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California's Experiment in Interactive Sexual Harassment Prevention Training: Will It Reduce Workplace Harassment Claims?

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As explained in this article, states around the country recognize the benefits of sexual harassment prevention training and are enacting proactive laws that require state agencies and/or private employers to provide such training to their employees.

Workplace sexual harassment claims are on the rise again. Approximately 15,000 claims of sexual harassment are filed with the Equal Employment Opportunity Commission (EEOC) and related state agencies each year.[1] In 2003, employers paid out approximately $50 million to individuals who filed charges of sexual harassment with the EEOC, which does not include any monies paid out by employers as a result of litigation.[2] Indeed, it is estimated that workplace harassment costs the average Fortune 500 company approximately $6.7 million per year in indirect costs.[3] Notwithstanding these figures, the Society for Human Resources Management estimated in 1999 that, although 97 percent of companies had written anti-harassment policies, only approximately 62 percent of companies conducted sexual harassment prevention training.

Every employer in the country is bound by federal and applicable state anti-harassment laws. Many state laws contain provisions encouraging or requiring employers to take reasonable steps to prevent or correct sexual harassment.[4] Even when an employer is not required by state law to take such steps, every employer has a direct incentive to provide sexual harassment prevention training. In 1998, the United States Supreme Court issued landmark decisions announcing that, under federal law, employers are vicariously liable for sexual harassment committed by supervisory employees where such harassment results in a tangible employment action, such as demotion or firing.[5] The Court further held that, where no tangible employment action was taken, an employer may defend against such claims by demonstrating that the employer took reasonable care to prevent and correct the sexual harassment. Thus, since 1998, employers have been able to protect themselves against substantial liability for sexual harassment under federal law by providing training on sexual harassment prevention to their employees.

More recently, on September 29, 2004, Governor Arnold Schwarzenegger signed into law Assembly Bill (AB) No. 1825 which mandates sexual harassment prevention training for supervisory employees in California. With the passage of AB 1825, California has joined the ranks of other states, such as Connecticut and Maine that have taken a proactive stance toward tackling the root causes of sexual harassment in the workplace. The results for these states' pioneering efforts to enact legislation that requires harassment prevention training will undoubtedly be closely monitored by those states still waiting on the sidelines.

This article addresses California's new sexual harassment prevention training law, AB 1825, from a practical standpoint, offering an explanation of the law and its requirements, as well as providing employers with suggestions for compliance. Because AB 1825's minimum training requirements are likely to become the baseline for measuring training effectiveness, suggestions for extending training beyond the minimum requirements of the law will also be provided. Finally, the manner in which various other states across the nation have addressed sex-

ual harassment prevention training will be highlighted in order to give perspective and context to California's new approach to preventing sexual harassment in the workplace.

WHAT IS REQUIRED BY CALIFORNIA'S SEXUAL HARASSMENT PREVENTION TRAINING LAW?

AB 1825 requires employers with 50 or more employees, regardless of location, to provide a minimum of two hours of interactive sexual harassment prevention training to supervisory employees.

Only those employers with 50 or more employees or independent contractors, regardless of location, (covered employers) are required to provide sexual harassment prevention training. Although unclear, the plain language of the statute indicates that even those employers with only a few workers in California are subject to this law, as long as the employer's workforce totals 50 or more employees. Moreover, because the statute does not distinguish between part and full time workers, employers should include both in their calculation.

Covered employers are only required to provide sexual harassment prevention training to supervisory employees. Federal law describes a "supervisor" as someone with the power to hire, fire, set work schedules and establish pay rates.[6] However, California's definition of "supervisor" is broader and much more detailed. In California, a "supervisor" is statutorily defined as one who has:

1. The responsibility to direct other employees or adjust their grievances;

2. The authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees; or

3. The authority to recommend to the employer that any of the foregoing actions be taken.[7]

Supervisory authority must be exercised using independent judgment and cannot be of a routine or clerical nature.[8] Where federal and state law differs, employers must follow the more restrictive law. Therefore, employers in California should be careful to provide the required training to all employees who meet California's definition of a "supervisor."

