

DEPARTMENT OF INDUSTRIAL RELATIONS

Office of the Director

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AB 547 Advisory Committee
DRAFT – MINUTES OF MEETING
Wednesday, September 14, 2022
Via Video/Audio Conference

In Attendance:**DIR:**

Sulma Guzman, *Legislative and Regulatory Affairs, Deputy*
Kumani Armstrong, *Special Counsel*
Zakiya Ali, *DLSE*
Patricia Salazar, *DLSE*

Sandra Henriquez, *VALOR*
David Hernandez, *Servicon Systems, Inc.*
Stacey Jue, *ABM Industries Inc.*
Veronica Lagunas, *Ya Basta*
Beth Malinowski, *SEIU California*
Maria Nieto, *Maintenance Cooperation Trust Fund*
Maricela Salinas, *Maintenance Cooperation Trust Fund*
Jessica Stender, *Equal Rights Advocates*
Alejandra Valles, *SEIU United Service Workers West*
Denise Velasco, *Maintenance Cooperation Trust Fund*
Laura Zwick, *ABM Industries Inc.*

Committee Members:

Yardenna Aaron, *Maintenance Cooperation Trust Fund*
Anabella Aguirre, *Ya Basta*
Alejandra Domenzain, *UC Berkeley - LOHP*
Andrew Gross Gaitan, *SEIU United Service Workers West*
Beatriz Guillen, *Maintenance Cooperation Trust Fund*
Rashida Harmon, *DFEH*

Interpreters:

David Myers, *DIR Interpreter*

I. Approval of Minutes

Motion: Approval of the minutes from the July 22, 2022 meeting

Vote: The committee members in attendance voted unanimously for approval of the minutes from the July 22, 2022 meeting.

II. Recap from July 22, 2022 Meeting

- 1st proposal: Suspend until January 1, 2023, enforcement of Labor Code section 1429.5, subsections (a), (c), (d), (e), and (k)
- 2nd proposal: Suspend until January 1, 2024, enforcement of section 1429(a)(10)'s attestation requirement
- The committee members in attendance voted, and unanimously approved both proposals in the previous meeting.

III. Qualified Organization Process

- Implementation Plan (revised timeline)
 - Week of September 19, 2022 – LCO finalizes application, or the Qualified Organization Assessment Form (QOAF)
 - September 27, 2022 – LCO posts announcement of QOAF and uploads QOAF to website
 - October 31, 2022 – Application and supporting documentation deadline
 - November 1, 2022 – November 15, 2022 – LCO reviews QOAFs
 - November 18, 2022 – LCO prepares list of applicants
 - November 21, 2022 – Send applicant list to JAC
 - December 5, 2022 (proposed date) – Schedule JAC meeting for QO recommendation
 - December 9, 2022 – LCO sends final list to DIR
 - December 30, 2022 – QO list to be approved and posted on the LCO website
- Questions/Comments:
 - Stacey Jue
 - Once the QO list is posted, will each organization be providing the scope of the services they can provide? For example, are they providing training services everyday as scheduled by employers? Or will they be hosting once/month or at different locations. For an employer with a large employee population that may need to be trained, all of whom may have different shift times, different location. Inquiring about the level of detail will be provided.
 - LCO response: When an organization is placed on the list, they have to meet all the requirements to be placed on the list in the first place. In terms of schedule/classes, the organization would be required to keep a log of that. This log would not be shared with the JAC unless LCO was investigating a complaint.
- QOAF (Application) and Supporting Documents
 - We are not going to make any final decision today about what documents to include or not include. The goal is to collect the JAC's input, take note of which documents will help inform LCO's decision as we move forward with the implementation plan and the timeline.
- QOAF (Application) and Supporting Documents – Qualified Organizations
 - A qualified organization shall be a nonprofit corporation as described in subsection (c) of Section 501 of the Internal Revenue Code of the United States (26 U.S.C. 501(c)). (Labor Code § 1429.5(f))
 - Suggested document: IRS determination letter, which is a specific letter that shows that the organization meets the 501(c) requirement
 - Have and maintain at least 30 qualified peer trainers who are available to provide training to nonsupervisor covered workers. (Labor Code § 1429.5(f)(1))
 - Suggested document: List of names of the 30 qualified peer trainers, with evidence that they completed 40 hours of the required training
 - Questions/Comments:
 - Andrew Gross Gaitan
 - In addition to the QO providing the IRS determination letter, that the training program is to do the same.
 - Regarding the list of peer trainers, a list of names is fine, but there is a longer list of documentation that whether those peer trainers has completed all the 40 hours of required training. This may be a separate conversation.

