking action as soon as possible is warranted."

When finalizing 2007 training programs, Goldman advises businesses to consider the following:

- Employers should continue to carefully audit which non-California supervisors "directly" supervise California employees – including those supervisors who do not reside in California. Although the regulations no longer require such training, it is highly advisable to train non-resident supervisors of California employees.
- While A.B. 1825 applies only to employers with 50 or more full-time and/or part-time employees or contractors, companies should be aware that temporary and seasonal professionals are considered contractors if they work for 20 consecutive weeks in the current or preceding calendar year. There is also no regulation that the 50 employees or contractors work at the same location or all reside in California.

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- In order to meet more stringent training standards, live and Webinar sessions must now be led by “qualified trainers” that “have knowledge and expertise in the prevention of harassment, discrimination and retaliation,” as well as formal education and training or substantial experience.
- Supervisor harassment e-learning programs will need to be interactive in 2007 and include a system for trainees to submit questions to certified teachers. Companies must establish online interfaces where qualified trainers will receive supervisors’ questions and be able provide answers within two business days.
- Overall, the latest regulations require a variety of interactive exercises; be advised that static training programs or ones with just one type of interactive (e.g., multiple choice only) will likely not meet regulatory standards.
- Sexual harassment training programs will be required to last at least two hours, so employers who rely heavily on Internet training should incorporate timers and pacers on their training sites and look into setting up online proctors.
- Although it’s not required, businesses are advised to provide training to all supervisory employees nationwide, to avoid inconsistency in training and help buttress defense to litigation against claims of inadequacy or inconsistency.
- Additionally, it is advised that companies conduct training programs longer in duration than the compulsory two-hour period to avoid performing only the minimum mandated by law and regulations.
- As a best practice, provide training beyond sexual harassment. At a minimum, programs should cover other forms of workplace harassment and include examples of other types of prohibited conduct.

To speak with Littler Mendelson attorney David Goldman about compliance and best practice suggestions prior to the enactment of A.B. 1825, please contact Jennifer Myres at (619) 234-0345 or myres@formulapr.com.

About Littler Mendelson

With more than 500 attorneys and 38 offices in major metropolitan areas nationwide, Littler Mendelson is the largest law firm in the United States devoted exclusively to representing management in employment, employee benefits and labor law matters. The firm's client base ranges from Fortune 500 companies to small-business owners. Established in 1942, the firm has litigated, mediated and negotiated some of the most influential cases and labor contracts in the nation's history. For more information, visit www.littler.com.

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