The training required by AB 1825 must be classroom or other interactive training presented by persons with knowledge and expertise in the prevention of harassment, discrimination, and retaliation. Employers can accomplish this by either hiring outside professionals with expertise in the area, or training their existing human resources professionals so that they are qualified to provide the training in-house. Regardless of who performs the training, however, employers must ensure that the training is performed in a classroom or other interactive setting. Although the California Department of Fair Employment and Housing (DFEH), responsible for enforcing AB 1825, has not issued regulations explaining these requirements, a similar Connecticut statute has been interpreted as permitting web-based training as long as trainees can submit questions and receive answers.[9] Thus, it appears that interactivity is key. While merely showing a video presentation is probably insufficient to satisfy California law, the provision of materials in variable formats *(i.e.* video, Internet or hard-copy) combined with the opportunity to ask questions to, and receive answers from, a qualified individual would likely suffice. Presentations involving role play are also effective methods of satisfying the requirements of AB 1825.

Substantively, California law dictates that the required training must include information and practical guidance regarding:

1. Federal and state statutory provisions addressing the prohibition against, and prevention and correction of, sexual harassment;

2. The remedies available to victims of sexual harassment in employment;

3. Practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation. All three topics must be covered in order to satisfy the requirements of California law.

In addition to the required topics, it is also good practice to inform supervisors that they, themselves, may be held personally liable under California law for any sexual harassment they engage in. Notice of this potential liability may provide a supervisor who is tempted to engage in offensive conduct with the necessary incentive to exercise restraint. Additionally, employers should also consider informing their employees that they cannot be held personally liable for reporting accurate information about sexual harassment to their employers. Of course, the reporting of untruthful information may open an employee up to liability for defamation.

AB 1825 requires both immediate and continuous sexual harassment prevention training. At the outset, all supervisory employees of a covered employer who were hired or promoted before January 1, 2005 must be afforded a minimum of two hours of sexual harassment prevention training by no later than

January 1, 2006, unless compliant training has already been provided since January 1, 2003. Moreover, any supervisory employee who is hired or promoted after January 1, 2005 must be provided the minimum amount of sexual harassment prevention training within six months of his or her assumption of duties. After January 1, 2006, covered employers must supply the minimum amount of training to supervisory employees once every two years.

The California legislature expressly states that the amount of training required by statute (two hours every two years) is merely a minimum threshold, and employers may be obligated to provide additional training in order to prevent and correct sexual harassment and discrimination. Neither the courts, nor the DFEH, is likely to accept the statutory minimum amount of training as sufficient to prevent or correct sexual harassment from an employer or supervisor that has recently been found liable for, or made aware of a problem regarding, the same. Moreover, supervisors who have been accused of harassment or inappropriate conduct short of harassment should be given additional training in order to correct any offensive behavior and prevent similar conduct from occurring in the future.

CONSEQUENCES OF VIOLATING CALIFORNIA'S SEXUAL HARASSMENT PREVENTION TRAINING LAW

A covered employer's failure to provide AB 1825 training does not necessarily imply that the employer will be found liable for sexual harassment. Nevertheless, there are many consequences of a covered employer's failure to follow the dictates of the law, ranging from an order of compliance to the finding of liability and imposition of a significant damages award.

The California Department of Fair Employment and Housing (DFEH) is charged with enforcing the provisions of AB 1825. Thus, covered employers that fail to conduct the requisite sexual harassment prevention training may be ordered to do so by the DFEH. Moreover, the receipt of a complaint against a covered employer for failure to comply with AB 1825 may cause the DFEH to scrutinize all of that employer's practices and, therefore, subject it to a broader range of employment law violations. Thus, while the DFEH is not empowered to impose sanctions for violations of AB 1825, a broader investigation by the DFEH may discover additional violations for which the DFEH may impose fines or other sanctions.

A covered employer's failure to provide its supervisors with the requisite sexual harassment prevention training may also have a significant financial impact by opening the door for the imposition of punitive damages if the employer is held liable for sexual harassment. In order to impose punitive damages against an employer for sexual harassment, discrimination or retaliation in California, and under federal law, the plaintiff must establish that the employer had a "reckless disregard" for the law.[10] In light of the recent enactment of AB 1825 which requires employers to supply their supervisors with sexual harassment prevention training, it is likely that plaintiffs will rely on the absence of such training as evidence of an employer's "reckless disregard" for the law. Because of the sensitive nature of the facts involved in sexual harassment claims, and in light of jurors' tendency toward punitive damages in sensitive fact situations, every employer should use great care to ensure that it takes reasonable efforts to comply with harassment prevention laws.

