

DEPARTMENT OF INDUSTRIAL RELATIONS

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AB 547 Advisory Committee
DRAFT – MINUTES OF MEETING
Thursday, October 15, 2020
 Via Video/Audio Conference

In Attendance:**DIR:**

Deanna Ping, *DIR Chief Deputy Director*
 Kumani Armstrong, *Special Counsel*

Committee Members:

Yardenna Aaron, *Maintenance Cooperation Trust Fund*
 Anabella Aguirre, *SEIU United Service Workers West*
 Rene Bayardo, *SEIU California*
 Chris Bouvier, *ABM Industries Inc.*
 Lucia Carrillo, *DMS Facility Services*
 Sandra Diaz, *SEIU United Service Workers West*
 Alejandra Domenzian, *UC Berkeley - LOHP*
 Dick Dotts, *DMS Facility Services*
 Anel Flores, *DLSE*
 Andrew Gaitan, *SEIU United Service Workers West*

David Gurley, *DLSE*
 Sandra Henriquez, *CaCASA*
 Elena Josway, *Maintenance Cooperation Trust Fund*
 Veronica Lagunas, *SEIU United Service Workers West*
 Michael Mahdesian, *Servicon Systems, Inc.*
 Janice Periolat, *SBM Management*
 Jennifer Reisch, *Equal Rights Advocates*
 Luis Sandoval, *Building Skills Partnership*
 Denise Solis, *SEIU United Service Workers West*
 Alejandra Valles, *SEIU United Service Workers West*

Interpreters:

Julie Young, *SEIU-USWW Interpreter*
 Ernesto Jiminez, *SEIU-USWW Interpreter*
 Aldo, *SEIU-USWW Interpreter*

I. Overview – Background

- AB 1978: Property Service Workers Protection Act
 - Required DLSE, by January 1, 2019, to establish a biennial in-person sexual harassment prevention training requirement for covered workers and employers
 - Effective July 15, 2020, promulgated regulations establishing the sexual harassment prevention requirement
 - Inclusion of minimum required content and qualifications for trainers
- AB 547: Janitorial Workers Sexual Violence and Harassment Prevention Training
 - Refines AB 1978 training requirements:
 - Requires DIR to convene a new training advisory committee to assist in compiling a list of qualified organizations that will provide the qualified peer trainers that employers will be required to use to provide training to nonsupervisors
 - Sets forth statutory criteria for qualified organizations and peer trainers
 - January 1, 2021 deadline for DIR to post the list of qualified organizations to its Internet website
- Requirements for qualified organizations
 - Must be a 501(c) nonprofit organization

- Have and maintain at least 30 qualified peer trainers
- Have access to local and regional sexual violence-related trauma services
- Be committed to ongoing education and development as documented by a minimum of 10 hours of professional development each year
- Have seven years of demonstrated work-site experience in the janitorial industry, including seven years working with immigrant low-wage workers
- A qualified organization may work with a training partner, which is described as 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
- Qualifications of a peer trainer
 - At least a cumulative 40 hours of sexual assault advocate training in the following areas:
 - 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.
 - Have two years of nonsupervisory work experience in the janitorial or property service industry
 - Be culturally competent and fluent in the language or languages that the relevant covered workers understand
 - No qualified peer trainer available in a specific country, or if none of the qualified trainers are available to meet an employer's training needs
 - Employer may use a trainer prescribed by the FEHA regulation/standards with respect to sexual harassment training to provide training to covered workers working in that specific county

II. Work Plan Discussion

- Stakeholders have reached out and expressed concern over placing vulnerable workers to increased risk of COVID-19 with in-person training
 - Discuss alternatives to meet the in-person training requirement
- Ya Basta Center – Founders Veronica Lagunas and Annabella Aguirre
 - Architects of bills AB 1978 and AB 547
 - Make a change in this industry to eradicate sexual assault and sexual harassment
 - Led through the work/voice of survivors and their knowledge in the janitorial industry and efforts to change the culture
 - Janitorial workers are on the front lines and many have lost their lives to COVID-19
 - COVID-19 has affected the janitorial industry
 - Fact: 20 members passed away from COVID-19
 - Looking for ways to protect janitorial workers in the workplace
 - As the economy improves, most people are still working at home or deciding to continue to work from home
 - Delay AB 547 to ensure we have a qualified organization, which will also give time for a vaccine as we move towards Phase 4 of reopening

- Work virtually until there is either a vaccine or when we reach Phase 4 reopening
- Peer-to-peer training – Delivered in-person and virtually
- Update the curriculum to include a virtual option – Ya Basta Center is offering to assist with updating the curriculum and to share with all the employers in the interim plan until AB 547 is implemented
- Ya Basta Center co-founders stated they are the most qualified to provide the peer-to-peer training
- Peer-to-peer training model creates a safe place where workers feel comfortable with sharing their experiences and/or traumas they've endured on the job
- With a virtual training environment, the silence cannot be broken and victims will remain victims
- Created models that are survivor-centered
- Summary of recommendations from Ya Basta and stakeholders:
 - Relax the mandate on in-person training
 - Delay mandate on a qualified organization peer model
 - Determine clear markers for when it is safe for workers to convene again
 - Create a safe space to avoid jeopardizing the livelihood of these workers
 - Updated training (given the situation created by COVID-19)
 - Main intent when the training was developed - survivor-centered curriculum modeled for in-person training
 - If the training is provided virtually, will the updated curriculum still reflect the need for this type of training model?
 - Develop a temporary training in the interim that meets the basic requirements
 - Preservation of some of the resources for the peer-to-peer training (when in-person training is resumed)
 - Since survivor stories and experiences are incorporated into the trainings, we want to make sure we are respectful of that
 - Items and questions to consider for the temporary training
 - Length, format (synchronous, interactive, lecture, check for understanding), content
 - How do we ensure this temporary training is meaningful and effective?
 - Suggestion to conduct a “Needs Assessment” to determine what types of resources (such as iPads, etc.) are available to employees for the training
 - If trainings are recorded, survivors are less likely to provide input
- Stakeholder group to look at details for updating temporary training that still captures the intent of the law
- In the non-union sectors of the industry, success was due to relationship-building from hired investigators from the industry – face-to-face relationships
- Determine if HR personnel should participate in the trainings
 - Is HR allowed to participate in the trainings, or should the training consist of trainer and employee only?
 - HR personnel attendance could be beneficial, but concerns were raised where workers may not feel comfortable to speak freely with their employer's HR representative present
 - A victim of rape commented that she reported the assault to HR multiple times and received retaliation
 - Having HR personnel present may not be the best idea

- AB 547 requires all employers, who employ more than 5 workers, to provide sexual harassment trainings to their workers. Labor code 1429.5(k) indicates that if qualified trainers providing peer trainers are not available, the default would be the training definition found in the Government Code 12950.1
 - Utilize the survivors' stories contained in the Labor Occupational Health Program (LOHP) training materials
 - Use of qualified peer trainers is inclusive, but not mandated under this law
- Suggestion from the committee to form subgroups - one for process, and one for training
 - Formations of subgroups must also adhere to the guidelines set forth in the Bagley-Keene Open Meeting Act

III. Public Comment

- Retired Deputy Labor Commissioner, who conducts sexual harassment, bullying and retaliation training for farm workers in the Central Valley is available to provide training. He has been approved by DLSE under the farm labor contractors for a two-hour supervisor training and one-hour non-supervisor training.

IV. Next Steps

- DIR to send a follow-up email for this meeting and determine next steps