- Alejandra Valles
 - So on the list of the qualified peer trainers, one of the pieces that would be important would be where they work currently as janitors, employer name, and/or even worksite.
 - Part of the purpose of the peer-to-peer training was to have that expertise come from janitors themselves
- Have access to local and regional sexual violence-related trauma services and resources for local referrals documented through letters of acknowledgment from service providers. (Labor Code § 1429.5(f)(2))
 - Suggested document: VALOR maintains a listing of all such service provided in California on their website. Letter of acknowledgement from service provider.
- Questions/Comments:
 - Andrew Gross Gaitan
 - Letter of acknowledgement will need to be on letterhead from one of the organizations that is on VALOR's website.
 - Sandra Henriquez (VALOR) will be joining the meeting later, and would be the best person to explain why that website is sort of the authoritative listing in terms of organizations that are licensed/certified to deal with sexual assault and trauma. It is a list of the great crisis centers and domestic violence centers nationally, and there is a subsection of the list for California.
- Be committed to ongoing education and development as documented by a minimum of 10 hours of professional development each year for qualified organization staff and peer trainers in areas of research and strategies to prevent and respond to sexual assault and sexual harassment. (Labor Code § 1429.5(f)(3))
 - Suggested documents: Log with dates that would also include each topic covered in the training and an explanation of the need for the subject, the names of the trainers, subject matter experts with their titles and resumes, and any sign-in attendance sheets to show that the training for the 10 hours of professional development actually occurred.
- Questions/Comments:
 - Veronica Lagunas
 - Ensure there is some certification of completion of the training, and that the training was provided by an organization that is qualified.
 - Alejandra Valles
 - The certificate of completion of the 10 hours or the initial 40 hours needs to include the date when the peer-to-peer trainer completed that trainings. This helps with accountability as well.
 - Yardenna Aaron
 - We want to ensure that an organization doesn't create a training and then cram a peer-to-peer worker into it in order to qualify. There needs to be a track record and that this is not just some one-day training in order to qualify with the State to be able to deliver these types of services.
 - Andrew Gross Gaitan
 - We specified that these trainings would need to be from one of the service providers on VALOR's website because they are all certified by the State to provide sexual assault advocate training. I think the same standard needs to apply here for the 10 hours of professional

development.