WHY SHOULD EMPLOYERS WITH FEWER THAN 50 WORKERS CARE ABOUT SEXUAL HARASSMENT PREVENTION TRAINING?

In California, an employer is subject to the Fair Employment and Housing Act (FEHA) if it regularly employs five or more individuals. In addition to prohibiting discrimination and harassment based on any protected characteristic, FEHA also imposes liability upon any "employer" (as defined under FEHA) that fails to prevent sexual harassment from occurring. Thus, employers with fewer than 50 employees that are not expressly subject to the mandate of AB 1825 are still required to take reasonable steps to prevent sexual harassment in order to avoid liability under FEHA.

In order to determine what constitutes "reasonable steps to prevent sexual harassment" under FEHA, courts are likely to look to the minimum acceptable standards for sexual harassment prevention training established by AB 1825. Thus, employers with five or more employees will probably be expected to provide AB 1825 training, despite the fact that they are not expressly subject to AB 1825's mandate.

WHY SHOULD EMPLOYERS CONSIDER EXPANDING SEXUAL HARASSMENT PREVENTION TRAINING BEYOND THE REQUIREMENTS OF AB 1825?

Training for Both Supervisors and Non-Supervisors

Training supervisors to recognize and prevent sexual harassment is not an absolute legal defense and, therefore, will not, by itself, insulate an employer from liability for sexual harassment.

However, providing sexual harassment prevention training to both supervisors *and* employees may reduce an employer's liability for hostile environment sexual harassment claims. The "avoidable consequences doctrine" provides that a person injured by another's conduct will not be compensated for damages that he or she could have avoided through the exercise of reasonable effort or expenditure.[11] In 2003, the California

Supreme Court held that the avoidable consequences doctrine may be used to reduce an employer's liability for hostile environment sexual harassment committed by a supervisor if the employer can establish that:

1. It had reasonable procedures and took reasonable steps to prevent and correct workplace harassment;

2. The plaintiff unreasonably failed to take advantage of such procedures; and

3. The use of such procedures would have prevented at least some of the harm suffered by the plaintiff.[12]

Thus, even where sexual harassment prevention training does not prevent sexually harassing conduct from occurring in the workplace, the provision of such training to both supervisors and employees can help to reduce an employer's liability for such conduct in the event of a lawsuit.

Expanded Training Demonstrates Broad Based Legal Compliance

In California and other states, employers are required to take reasonable steps to prevent gender based harassment, as well as harassment related to any protected characteristic such as race, religion or national origin.[13] This mandate is typically separate from any specific requirement to provide sexual harassment prevention training. Thus, an employer subject to these "garden variety" anti-harassment laws may be found liable for failing to take reasonable steps to prevent harassment based on the protected characteristic at issue even though that employer provides training on gender-related harassment prevention.

For example, if an employer is sued for racial harassment, proof that the employer provided its supervisors and employees with sexual harassment prevention training will likely be of no value to the employer's defense. An employer that focuses its training on sexual harassment prevention alone will not have evidence that it has taken concrete steps to prevent other forms of harassment, such as racial harassment.

Whether a particular characteristic is protected depends on the applicable law. The most commonly protected characteristics are race, national origin, religion, age and disability. However, California state law also includes sexual orientation, physical or mental disability, medical condition, marital status, and immigration status as protected characteristics.[14]

Training on How To Handle Sexual Harassment by Customers or Third Parties

California recently amended its Fair Employment and Housing Act to hold employers liable for sexual harassment by third parties, such as clients, customers or independent contractors. Because this law is relatively new, it is unclear how employer liability will develop with regard to this new cause of action. Nevertheless, because California employers are already required to take reasonable steps to prevent harassment in the workplace, employers should be sure to address harassment by third parties during their sexual harassment prevention training sessions. Such training will raise awareness about this related problem and not only encourage supervisors to remedy such harassment when it occurs, but also focus supervisors on the need to prevent the occurrence of such harassment in the future.

RECOMMENDATIONS TO EMPLOYERS REGARDING COMPLIANCE WITH THE NEW CALIFORNIA PROVISIONS

Don't Delay In Implementing a Training Program

AB 1825 is already in effect, and the clock is ticking. Although covered employers are not required to accomplish the required training until January 1, 2006, it is never a good idea to wait until the last minute to ensure compliance.

