

Compliance Alert! New and Pending Anti-Harassment Laws

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Subject Matter Expert





- Please participate in our polls.
- You will be sent the recording and slides after the webinar.
- Use the question box to ask questions.
- Compliance questions can be directed to our Live Advisors — please contact directly.

This is me!



Jill Albrecht Weimer
*Labor & Employment
Attorney*

- Employment attorney and compliance subject matter expert
- Former shareholder at Littler, world's largest labor and employment law firm
- Regularly conducts anti-harassment trainings for employers and designs training plans to combat workplace harassment

New State Mandates

Training, Policy Requirements,
Agreement Restrictions,
Posting Mandates

Poll #1

**Do you have employees in any
of the following states?**

CA, NY, CT, DE, ME, FL, IL, AZ, MA, RI, TX, WA

Today's Topics

01



New and Pending Mandates

02



Key Dates to Remember

03



How ThinkHR Helps

Quick Review of Current Mandates

Before and After #MeToo

Prior to 2018

Only California, Maine, and Connecticut required sexual harassment prevention training by statute.

In 2018

California expanded its requirements and Delaware, the District of Columbia, New York State, and New York City passed laws requiring training.

Pending 2019 Legislation



Poll #2

How are you currently meeting your 2019 anti-harassment training requirements?

California Training Requirements

Senate Bill No. 1343 signed into law September 30, 2018

Deadline: All employees must be trained by January 1, 2020

Employers affected: All employers with at least 5 employees

Who must be trained: All employees

Frequency: Every 2 years

- **Duration of the training:**
 - 2 hours of training to all supervisory employees
 - 1 hour of training to all non-supervisory employees
- **Deadline for new employees:** Within 6 months of the employee's assumption of either a supervisory or non-supervisory position

New York State Training Requirements

*Section 201-G(2) of the New York Labor Law,
effective October 9, 2018.*

Deadline: Existing employees must complete training by October 9, 2019

Employers affected: All employers

Who must be trained: All employees

Frequency: Annually

- **Duration of the training:** Not specified
- **Deadline for new employees:** Employers encouraged to train new employees quickly but no specific requirement for new employees

New York City Training Requirements

Local Law 96 of 2018

Deadline: April 1, 2019

Employers affected: All employers with 15 or more employees

Who must be trained: All employees

Frequency: Annually

- **Duration of the program:** Not specified
- **Deadline for new employees:** Within 90 days from their commencement of employment

Delaware Training Requirements

Effective January 1, 2019

Deadline: Existing employees must complete training by January 1, 2020

Employers Affected: Employers with 50 or more employees (within the state)

Who Must Be Trained: All employees

Frequency: Every 2 years

- **Duration of the program:** Not specified
- **Deadline for new employees:** Within 1 year of commencement of employment or assumption of supervisory position

Maine Training Requirements

Originally Effective October 1991; Updated April 2018

Employers Affected: Private employers with 15 or more employees in the state of Maine (public employers are also covered)

Who Must Be Trained: All employees

Frequency: No requirement for subsequent training after initial new hire training

- **Duration of the program:** Not specified
- **Deadline for new employees:** Within 1 year of commencement of employment and additional training for supervisors within 1 year of assumption of supervisory responsibilities

New Mandates

Connecticut

- October 1, 2019 deadlines
- All employers, all sizes
- Length and frequency depends on employee headcount
- New posting requirement

Oregon

- Workplace Fairness Act — sweeping legislation
- Written policy on anti-harassment requirement, including reporting
- All Oregon employers must maintain a policy and meet other requirements under the Act

New York Expands* Harassment Prevention Mandates

- All employers of any size are now covered
- Mandatory distribution of anti-harassment policy with specific content
- Expanded language requirements

Washington State

- Retail and hospitality industry (including security guard and property services) training requirements
- Harassment prevention policy requirements
- Panic buttons must be provided for certain workers

Washington D.C. Requirements* for Tipped Employees

- Training requirements — mandatory for all employees, managers and owner/operators
- Policy requirement — specific content (reporting) for policy and posting also required
- Recordkeeping requirements — ability to provide documentation for training

What's Next?