- Just to be clear for the record, VALOR doesn't necessarily have any direct affiliation or interest in those individual organizations. VALOR is sort of an umbrella organization that lists autonomous providers.
- Have seven years of demonstrated experience working with employers to provide training to employees both on and off the worksite in the janitorial industry, including seven years demonstrated experience working with immigrant low-wage workers. (Labor Code § 1429.5(f)(4))
 - Suggested document: Sworn attestation that would list the employers and attest to the providing of the training to the employees both on and off the worksite in the janitorial industry, and that they do possess the 7 years of demonstrated experience working with immigrant low-wage workers. In support of this attestation, additional information could include any information on media coverage, grant funding, and data documentation of the training and the locations where the trainings were held.
- Written partnership agreement with the training partner (Labor Code § 1429.5(j))
 - Suggested document: Copy of the partnership agreement to support this requirement or to support the requirement that a QO is indeed working with a training partner
- Possible Documents for Peer Trainers
 - To be qualified as a peer trainer, a person shall have the training, knowledge, and experience necessary to train nonsupervisory covered workers and shall, at the minimum, have all of the following qualifications: (Labor Code § 1429.5(g))
 - At least a cumulative 40 hours of sexual assault advocate training in the following areas: (Labor Code § 1429.5(g)(1)(A)-(H))
 - Survivor-centered and trauma-informed principles and techniques.
 - The long-term effects of sexual trauma and the intersection of discrimination, oppression, and sexual violence.
 - The availability of local, state, and national resources for survivors of sexual violence.
 - Interactive teaching strategies that engage across multiple literacy levels.
 - Conducting discrimination, retaliation, and sexual harassment prevention training.
 - Responding to sexual harassment complaints or other discrimination complaints.
 - Employer responsibility to conduct investigations of sexual harassment complaints.
 - Advising covered workers regarding discrimination, retaliation, and sexual harassment prevention.
 - Suggested documents: Evidence of having completed the sexual assault advocate training (40 hours) from one of the California service providers (about 84 agencies listed on VALOR's website) of who have sexual assault advocate trainings that are certified by the State
 - Questions/Comments:
 - Andrew Gross Gaitan
 - The training is developed in partnership with one of those service providers as opposed to the service providers having to deliver the training themselves. The off-the-shelf service provider trainings from the great crisis entities are there to cover the important content that's about

being a hospital advocate or a police department advocate for someone who's experienced a rape or sexual assault. It's essential for understanding the sexual assault and survivor-centered and trauma-informed principles of working with someone in the moment who is reporting a sexual assault. What it doesn't do on its own is that it is not designed to address the question of doing a workplace training as a peer trainer. Not tailored for people doing peer training in the janitorial industry.

- What has been the practice far is to have people who are trainers get the sexual assault training, but also to get the training on how to operate as a peer in the classroom setting, delivering a two-hour class to a group of workers in this industry.
- (D) Interactive teaching strategies that engage across multiple literacy levels, (E) Conducting discrimination, retaliation, and sexual harassment prevention training, and (G) Employer responsibility to conduct investigations of sexual harassment complaints are not in the off-the-shelf trainings.
- To be able to do this, it has to be in partnership with the agencies that are certified on the sexual assault and advocacy aspects.
- There needs to be a portion that is delivered by the training partner. This is how you do workplace education within this industry as a peer.
- The evidence of completion needs to be in partnership with those service providers as opposed to strictly delivered by the service providers.
- Alejandra Valles
 - Veronica and Anabella are already sexual assault advocate certified and rape crisis certified. The goal for the peer-to-peer trainer and the qualified organization was always to have an industry-specific focus and expertise that does not exist anywhere in the country. What does exist is other advocates that do their work differently, not in the peer-to-peer classroom setting in the janitorial industry. The trainers from Ya Basta have been training the peer-to-peer trainers. The trainings are not for reporting purposes. The qualified organization's job was never to become the rape crisis hotline and to get into a different field that was supposed to be peer-to-peer janitorial specific.
- Veronica Lagunas
 - As a janitor, I can train another janitor to provide this training. We aren't necessarily from human resources, but we are the experts on this topic because we are janitors and are certified.
- Anabella Aguirre
 - We are certified and already giving this training to others. This is so that they can fulfill their hours required by law.
- Alejandra Domenzain
 - The 10 hours is meant to be more of a refresher every year. It might be helpful to broaden how the 10-hour requirement can be achieved. It does not necessarily have to be one of the service providers listed on VALOR's website.
- Suggested document: Evidence that there has been completion of a training. This is for the 10-hour requirement separately by an organization. It could be someone that is not listed on VALOR's website.

