

DEPARTMENT OF INDUSTRIAL RELATIONS

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SB 530 Advisory Committee
DRAFT – MINUTES OF MEETING
Monday, October 12, 2020
Via Video/Audio Conference

In Attendance:

Adam Romero, *Dept. of Fair Employment and Housing*
Alice Berliner, *Southern California Coalition of Occupational Safety and Health*
Anne Quick, *ABC – Northern California Chapter*
Brandon Butler, *Dept. of Fair Employment and Housing*
Deborah Gold, *Division of Occupational Safety and Health*
Diana Limon, *IBEW Electrical Training Institute*
Elizabeth Steelman, *Northern California Carpenters Regional Council*

Eric Rood, *Chief of Division of Apprenticeship Standards*
Kevin Kish, *Director of Dept. of Fair Employment and Housing*
Luong Chau, *Division of Labor Standards Enforcement*
Meg Vasey, *Tradeswomen, Inc.*
Nettie Dokes, *Women in Non-Traditional Employment Roles (WINTER)*
Theresa Bichsel, *Division of Labor Standards Enforcement*
Trevor Newquist, *Construction Employers Association*
Veronica Godinez, *Northern California Cement Masons JATC*

I. Discussion of Draft Charter

- Determine number of meetings to meet the January 1, 2021 deadline report to the legislature
- Details the purpose of the meeting and goals
- Recommendations for policies for on-site activities for the construction industry
- Not just about trainings, but about the recommendations for policies to improve worksite culture in the construction industry.

II. Work Plan Discussion

- DFEH - Background and Role
 - DFEH is the largest state civil rights agency in the country
 - Protect Californians from unlawful discrimination and harassment in employment, housing, public accommodations, state-funded programs and activities, and bias-motivated violence and human trafficking
 - Receives, investigates, conciliates, and prosecutes complaints of alleged violations of several civil rights statues in California.
 - Fair Employment and Housing Act (FEHA):
 - Prohibits employers of 5 or more employees from terminating/refusing to hire or promote, or otherwise discriminating against them based on their sex, gender, gender identity, gender expression, sexual orientation, and numerous other personal characteristics
 - Protects all employees regardless of the employer size, including unpaid interns, and independent contractors from harassment based on a protected characteristic

- Prohibits harassment against individuals in retaliation for filing a harassment charge
 - Me Too Movement
 - Exemplifies harassment based on sex and gender
 - Prevention – key tool to eliminating sexual harassment in the workplace
 - FEHA obligates employers of 5 or more employees to train their employees on sexual harassment training
 - Sexual Harassment Prevention Training (Government Code section 12950.1)
 - Deadline for training: January 1, 2021
 - Non-supervisory employees – 1 hour of training every 2 years, and within 6 months of hire
 - Supervisory employees – 2 hours of training every 2 years, and within 6 months of hire
 - Training requirement enforced by DFEH
 - Format (classroom or interactive, group or individual, segments allowed)
 - DFEH Free Online Trainings (Dfeh.ca.gov/shpt) – Language selection, type selection, and interactive modules available
 - Printable certificate of compliance upon completion to present to employers
- What is happening on-site?
 - Current training protocols are not touching the issue for a strong and positive workplace culture for diverse populations
 - Upcoming election has created some real divisions on job sites
 - Look at tools to empower the foreman, who is really the HR on-site
 - May not have the skills in place on what to do when a harassment complaint is filed
 - What should they do to improve and give tools to folks to make those situations better?
- What is the purpose of this committee?
 - Is the goal to change the work culture?
 - If this is the case, then it is more than just providing the trainings every 2 years
 - Apprentices will not talk to their HR/journeyman because that will be the person who will determine their advancement
 - Purpose:
 - Recommend minimum standards for harassment in determination for prevention policies and training for the construction industry
 - Develop tools for construction industry partners
 - Trying to create a workplace that is free from discrimination and harassment
 - Not just create a plan for employers to check boxes, but to change the culture
- What have other industries used to develop effective training, specifically the janitorial industry?
 - Focus groups with janitors and workers in the field
 - Determine what was happening on-site in order to develop effective training for them
 - Goal: ID the gaps
 - Make sure that recommendations is not just about the training, but also about changing the culture
- Customizing trainings for the construction industry

