Sexual Harassment Prevention Training Not 'Optional'

By Holly Culhane, Contributing Columnist

California's sexual harassment training law has been on the books for nearly a decade. That's what makes recent high-profile sexual harassment cases involving two of California's largest cities so perplexing.

But the real shocker came this week when the newly elected mayor of Los Angeles, Eric Garcetti, announced with great fanfare that as a result of the lawsuits, he was going to start making all his city's supervisors obey the law – as if, compliance had been "optional" in the past.

Let's be clear. California legislators passed a law (AB 1825) in 2004 and it went into effect in 2005 that requires companies and government agencies with 50 or more employees to provide two hours of meaningful sexual harassment prevention training to supervisors every two years. Newly promoted or hired supervisors are required to receive the training within the first six months of their employment.

It's not some "optional" suggestion. It is a mandate, with companies required to document supervisors' attendance at training sessions. Companies also can be audited by the state Fair Employment and Housing Commission to assure compliance. Companies have until Dec. 31 to complete their 2013 obligation to train supervisors.

In recent days, Los Angeles City Hall has been rocked by two harassment lawsuits – one filed by a city councilman's former field deputy, who alleges she witnessed inappropriate behavior and sexual remarks in the councilman's office; and the other by another councilman's former top aide, who contends keeping her job was "explicitly conditioned" on her providing sexual favors. The married councilman counters that the pair had a consensual affair. Both accused councilmen deny wrongdoing.

Earlier this year, in San Diego, numerous women stepped forward to accuse that city's new mayor of sexually harassing them. Eventually, the mayor was forced to resign and has pleaded guilty to a felony charge of false imprisonment and two misdemeanor charges of battery. Civil lawsuits are pending.

Strangely, as the San Diego scandal unfolded, the mayor, through his attorney, attempted to stick taxpayers with his legal defense bills. The mayor claimed the city shared some of the blame because it did not provide him with state-mandated sexual harassment training within the first six months of him taking office. The City Council rejected the mayor's demand and city staff countered that the mayor's office repeatedly cancelled appointments for training.

These recent cases in Los Angeles and San Diego should serve as "wake up calls" to all employers – public and private – that steps must be taken to prevent sexual harassment in the workplace. Adopting and enforcing clear, zero-tolerance policies is a first step. Training supervisors to recognize and address incidents of sexual harassment is another necessary step.

While the mere act of providing training does not protect companies, public agencies and supervisors from being accused of sexual harassment, the failure to train supervisors can make a defense difficult.

A company's human resources department or a private consultant can help establish a zero-tolerance policy and training program. Attorneys also should be consulted to ensure the policies and training comply with frequently changing state and federal law.

This article written by Holly Culhane first appeared online and in The Bakersfield Californian on Tuesday, October 28, 2013. Holly Culhane is president of the Bakersfield-based human resources consulting firm P.A.S. Associates. She can be contacted through her website www.pasassociates.com and through the PAS Facebook page or by phone at 631-2165.