



# SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

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## LEGAL UPDATE

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**To: Superintendents, Member School Districts (K-12)**

**From: Carl D. Corbin, General Counsel** *CDC*

**Subject: SB 820 and SB 1343 – Sexual Harassment Prevention Legislation  
Memo No. 38-2018 - REVISED**

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The Governor signed two Senate Bills (“SB”) 820<sup>1</sup> and 1343<sup>2</sup> relating to sexual harassment issues.

### SB 820

Effective January 1, 2019, settlement agreements may not include a provision that prevents the disclosure of factual information related to a claim filed in a civil action or a complaint filed in any administrative action regarding any of the following four issues:

1. An act of sexual assault that is not governed by subdivision (a) of Section 1002 of the Code of Civil Procedure.
2. An act of sexual harassment, as defined in Section 51.9 of the Civil Code.
3. An act of workplace harassment or discrimination based on sex, or failure to prevent an act of workplace harassment or discrimination based on sex or an act of retaliation against a person for reporting harassment or discrimination based on sex, as described in subdivisions (h), (i), (j), and (k) of Section 12940 of the Government Code.
4. An act of harassment or discrimination based on sex, or an act of retaliation against a person for reporting harassment or discrimination based on sex, by the owner of a housing accommodation, as described in Section 12955 of the Government Code.<sup>3</sup>

Also, please recall that 5 CCR § 80303 requires a report be made to the California Commission on Teacher Credentialing (“CCTC”) within 30 calendar days following the final employment action for a certificated employee, which occurred as a result of an allegation of misconduct or while an allegation of misconduct is pending.<sup>4</sup>

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<sup>1</sup> Available at: [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB820](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB820).

<sup>2</sup> Available at: [http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180SB1343](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1343).

<sup>3</sup> Code of Civil Procedure § 1001.

<sup>4</sup> Please see generally: <https://www.ctc.ca.gov/educator-discipline/school-districts>.



## SB 1343

Since 2005, California law has required that all supervisors of public employers (such as K-12 school districts, county offices of education, and community college districts) regardless of the number of employees and all supervisors of private employers with 50 or more employees receive at least two hours of interactive training regarding sexual harassment prevention within the first six months of the supervisor assuming the position. This requirement also applies to a K-12 district board member as the board is ultimately responsible for the hiring and termination of employees.

Effective January 1, 2020, all supervisors of public employers and all supervisors of private employers with five or more employees must receive at least two hours of interactive training regarding sexual harassment prevention within the first six months of the supervisor assuming the position and every two years thereafter.<sup>5</sup>

Also effective January 1, 2020, all nonsupervisory staff of public employers and all nonsupervisory staff of private employers with five or more employees must receive at least one hour of interactive training regarding sexual harassment prevention within the first six months of their assumption of a position and every two years thereafter.

Effective January 1, 2020, for seasonal and temporary employees, or any employee that is hired to work for less than six months, an employer shall provide training within 30 calendar days after the hire date or within 100 hours worked, whichever occurs first.<sup>6</sup>

While districts can continue to use other methods to complete the training (such as an “in-person” workshop or via online training), the Department of Fair Employment and Housing (“DFEH”) will be required to offer two online training courses on the prevention of sexual harassment in the workplace with the course for nonsupervisory employees being one hour in length and the course for supervisory employees being two hours in length.<sup>7</sup>

Please contact our office with questions regarding this Legal Update or any other legal matter.

*The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.*

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<sup>5</sup> Government Code § 12950.1(a).

<sup>6</sup> Government Code § 12950.1(h)(1).

<sup>7</sup> Government Code § 12950.1(k).