Pending 2019 Legislation



5 Yard Line

States with Anti-Harassment Mandates on the Brink

Illinois

- All employees
- All employers
- Annual cadence
- Governor to sign “soon”

California SB 778

- Amends FEHA
- Post-January 1, 2018 training → December 31, 2020 deadline
- Passed Senate, in House Committee

Rhode Island HB 5343 and SB 330

- 5343: Training requirement for employees and supervisors of 50+ employees
- 330: Requires policy adoption and specific training content

Illinois

Employers in Illinois will be subject to the following proposed requirements:

- Provide workplace harassment prevention training to all employees
- Training must be provided annually
- Employers will be prohibited from requiring workers to sign nondisclosure and arbitration agreements related to harassment or discrimination

Connecticut — Not Done Yet!

HB 5271

Drastically expands current obligation by requiring employers with 50 or more employees to provide four hours of sexual harassment and education training to all supervisors each calendar year

HB 5271

Clarifies provisions regarding training, defenses to harassment complaints, and calculation of damages in harassment complaint proceedings

SB 3

Requires employers to provide new employees with anti-harassment policy and amends certain training requirements

Legislation Pipeline Review

Massachusetts Pipeline

HB 1345

- Introduced: 1/22/19
- Status: Introduced; In Committee
- Action: Expands current sexual harassment training requirements

HB 1694

- Introduced: 1/22/19
- Status: Introduced; In Committee
- Action: Requires employers to provide discrimination and harassment training every two years

SB 1057

- Introduced: 1/22/19
- Status: Introduced; In Committee
- Action: Requires employers to provide at least two hours of training on employment non-discrimination law and preventing sexual harassment in the workplace

New York Pipeline

SB 3941

- Introduced: 2/21/19
- Status: Introduced; In Committee
- Action: Prohibits sexual harassment and discrimination in the workplace and requires employers to notify employees on these laws

SB 4716

- Introduced: 3/21/19
- Status: Introduced; In Committee
- Action: Requires sexual harassment prevention training include bystander intervention training

SB 4845

- Introduced: 3/27/19
- Status: Introduced; In Committee
- Action: Requires employers submit an affirmative acknowledgement of implementing a sexual harassment prevention policy

SB 5977

- Introduced: 5/16/19
- Status: Introduced; In Committee
- Action: Provides that using the model sexual harassment training program will satisfy the state training requirements

Other State Activity

ARIZONA HB 2156

- Introduced: 4/29/19
- Status: Failed
- Action: Requires employers to provide workplace counseling, sexual harassment training, information on employment organizations, and any required skills training

FLORIDA SB 1580

- Introduced: 3/01/19
- Status: Introduced; In Committee
- Requires employers to adopt a sexual harassment policy and provide training that aligns with content requirements within the policy on anti-harassment

PUBLIC AGENCY REQUIREMENT

- IL, KS, KY, LA, MS, NV
- NJ, NC, PA, TN
- TX, UT, VA, WA

TEXAS HB 1575

- Introduced: 2/11/19
- Status: Introduced; In Committee
- Action: Requires certain employers to adopt a sexual harassment policy and provide training regarding sexual assault and discrimination prevention

Other State Pipeline Mandates

PENNSYLVANIA HB 1040

- Introduced: 4/29/19
- Status: Introduced; In Committee
- Action: Requires employers to provide training to prevent harassment and discrimination in the workplace

RHODE ISLAND HB 5343

- Introduced: 2/07/19
- Status: Introduced; In Committee
- Action: Mandates sexual harassment training for employees and supervisors of employers of 50 or more employees

PENNSYLVANIA SB 498

- Introduced: 4/03/19
- Status: Introduced; In Committee
- Action: Requires employers to provide interactive training regarding discrimination, harassment, and retaliation

RHODE ISLAND SB 330

- Introduced: 2/13/19
- Status: Passed Senate; In House Committee
- Action: Requires employers to adopt a policy against sexual harassment and provide training to employees

