

SB 396 The Transgender Work Opportunity Act—California

ENSURING COMPLIANCE

In **October 2017**, California Governor Jerry Brown signed SB 396, the Transgender Work Opportunity Act, the **nation's first statewide policy** requiring training to address disparities in the transgender and gender non-conforming community regarding discrimination and high unemployment rates. Thus, SB 396 makes California the first state in the nation to require **training** regarding gender identity, gender expression, and sexual orientation.

A **national survey** conducted by The National Center for Transgender Equality revealed that the transgender unemployment rate is three times higher than the national average. More than three-quarters of transgender employees are negatively impacted by mistreatment in the workplace, while over one quarter of transgender individuals who held or applied for a job in the last year reported being fired, not hired, or denied a promotion due to their gender identity.

California took significant steps to support transgender and gender non-conforming workers by enacting SB 396.

REQUIREMENTS

In order for California companies to remain compliant with this **new regulation**, they must do the following:

- Employers with 50 or more must include gender identity, gender expression, and sexual orientation in their already mandated two-hour training regarding sexual harassment
- The mandated training meet the following requirements:
 - Training must be given to employees in supervisory roles within six months of the assumption of their position and repeated once every two years
 - Training must include practical examples of harassment based on gender identity, gender expression, and sexual orientation
 - Training must be presented by trainers or educators with knowledge and expertise in those areas

REQUIREMENTS CONT...

- Effective January 1st, 2018, Employers must display the **poster** developed by the Department of Fair Employment and Housing regarding transgender civil rights in a prominent and accessible location in the workplace.

The bill also adds transgender and gender non-conforming individuals to the Unemployment Insurance Code's list of "individuals with employment barriers." Expanding the list creates more workplace development opportunities for the transgender and gender non-conforming community under the California Workforce Innovation and Opportunity Act—an act that includes provisions for services and programs for individuals facing employment barriers.

IMPORTANT CONTEXT AND RECOMMENDATIONS

It is both important and necessary to include gender identity, gender expression, and sexual orientation categories as a part of sexual harassment training. Older, non-inclusive iterations of sexual harassment trainings are not effective in addressing LGBTQ issues. Furthermore, without training or a proper understanding of these topics, employers may not be inclusive in efforts to hire and promote LGBTQ individuals.

According to California **Senator Ricardo Lara**, who introduced SB 396 and serves as the vice-chair of the California Legislative LGBT Caucus, "Education is the first step toward inclusion, and the Transgender Work Opportunity Act will help California businesses to open their doors to these valuable workers. I applaud our business trailblazers who are showing the way to hire transgender workers."

Companies should take great care in selecting a training platform for these issues. Trainers should possess expert knowledge on LGBTQ topics to ensure the issues are addressed with the care that they deserve.

The Transgender Work Opportunity Act is the first of its kind in the nation and a powerful step forward in the fight for LGBTQ workplace inclusion, particularly for transgender and gender non-conforming individuals. This new policy can and should serve as a guiding model for other states to follow in their efforts to create better workplace opportunities for the LGBTQ community.

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