

AB 547 Janitorial Advisory Committee

January 27, 2023
9:30 a.m. to 11:30 a.m.



**State of California
Gavin Newsom
Governor**

Agenda

- I. Welcome and Call to Order**
- II. Approval of Meeting Minutes**
- III. Qualified Organization Assessment Form (QOAF)**
- IV. Janitorial Advisory Committee's Review of the QOAF and Supporting Documentation**
- V. Janitorial Advisory Committee's Role in the Recommendation Process**
- VI. Implementation Plan and Enforcement**
- VII. Public Comment (Limited to 3 minutes per person)**
- VIII. Adjournment**

I. Welcome and Call to Order

- Video/audio conference platform introduction
- Roll call
- Advisory Committee member introduction

II. Approval of Meeting Minutes

- December 15, 2022 Meeting

III. Qualified Organization Assessment Form (QOAF)

Request for Prescriptive Documents listed on the QOAF

- We cannot require specific documents as this is an “underground regulation”.
- Regulation: a regulation is defined in Government Code section 11342.600: Regulation means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.
- Underground Regulation: means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in Section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.
Title 1 CCR section 250

Request for Prescriptive Documents listed on the QOAF (cont'd)

- According to the Office of Administrative Law (OAL), if a state agency issues, utilizes, enforces, or attempts to enforce a rule without following the APA, which it is otherwise required to do so, then the rule is called an underground regulation. State agencies are prohibited by law from enforcing these underground regulations.

Feedback & Changes to the Application (QOAF)

- “TRAINING PARTNER”: Required documentation added to the QOAF
- Added “In addition, if you are a training partner, please provide documentation showing you are a nonprofit, worker center, or labor organization with at least two years of demonstrated experience in addressing workplace sexual abuse, immigrants’ rights advocacy, and worker rights advocacy.”
- Added: “Notice to all Qualified Organizations that all applications and supporting documentation received will be provided to the training advisory committee and published on the website in accordance with Bagley-Keene.”
- Appendix Discussion

IV. Janitorial Advisory Committee's Review of the QOAF and Supporting Documents

JAC's Review of QOAF and Supporting Documents

- **The Information Practices Act of 1977 (IPA)** is a California privacy statute that provides limits on the collection, management, and dissemination of personal information by public agencies. The IPA does not apply to applications submitted by 501(c) nonprofit organizations that seek "qualified organization" status, because the applications are not "records" containing "personal information" as defined in the IPA.
- **The Public Records Act (PRA)** does not require redaction of employee names or other information from the applications or application materials, unless disclosure of such information otherwise constitutes an unwarranted invasion of personal privacy. Whether the disclosure of any document constitutes an invasion of privacy will be made on a case-by-case basis.

JAC's Review of QOAF and Supporting Documents (cont'd)

- Prior to submitting any applications to the JAC, LCO/DIR will conduct a thorough review of the materials to ensure that there is no personal identifying information contained in the submission. If there is, we will redact it. In short, there may be privacy limitations to the information the Committee will receive.
- For purposes of transparency, and to alert nonprofit organizations, the LCO will provide a notice to all Qualified Organizations that all applications and supporting documentation received will be provided to the training advisory committee for review, and that applications will be published on the DIR website in accordance with Bagley-Keene.

V. Janitorial Advisory Committee's Role in the Recommendation Process

Janitorial Advisory Committee's Role in the Recommendation Process

- Can the JAC reject applications?
 - LC 1429.5 (f) states, "The training advisory committee shall recommend the qualified organizations to the director."
 - LC 1429.5 (h) states "The director shall maintain the list of qualified organizations. The list shall be updated by the director with assistance from the training advisory committee at least once every three years. The director may approve qualified organizations on an ongoing basis ..."
 - The statute states the Committee is able to recommend, but it is the Director who has the ultimate responsibility to approve an applicant and maintain the list. Any change to this position would require a legislative change.

Janitorial Advisory Committee's Role in the Recommendation Process (cont'd)

- LCO/DIR will provide the Committee a full opportunity to discuss a recommendation to approve or deny an applicant.
 - If the Committee has concerns regarding an applicant, the Committee will be provided a full opportunity to publicly discuss those concerns with DIR/LCO. The DIR/LCO have a strong history of working and collaborating with the stakeholders and we are committed to maintaining that collaboration.

VI. Implementation Plan and Enforcement (Deadlines)

Implementation Plan and Enforcement Deadlines

- February 1, 2023: LCO finalizes and posts the QOAF.
- February 1, 2023: update LCO website to announce the application process.
- February 1, 2023 through March 1, 2023: LCO accepts QOAFs and supporting documents for the first round of applicants.
- March 1-15, 2023: LCO review and redaction
- March 15, 2023, LCO prepares list of applicants.
- March 15, 2023, the list is sent to DIR; DIR sends the list, applications and redacted documents to the JAC.
- Schedule JAC recommendation meetings for Qualified Organization no later than April 15, 2023.
- The first set of QOs approved and posted on LCO website TBD.

Implementation Plan and Enforcement Deadlines (cont'd)

- May 1, 2023 through November 1, 2023: LCO accepts QOAFs and supporting documents on a rolling basis.
 - Additional Recommendation meetings scheduled as necessary.
 - 6-month Grace Period for enforcement (Begin enforcing November 1st).
- No Peer Trainers or QOs in County
 - Must employers use a Civil Rights Division (CRD) qualified trainer, conducting in-person training and using the LOHP materials?

VII. Public Comment

VIII. Adjournment

Thank you for participating!

Please email us at
AB547@dir.ca.gov **if you have**
any questions or comments.