

Non-Discrimination Training: What In-House Counsel and HR Executives Need to Do Now

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Non-discrimination training is no longer simply a best practice; it is increasingly a legal imperative. Across the country, states, and municipalities are imposing affirmative obligations on employers to implement, document, and periodically refresh training programs to prevent workplace discrimination and harassment. For companies operating in multiple jurisdictions, the array of requirements presents both compliance complexity and potential litigation risk.

This advisory is directed to in-house legal counsel and human resources executives. Its purpose is straightforward: if your organization does not currently have a structured, recurring non-discrimination training program in place, you need one — and the time to act is now.

The Legal Landscape: A Jurisdiction-by-Jurisdiction Overview

The following summary reflects the current state of non-discrimination training requirements and formal recommendations across key jurisdictions. This is not an exhaustive survey, but it illustrates the breadth of regulatory attention employers face.

California

California imposes an affirmative duty on employers to take reasonable steps to prevent and promptly correct unlawful discrimination and harassment. While the statute does not establish a single universal periodic training mandate for all protected categories, it does require certain employers to provide regular sexual harassment training. Critically, California law also requires that any training program leading to employment be administered in a nondiscriminatory manner. Employers with California operations who are not already conducting regular, structured anti-discrimination training should treat this as a compliance gap requiring immediate correction.

New York City

The New York City Human Rights Commission recommends that employers implement antidiscrimination policies specifically addressing gender identity and expression and provide ongoing training for employees and agents. In the context of New York City's historically aggressive enforcement posture—including substantial administrative penalties and individual liability exposure—these recommendations carry significant practical weight. In-house counsel should treat the commission's guidance as a strong indicator of what regulators will scrutinize in the event of a complaint.

Philadelphia

The Philadelphia Fair Practices Ordinance guidance recommends that employers provide training to managers and employees before problems arise—particularly regarding gender identity and expression. This proactive framing is significant: Philadelphia regulators are signaling that reactive training (i.e., training only after a complaint is filed) is insufficient. Employers

with Philadelphia operations should build training into their standard onboarding and periodic compliance calendars.

San Francisco

San Francisco imposes some of the most explicit affirmative obligations. The San Francisco Human Rights Commission requires all agencies, businesses, organizations, city contractors, and city departments to clearly communicate the city's non-discrimination laws. It further recommends ongoing training for all management, employees, and volunteers on gender identity issues.

Washington

The Washington State Human Rights Commission recommends that employers educate all employees about non-discrimination policies, with particular attention to gender identity and expression. The commission further suggests that employers consider bringing in outside consultants to provide specialized training on gender identity sensitivity and awareness. For organizations with a significant Washington workforce, this consultant recommendation reflects regulatory awareness of the limits of generic training—and should prompt a review of whether your current training program is sufficiently tailored.

District of Columbia

The District of Columbia mandates compliance with non-discrimination laws and requires that employer programs contribute to the elimination of sex stereotyping and barriers to employment. While current guidance does not specify a universal periodic training interval for all employers, the District's substantive mandate is clear, and employers operating there should not interpret the absence of a specific training schedule as an option to forgo training altogether.

Why “Recommendations” Carry Real Legal Risk

In-house and outside legal counsel sometimes draw a sharp distinction between legal requirements and regulatory recommendations, treating the latter as aspirational and optionally advisable. In the employment discrimination context, that distinction can be misleading and potentially costly.

When a regulatory body with enforcement authority—such as the New York City Human Rights Commission, the Philadelphia Commission on Human Relations, or the San Francisco Human Rights Commission—issues guidance recommending employer training, that guidance typically reflects the standard against which the agency will measure employer conduct when adjudicating a complaint. An employer who ignored formal training guidance from an enforcement agency will face a significantly more difficult defense posture than one who followed it.

Beyond agency enforcement, you should consider the evidentiary implications in civil litigation. Plaintiffs' counsel regularly introduce evidence of an employer's failure to conduct training, or to conduct it adequately, as evidence of a discriminatory or hostile work environment. Courts have consistently recognized training programs as a component of an employer's affirmative defense in harassment cases. The absence of training, by contrast, can undermine an employer's ability to invoke the Faragher-Ellerth defense or its state-law equivalents.

A Practical Action Plan for Legal Counsel and HR

The following steps represent a baseline compliance framework for organizations operating in one or more of the jurisdictions addressed above. Legal counsel and HR executives should assess their current programs against each item.

Conduct a Jurisdictional Audit

Map your workforce to the specific jurisdictions where employees work or are supervised. For each jurisdiction, identify applicable statutes, ordinances, and agency guidance. Pay particular attention to gender identity and expression requirements, which appear consistently across the surveyed jurisdictions.

Establish a Training Calendar

Several jurisdictions emphasize ongoing or periodic training—not one-time programs. Build a recurring training schedule into your compliance calendar, with defined intervals for managers and employees. Tie training events to onboarding, annual

compliance cycles, and promotion into supervisory roles.

Differentiate Manager and Employee Training

Management-level training should address investigation obligations, reporting duties, and liability implications that differ from general employee instruction. Several jurisdictions specifically call out training for managers and agents, ensure your program reflects this distinction.

Address Gender Identity and Expression Explicitly

Every jurisdiction reviewed here specifically references gender identity and expression as a training focus. Ensure your curriculum addresses these protected categories with specificity, not merely as a line item in a broader protected-class list.

Consider Specialized Consultants

Washington State's recommendation that employers engage outside consultants for gender identity training is worth noting for employers in any jurisdiction. Where internal training capacity is limited, or where a workforce has complex dynamics, outside expertise can improve both the quality and the credibility of your training program.

Document

Training records should be maintained systematically. Document attendance, training content, delivery dates, and any acknowledgment forms signed by participants. In the event of an administrative complaint or civil litigation, contemporaneous documentation of a robust training program is among the most valuable evidence an employer can produce.

The Bottom Line

Non-discrimination training requirements are not static, and the regulatory trend is clearly toward more specificity, more frequency, and more accountability—not less. Employers who treat training as a one-time orientation task, or who have allowed their programs to go stale, are accumulating legal exposure that is relatively inexpensive to address proactively and potentially very costly to address reactively.

In-house counsel should elevate this issue with HR leadership and, where appropriate, the executive team. A well-designed, regularly delivered, and carefully documented training program is one of the most straightforward investments a company can make in its employment law compliance infrastructure—and one of the most defensible positions it can establish when regulatory or litigation exposure materializes. Employers should consult qualified employment counsel to evaluate compliance obligations applicable to their specific circumstances and jurisdictions.