- Questions/Comments:
 - Sandra Henriquez
 - About the “in partnership” amendment, what would that look like? The spirit of the legislation is really to have the janitors deliver the trainings.
 - Alejandra Valles
 - The purpose of the qualified organization is to provide the 40-hour training. Ya Basta has already been providing that training. We can keep that expertise within that qualified organization that support the peer-to-peer trainers.
 - People need the lived experience brought into the 40-hour training.
- The qualified organizations that meet all the statutory requirements. Need to discuss and approve so it’s ready to be posted by January 1, 2023
- List of agencies on VALOR’s website – Agencies that are state-certified that could be in support of several of these requirements such as a document showing that the training has been provided in partnership with the qualified organization and an agency listed on VALOR’s website.
- Have two years of nonsupervisory work experience in the janitorial or property service industry. (Labor Code § 1429.5(g)(2))
 - Suggested documents: pay stubs, letter of recommendation from the employer or union
- Questions/comments:
 - Andrew Gross Gaitan
 - W-2 from an employer listed on the janitorial registry
 - For USWW members, something from the union or evidence of paying dues over a two-year period
 - David Hernandez
 - An employment verification that they can get from their employer that shows their date of employment with them
- Be culturally competent and fluent in the language or languages that the relevant covered workers understand. (Labor Code § 1429.5(g)(3))
 - Suggested documents: Some proof that demonstrates that the trainer is native or has native-like fluency in the language that the covered workers understand
- Questions/comments:
 - Alejandra Domenzain
 - There could be an assessment for the language of the 40-hour training. The assessment could be part of the 40-hour training that shows they passed.
 - Yardenna Aaron
 - What if the peer-to-peer trainers are monolingual? Not all of those, especially folks who work on the non-violent side, are bilingual. There is a lot of value, even for those who may be monolingual.
 - LCO response: There is no expansion in the statute as to what it means to be fluent in the language or languages the relevant workers understand. So as long as it’s a language or languages, bilingual or monolingual, that the relevant worker understands, it should be sufficient.
 - Alejandra Valles
 - The qualified organization could send someone who is monolingual provided the relevant workers understand that language

- David Hernandez
 - We just need to be sure that we know that we can put it all together in the right way. We need to match the right trainer, who speaks the same language as the trainees. Beyond that, it doesn't matter if they speak one language or 7 languages. We just need to make sure the trainer and the trainees understand one another.
- Sandra Henriquez
 - In our world, we do train peer trainers, who are monolingual. They are trained in Spanish, and they provide the service in Spanish. It works very well because bilingual people are often in high demand. With proper trainer, people are able to do it, even if they only speak one language. This would meet the culturally competent and fluent aspect of this requirement.

IV. Discussion

- Peer trainers will train janitorial workers. What kind of training has this peer trainer received? On behalf of the peer trainer, should the qualified organization provide that the trainer has completed these 40 hours of sexual assault advocate training in the eight areas listed in the statute?
- Maintain at least 30 peer trainers with evidence of completion of the required hours. The person delivering the training, with or for the peer trainers, completed the training through one of the agencies listed on VALOR's website.
- What vision would you see for supporting documents for this 40-hour training and the 10-hour training for the professional development for qualified organizations for their staff and the peer trainers?
- The issue we are trying to cover is who trains the peer trainers? Certifying that the peer trainers have been through the 40 hours, the 10 hours, and those people training them have gone through the sexual assault training themselves. The peer trainer, who has been through the training on these eight points, they received their training from someone who has been through training from a sexual assault advocacy training at a rape crisis center. Would like to see documentation is from the person who provided the training.
 - The document would be an attendance list, probably a certificate that they received the training and accompanying evidence that the trainer received a certificate in sexual assault advocacy
 - Sample documents to be provided by SEIU United Service Workers West
- Delivery of the 10-hour staff development training would be people who have completed the state-certified trainings through the qualified organization. This group would determine what the ongoing education development training would entail. It can be a result of emerging trends, new laws that come into place that have an effect or just a need to better respond to sexual assault
 - Sample documents to be provided by SEIU United Service Workers West
- Are the trainers going to be able to respond when someone in the training returns to the trauma, perhaps crying and being very upset?
 - Trainers can respond, but they are not therapists. They can listen to them and direct them to other organizations where they can receive therapy and help
- Email AB547@dir.ca.gov for any additional comments/questions

V. Public Comment

- No public comments received