First and foremost, training employees about sexual harassment will likely deter any inappropriate conduct from occurring in the future. Moreover, the type of training mandated by statute may reduce any damages awarded against the employer should litigation commence. Certainly evidence that the employer has a system in place that complies with statutory mandates will assist in the employer's defense against such a claim.

Additionally, large corporate employers with many supervisory employees will likely need substantial lead time to provide the requisite amount of training to all of the necessary individuals. If a covered employer has recently been held liable for sexual harassment or, alternatively, been made aware of a problem with sexual harassment within its organization, that employer must provide additional sexual harassment prevention training in order to correct and prevent sexual harassment. In both of these instances, the employer may well need additional lead time to comply with the law.

Determine Exactly Who Qualifies as a Supervisory Employee Under California Law

If a covered employer decides to provide training to the minimum number of people required by statute (supervisors only, as opposed to both supervisors and employees), then that employer must exert special effort to ensure that it accurately determines who is, and is not, a supervisor. As discussed above, California's definition of a supervisory employee is extremely

broad and likely to encompass more individuals than those who are actually designated as supervisors by the employer. As a result, covered employers should review the responsibilities of each employee with authority over another in order to determine whether such individual qualifies as a "supervisor" under California law. A covered employer's failure to give AB 1825 training to all of the required individuals could have adverse consequences. Failure to include the appropriate group of individuals in such training could prevent the submission of evidence that the employer has complied with its statutory mandates. This could open the door to an award of damages, including punitive damages, for sexual harassment.

Ensure That the Training Program Is Adequate Under the Law

Pay close attention to the requirements of AB 1825, ensuring that the training program instituted complies with the law. Essentially, this requires employers to verify that:

1. Their trainers are sufficiently qualified as experts in sexual harassment;

2. The program addresses the subjects expressly required by statute; and

3. The methods used to effect training are interactive and, at a minimum, allow the participants to ask questions and obtain answers.

However, employers should also diligently anticipate additional considerations implicated by the requirements of AB 1825, including the possibility that some employees will require bilingual training in order to understand and be able to interact with the trainer.

Centralize Oversight of Training Compliance

Depending on the size of its workforce, a particular person (or group) should "own" the responsibility for overseeing the company's compliance with AB 1825. The consolidation of the responsibility for this task in one individual will help to ensure that the required training is completed by the deadline and in accordance with the law. Such individual should be charged with maintaining a master calendar of training and updating the calendar to account for any newly hired or promoted supervisors. This individual should also be responsible for reviewing the training program on a regular basis to ensure that it complies with the requirements of the law and recommend changes or updates where necessary. Additionally, employers should establish a written policy regarding sexual harassment prevention training so that all supervisory employees are aware of their obligation to participate. In addition to setting forth the minimum level of participation required (two hours every two years), an employer should also establish policies regarding the provision of additional training for those supervisors who have been involved in inappropriate conduct which may be construed as sexual harassment. In this vein, employers should also impose upon every individual responsible for managing supervisory employees the duty to report any inappropriate conduct to a designated individual who will be responsible for ensuring that additional training is actually provided where necessary.

The establishment and implementation of a responsible individual (or group) and written employment policies will:

1. Help to ensure that an employer has fully complied with its obligations under AB 1825; and

2. Provide evidence to support an employer's defense to a claim of sexual harassment and punitive damages.

Keep Accurate Records of Training

In the event that an employer is audited by the DFEH, it will be required to provide documentation establishing that it has provided adequate sexual harassment prevention training to all supervisory employees. Moreover, if an employer is sued for sexual harassment, it is in the employer's interest to have detailed documentation evidencing the provision of the sexual harassment prevention training required by AB 1825 in order to support its defense. As a result, employers can only benefit from the maintenance of detailed records regarding such training.

Employers should maintain an acknowledgment signed by the employee that he or she has completed the training which includes the dates and times of training sessions. It is, however, also important to maintain copies of the training materials in order to establish that all required subjects were addressed during the presentation. If training materials are updated, records of the changes and dates of changes are also necessary in order to be able to accurately establish what was presented on a particular date.

If an employer utilizes outside professionals in order to provide the required sexual harassment prevention training, it should also maintain updated contact information for such individuals. This is particularly important in the event that an employer needs additional evidence of training or to establish the qualifications of its trainers.