Federal — “BE HEARD” Act

- United States S 1082
- Requires adoption of nondiscrimination policy
- Requires employee climate surveys
- Requires training and other mandates for employers

State Policy Mandates

Content, Distribution, Reporting

Poll #3

**How do you currently maintain
and update your employee
policies?**

Anti-Harassment Policy Mandates

POLICY REQUIRED

- California
- Maine
- Massachusetts (6+ employees)
- New York State
- Oregon
- Rhode Island (50+ employees)
- Vermont
- Washington

POLICY RECOMMENDED

- Iowa
- New Jersey
- South Dakota
- Tennessee
- Texas
- Wisconsin

Policy Specific Content Requirements

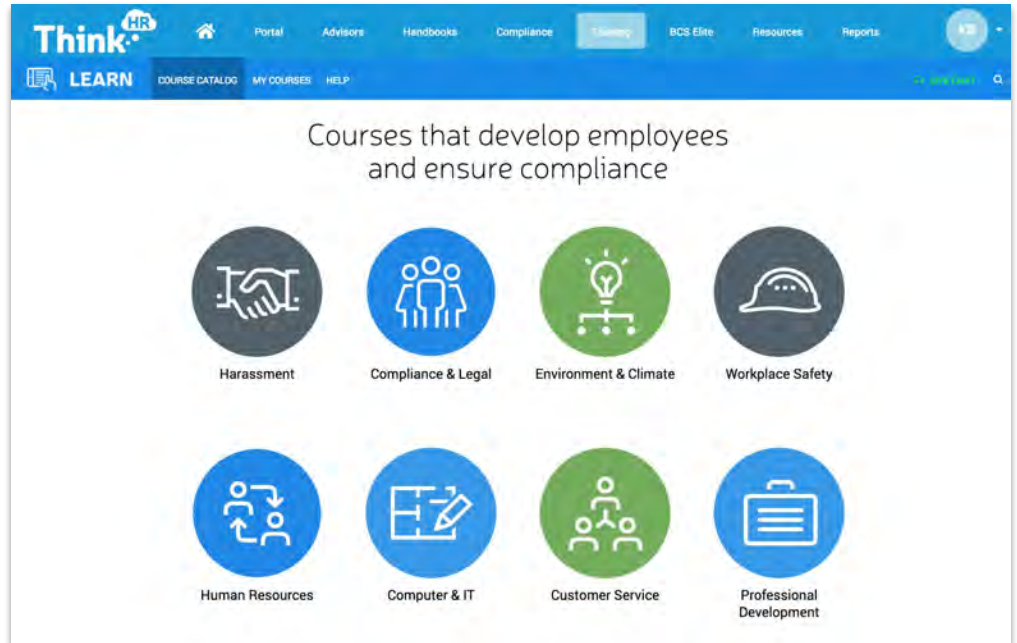
STATES WITH CONTENT REQUIREMENTS

- California
- Maine
- Massachusetts
- New York State
- Rhode Island
- Oregon
- Vermont
- Washington

How ThinkHR Helps

What is Included in ThinkHR Learn

- Extensive training library
- Course progress tracking
- Intermittent quizzes with pass/fail tests
- Training tracks
- 7-year record retention





Workplace Harassment Prevention Package



Workplace Harassment Prevention

Compliant Versions

- New York State (+Spanish)
- New York City (+Spanish)
- California (+Spanish)
- Delaware (+Spanish)
- Connecticut (+Spanish)


Features

- Interactive (required)
- Time tracking (CA required)
- Proof of completion
- Auto-reminders
- Group assignments

Menu Close Menu Panel Harassment Joke or Unkind Remark? Exit

Workplace Harassment Prevention for Employees, State of California
1 Hour 15 Minutes

- Completion Status
- Table of Contents
- Course Test
- Resources
- About
- General Settings
- Take the Tour
- Help



KEN: Hey, slow down, man, or we're gonna have to get you a racing stripe.

Think

00:15 Previous Topic Next Topic

Menu Close Menu Panel Defining Unlawful Harassment Exit

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EEOC
The US Equal Employment Opportunity Commission

and US courts have followed some basic guidelines.

