



## Guidance on Location Selection in Ethena

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**NOTE:** The contents of this PDF are for informational purposes only and are not and should not be construed as legal advice of any kind.

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As companies increasingly move towards remote or hybrid work models where team members work from home or from some location other than an employer's headquarters, the question arises: which state's harassment training is a team member required to take? To save you some time, here's what you need to know: *if a team member provides services, whether in-person or remotely, in one state to an employer in another state, either state's training guidelines and requirements arguably apply, although typically the state where the employee "works" has priority.*<sup>1</sup>

The good news: Ethena's training is designed to meet the requirements of all states, even California, which has more rigorous requirements and for which Ethena has developed a California-compliant training. Outside California, even if an employer isn't quite sure which state's laws will apply to a particular team member, the training will not differ significantly and will satisfy that state's requirements. For California, guidance from the state's FAQs says that team members "located outside of California" do not need to be trained to CA standards, indicating that CA training should be made available to employees living or working in CA, regardless of company headquarters location (see note below).

Less stressed now? Great, that's the goal.

Now for the nitty gritty details of how we arrived at this conclusion. Taking into account the applicability of various employment laws, there are typically three possibilities to consider when determining which state you should assign team members to in Ethena:

1. Where the team member works
2. Where the team member lives
3. Where the employer is located

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<sup>1</sup> Note that in terms of employee claims, the rule of thumb in many employment situations is that the state that is most beneficial to or most protective of the team member will govern.



Unless the applicable law has a specific definition, there's typically not a straightforward answer, and often the answer involves some combination of each possibility.<sup>2</sup> This seems to be the case for harassment prevention training as well, as the language used by states with mandated training is open to interpretation:

- NY: New York has published [NY FAQs](#) that state that only team members who work in NY need to be trained. But note that the FAQ adds that if a team member is based outside NY but works a portion of time in NY, they must be trained.
- CT: Connecticut has published [CT FAQs](#) which require training of every team member "based in the state of Connecticut."
- CA: California also has published a [CA FAQs](#) which states that team members "located outside of California" do not need to be trained.
- IL: Illinois's [FAQs](#) state that employees who "work or will work" in Illinois must be trained, regardless of whether the employer is based in Illinois. In addition, Illinois recommends training of any employee who "regularly interacts" with employees in Illinois.

We are not aware of any state that has specifically addressed the issue of the "location" or "base" of remote workers in terms of whether a remote team member must receive the company HQ state's mandatory harassment training if they reside and work in a different state that does not require training. It seems reasonable, though, to assume that eventually this issue will be addressed and states may take the lead of the federal government that has defined a team member's workplace under the [FMLA](#) as the "office to which they report and from which assignments are made," even if such work is performed remotely. There may also be some guidance on the horizon in connection with a [lawsuit](#) pending between NH and MA as to whether MA has the right to collect taxes from NH team members working remotely for MA employers due to the pandemic.

If team members are located in states without specific training requirements, or outside the United States, we recommend they be trained as well, as it's the best thing to do for level-setting across the company and building an inclusive culture.<sup>3</sup> Of course, for team members outside the United States, there may be additional country-specific guidelines or requirements that may need to be considered.

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<sup>2</sup> Note that if an employer is using a PEO or any other sort of outsourced HR functions, it is rare that the location of that PEO will be relevant unless the PEO's acts are at issue.

<sup>3</sup> In addition, while avoidance of lawsuits may not be the primary goal of company-wide training, the absence of training in this day and age will not be viewed favorably if a complaint is filed.