Be Sure Training Was Compliant if Training Has Already Been Provided Since January 1, 2003

If a covered employer has provided AB 1825 compliant training since January 1, 2003, that employer is exempt from

providing such training again until after January 1, 2006. However, employers that believe they fall into this exception should be careful to ensure that the training which was already provided complies with the requirements of the new California law. Because the law is specific as to minimum time requirements, the subjects to be addressed, and manner of training (*i.e.* interactive), it is possible, if not likely, that an employer may be required to provide additional training in order to fulfill the law's mandate. Employers should not merely assume that, because sexual harassment prevention training has been provided since January 1, 2003, they are not required to provide any additional training until after January 1, 2006.

Moreover, proactive employers that have already provided sexual harassment prevention training since January 1, 2003 must also be sure that they have maintained adequate records of such training in order to establish when the training was conducted and that the program provided complies with the dictates of AB 1825. An employer that cannot prove that sexual harassment prevention training was provided is subject to the same provisions as an employer that has not performed the training at all.

SEXUAL HARASSMENT PREVENTION TRAINING REQUIREMENTS AROUND THE NATION

California is not the first state in the nation to enact sexual harassment prevention legislation. As discussed below, California joins several northeastern states as the pioneers in this arena.

Connecticut. On May 27, 1992, Connecticut enacted a law requiring both public and private employers with over 50 employees to provide sexual harassment prevention training to all supervisors within six (6) months of their date of hire or promotion.[15] Connecticut also requires state agencies to provide three (3) hours of diversity training to all existing supervisory and non-supervisory employees, as well as for all new supervisory employees within six (6) months of their elevation to a supervisory position.[16]

Maine. In Maine, public and private employers with fifteen (15) or more employees must provide sexual harassment prevention training to all new employees within one year of the beginning of their employment.[17]

New Jersey. Under state law, employers in New Jersey may be held liable for negligent failure to prevent sexual harassment.[18] Moreover, in 2002, the New Jersey Supreme Court held that the absence of sexual harassment prevention training was "strong evidence" of an employer's negligence in failing to prevent sexual harassment.[19] Thus, in New Jersey, although employers are not expressly required to maintain such training programs, their failure to do so runs the risk that, if sexual harassment does occur, the employer will be found liable for negligence in preventing sexual harassment.

Massachusetts. All employers in Massachusetts are required to promote "a workplace free of harassment." Accordingly, employers are encouraged to provide sexual harassment prevention training to all new employees within one year of the beginning of their employment. Employers are further encouraged to provide additional training to supervisory employees in order to instruct them on how to respond to complaints of sexual harassment.[20]

Rhode Island. Rhode Island employers are required to promote a work environment free from harassment. In this regard, employers are encouraged to provide sexual harassment prevention training to all new employees within one year of their hiring date. Moreover, if an employee is promoted to a supervisory position, employers are further encouraged to provide additional sexual harassment prevention training within one year of the date of promotion.[21]

Vermont. Here, employers are required to ensure a workplace free of harassment and, hence, are encouraged to provide sexual harassment prevention training to all new employees, as well as all newly promoted supervisors, within one year of their date of hire or promotion.[22]

Several states require that sexual harassment prevention training be provided to public employees. For example, Illinois, Tennessee, Texas, and Utah all require that state employees receive sexual harassment prevention training.[23] Florida further limits the public employees who are required to receive sexual harassment prevention training to employees in the executive branch.[24] Moreover, in Oklahoma, only state personnel responsible for investigating allegations of sexual harassment are required to receive such training.[25]

Thus, California is not alone in its effort to formalize sexual harassment prevention in the workplace. While California ranks among the leaders in anti-harassment legislation, there are a number of states in the nation that require some level of sexual harassment prevention training from employers within their jurisdictions. Furthermore, even where states do not mandate sexual harassment prevention training per se, many of them require that employers take reasonable efforts to prevent harassment and recommend that such prevention be accomplished through sexual harassment prevention training.

CONCLUSION

Sexual harassment is a problem for both employers and employees. Inappropriate workplace conduct lowers employee productivity and increases the costs of business for employers.