Think

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Case Study

Gerald is a 55-year-old marketing strategist with colleagues in their 20s and 30s. His manager, Lon, is 30. The company is focusing its marketing efforts on social media. Besides revamping their web site and blogging, the team sets up and maintains the company's social media pages. Gerald doesn't have personal social media accounts, but wants to learn, and asks Lon for help getting up to speed. Lon laughs, calling him "Orlando." Gerald is hurt, but shrugs it off. Lon has another team member train Gerald on the sites.

Within days, Gerald's coworkers start making jokes and insults about his inexperience with social media. Eventually it wears on him. He repeatedly asks his colleagues to stop, but they persist.




Question

Menu Close Menu Panel Harassment Prevention Policies Exit

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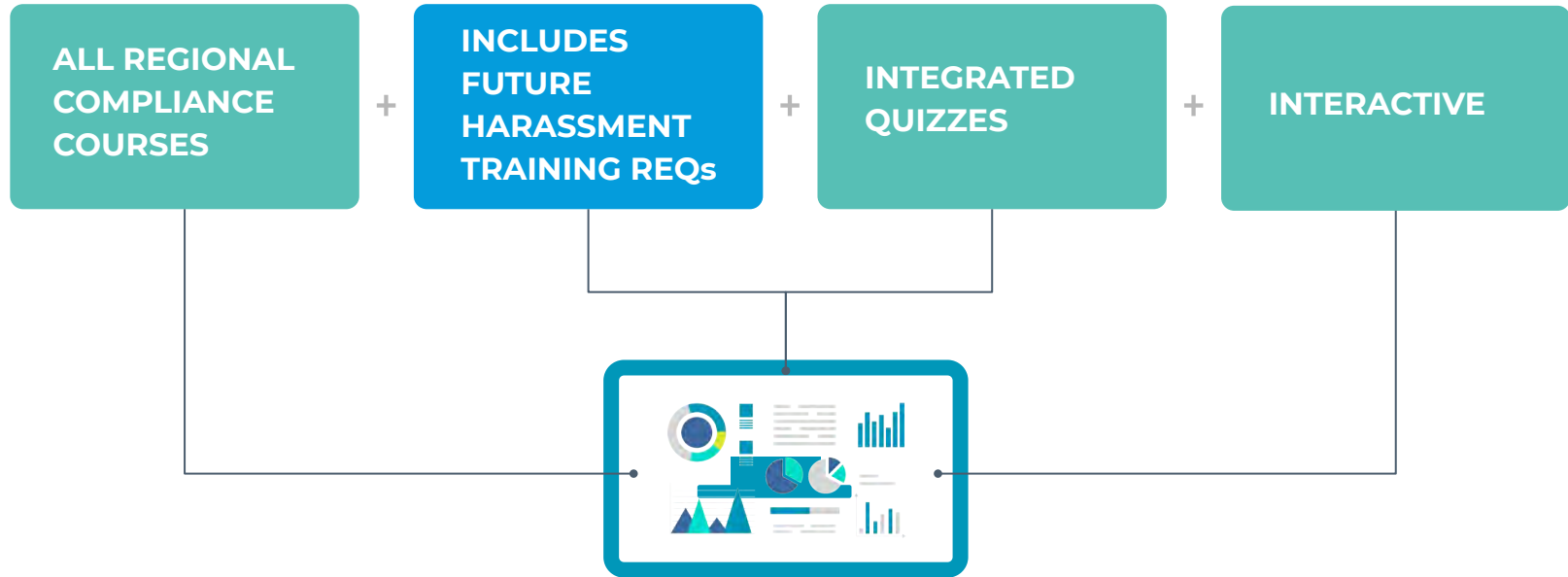


ANDREA: That seems awfully, um, vague and not very helpful.

Think

00:59 Previous Topic Next Topic

Your Compliance Platform of Record



Your Compliance Platform of Record

Poll #4

How can ThinkHR help?



SAVE THE DATE

Webinar:
Fall Compliance Update

September 26, 2019