- Trainings are available, but the examples used in the trainings do not really illustrate what a construction site is really like
- People interact differently than most job sites
 - Male-dominated job sites are often very physical: interacting through horseplay
 - Uncomfortable (when someone doesn't like it or wants to put an end to it)
 - Dynamic of the job sites change when there are women
- When trainings are provided, it unintentionally makes women a target, and has the opposite effect of the intent
- Possibly reaching out to the larger general contractors for input
- Looking at something targeted with some chance of success rather than having something that looks good on paper but having no success at all
- Proactive vs. Reactive Approach
 - On-site accident – Look at root-cause analysis
 - Utilize this approach with sexual harassment on-site as we would with safety and productivity
 - Proactive approach: Is there a rise in women not showing up for work?
 - Reactive approach: Take action when there is a grievance or complaint
- How to Change the Culture
 - Have trainings where workers can learn about: How to file Cal OSHA complaints, wage and hour, harassment and discrimination complaints.
 - Communication across labor agencies to acknowledge types of intersectionality between those above listed issues.
 - Job and career can be at stake for person filing complaint
 - Training to start at top/leadership level
 - Support from unions and their message to their members
- Role of a Safety Coordinator on a Work Site and Point of Contact for Complaints
 - As a safety coordinator, you can't just stay silent if an issue is brought to your attention. You have to take action so it doesn't turn into something worse.
 - Who is safe to talk to? Foreman, etc?
 - What are tools we can have to change the worksite culture?
 - Where do people go to just ask questions? Safe places to express what is going on. A place to give them guidance.
- Key Points to Training – Delivery of the Training
 - Online training due to Covid-19 (face-to-face, whenever possible)
 - Experts to do the training. We train the trainers with our instructors to help address legal questions.
- Job of this Advisory Committee
 - Propose training standards
 - Propose Industry anti-harassment policy standard that could be used even if legislation takes no action to make them legal requirements, but could be used as models by companies in the construction industry.
- Lessons Learned from the Janitorial Industry Committee Trainings:
 - Mirrors existing regulations, which suspect have had no impact whether or not sexual harassment has occurred or not in the janitorial industry.
 - EEOC spent three years studying the types of training that worked overall. The research has shown:
 - It has to be tailored to the industry
 - It has to be brought in from the top

- There has to be a focus on what makes the workplace respectful for everyone
 - By-stander intervention training is very effective.
 - It doesn't work to focus on the law and legal liability
 - It doesn't work to ask people what sexual harassment is and isn't
- Suggestion to committee to ask the legislation to change the underlying requirements. For example, require that by-stander intervention training be part of a policy for construction industry standard.
- Talking about ill effects of harassment that cross lines.
- Relying on specifics in this industry, such as safety coordinators.
- Focusing on a policy that has an effective workplace reporting and investigation process
- Additional Resources Provided:
 - [FYI IMPACT](#), Ironworker Management Progressive Action Cooperative Trust
 - [Background on Ironworkers "Be That One Guy"](#)
 - [Rise Up 4 Equity](#), a diversity and inclusion training in the Construction Trades
 - [Green Dot for the trades program](#), a research-based, proven violence prevention program
 - [Sexual Harassment Prevention Taskforce](#), California Department of Fair Employment and Housing

III. Next Steps

- Report (could be just a progress report) to Legislature by 1/1/21
- Next meeting set for Monday, November 9th 3-5pm
- Finalize charter at next meeting
- Convene a smaller committee of contractors to ensure it is a good fit for policy
- Send an email to members on resources listed above to think about for next meeting.
- Eric to send what's next on proposed Cal plan

IV. Discussion for November 9th Meeting

- Best practice or trainings that have been successful at applying to the construction context
- Two tracks to consider. Divide into groups to work on each track. These would have to follow the Bagley Keene Act requirements if meeting outside of the designated meeting times unless we address these at our designated meetings.
 - Policy track
 - Best practices- training track
- Would like to see resources on what trainings look like from those who have experience specifically from the construction context.
- Who should be trainer? Expert or Foreman for authenticity?