Educating employees about the problem of sexual harassment, and providing training to supervisory employees on how to respond to employee complaints of harassment, helps the workplace remain free from the consequences of unlawful behavior. Moreover, by establishing minimum requirements for sexual harassment prevention training, states like California provide employers with tangible examples of the standard against which courts will likely judge the reasonableness of an employer's efforts to prevent and correct harassment. This allows employers to protect the safety of their employees while at the same time minimizing liability for unlawful workplace harassment. In short, by legislating training and thereby creating an objective legal standard for compliance, harassment prevention training becomes not only a good idea, its implementation will likely have a tangible impact on the workplace.

States around the country recognize the benefits of sexual harassment prevention training and are, therefore, enacting proactive laws which require state agencies and/or private employers to provide such training to their employees. Employers should expect more states to recognize training as a proven method of effectively correcting and preventing inappropriate or offensive workplace conduct. Although federal law has not yet imposed any such requirements on the nation as a whole, prevention of sexual harassment through training focuses attention on the root of the problem and makes it less likely that the problem will go unrecognized. As such, it provides a model for future changes in federal and state laws. If the implementation of California's law results in a decrease in the number of charges of sexual harassment filed with the EEOC or California's Department of Fair Employment and Housing, then other states, or the federal government, are likely to consider implementation of similar measures.

The minimum training requirements of AB 1825 provide a baseline from which the courts, other lawmaking bodies, and social scientists can judge the effectiveness of sexual harassment prevention training on the prevention of harassment in the workplace. By creating minimum harassment prevention training requirements, interested entities will be better equipped to study how the different states' harassment prevention training laws have affected the volume of sexual harassment charges filed, as well as the outcome of those charges, and any ensuing litigation. Such studies will likely provide the statistics and dollar figures necessary to determine whether sexual harassment prevention training prevention lowers the costs to employers associated with sexual harassment claims, and benefits employers, employees, and all businesses in the form of a more efficient and professional work environment. Moreover, by comparing the effects of sexual harassment prevention training in various states with differing training requirements, we will gain a better understanding of the most effective methods for preventing harassment in the workplace. Armed with this knowledge, the state and federal governments will be able to implement or revise, as necessary, minimum standards for sexual harassment prevention training that are more effective at minimizing or preventing harassment altogether.

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NOTES

1. *See* EEOC Report on Sexual Harassment Statistics from 1992 – 2003 *(http://www.eeoc.gov/stats/harass.html).*
2. *See id.*
3. *See* California Assembly Bill 1825.
4. *See*, e.g., California Government Code Section 12940(k).
5. *See* Burlington Industries, Inc. v. Ellerth, 118 S. Ct. 2257 (1998), and Faragher v. City of Boca Raton, 118 S. Ct. 2275 (1998).
6. *See, e.g.,* Faragher v. City of Boca Raton, 524 U.S. 775, 803 (1998).
7. *See* California Government Code Section 12926(r).
8. *See* id.
9. *See* Connecticut Commission on Human Rights and Opportunities Letter Opinion, dated May 19, 2003.
10. *See* 42 U.S.C. Section 1981(a); California Government Code Section 3294(a).
11. *See* State Dept. of Health Services v. Sup. Ct. (McGinnis)(2003) 31 Cal. 4th 1026, 1043.
12. *See id.* at 1043-1044.
13. *See* California Government Code Section 12940(k). *See also, e.g.,* Massachusetts General Laws, Chap. 151B, Section 3A.
14. *See* California Government Code Section 12926(m), (q) and 12940(a)-(d)(regarding sexual orientation); 12626(9), (k), (l)(regarding mental or physical disability); 12626(h)(regarding medical condition); 12940(a)(regarding marital status); and California Labor Code Section 1171.5(regarding immigration status).
15. *See* Connecticut General Statutes Section 46a-54(15)(B).
16. *See* Connecticut General Statutes Section 46a-54(16)(A).
17. *See* Maine Revised Statutes Section807(3).
18. *See* L, N A2.
19. *See* Gaines v. Bellino (2002) 173 N.J. 301, 319.
20. *See* Massachusetts General Laws Chapter 151B, Section 3A.
21. *See* Rhode Island General Laws Chapter 118, Section 28-51-2(c).
22. Vermont Statutes Section 495h(f).
23. *See* Illinois Compiled Statutes Section 2-105(B)(5); Tennessee Code Section 4-3-1703; Texas Labor Code Section 21.010; and Utah Administrative Code Section 477-25-7.
24. *See* Florida Administrative Code Section 21.004.
25. *See* Oklahoma Statutes Section 840.21 and 10-3-20.

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