

DEPARTMENT OF INDUSTRIAL RELATIONS

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AB 547 Advisory Committee
DRAFT – MINUTES OF MEETING
Tuesday, December 17, 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*
Valerie Clark, *SBM Management*
Sandra Diaz, *SEIU United Service Workers West*
Alejandra Domenzian, *UC Berkeley - LOHP*
Tricia Donnell, *ABM Industries Inc. (on behalf of Chris Bouvier)*
Dick Dotts, *DMS Facility Services*

Anel Flores, *DLSE*
Andrew Gaitan, *SEIU United Service Workers West*
David Gurley, *DLSE*
Sandra Henriquez, *CalCASA*
Veronica Lagunas, *SEIU United Service Workers West*
Janice Periolat, *SBM Management*
Jennifer Reisch, *Equal Rights Advocates*
Denise Velasco, *Maintenance Cooperation Trust Fund*

Interpreters:
Frank Barcelo, *DIR Interpreter*

I. Approval of Minutes

Motion: Approval of the minutes from the October 15, 2020 meeting

Vote: The committee members in attendance voted unanimously for approval of the minutes from the October 15, 2020 meeting.

Motion: Approval of the minutes from the November 10, 2020 meeting

Vote: The committee members in attendance voted unanimously for approval of the minutes from the November 10, 2020 meeting.

II. Discussion of Draft Proposal

- Overview: SEIU drafted proposal on behalf of all the stakeholders
 - Reviewed with one overriding goal – keep workers safe from the pandemic and provide training to keep all workers safe from sexual assault
 - DIR made slight modifications to SEIU’s draft proposal, which furthers the legislative intent of AB 547 by requiring DFEH’s sexual harassment training to all janitorial workers no matter the size of the employer

- Original proposal asked the Labor Commissioner to suspend enforcement of the Labor Code training requirements until January 1, 2022. Instead, require covered employers to comply with DFEH trainings for employers with 5 or more employees.
- Training would be provided by the online training made available through DFEH on their website
- In lieu of posting the LOHP's training on DLSE's website, Labor Commissioner would post guidance on the temporary substitution of the DFEH's training requirements
- Two minor amendments made by DIR and DLSE:
 - Requires employers with fewer than 5 employees to utilize DFEH's online materials to train their workers
 - Recommend to this committee keeping up on the website the LOHP training – could be beneficial and can also serve as a resource
- COVID-19 Proposal
 - Suspend enforcement of the Labor Code section 1429.5, subsections (a), (c), (d), (e), and (k) until January 1, 2022
 - Compliance with requirements of Government Code section 12950.1:
 - Provide the online trainings made available through DFEH's website (one hour for non-supervisory employees, and two hours for supervisors)
 - Even with a stay of enforcement until January 1, 2022, should state and local authorities conclude that the pandemic no longer poses a threat to in-person training, this committee can meet to implement AB 547 as soon as it is safe for workers, and that could be before January 1, 2022.
 - Labor Code section 1429.5:
 - Subsection (a): In-person sexual violence and harassment prevention training, qualifications for trainers for nonsupervisors
 - Stay of enforcement – Will not require peer-to-peer trainers from a qualified organization
 - Subsection (c): List of qualified organizations to provide employers with qualified peer trainers for nonsupervisors
 - Stay of enforcement – DIR will not be listing qualified organizations as required under this Labor Code until this committee meets again and collectively decides that it is safe for in-person training
 - Subsection (d): LOHP training requirement
 - Stay of enforcement – DIR will not require employers to use the LOHP training because this training was meant to be conducted in person. Training will not be used until this committee meets again and collectively decides that is safe for in-person training.
 - Subsection (e): Compliance certification requirements for use of qualified organizations
 - Stay of enforcement – DIR will not require employers to use a qualified organization or require employers and qualified organizations to comply with the documentation requirements under the Labor Code and reporting regulations
 - Subsection (k): Alternatives when no qualified peer trainers available
 - Stay of enforcement – Since there will be no list of qualified organizations during this interim period, the alternatives are also moot.
 - DFEH online training is the only training required during this pandemic

- DLSE will post guidance on the temporary substitution of Government Code section 12950.1 training requirements and DFEH's online materials
 - Will instruct employers of this proposal and of the expectation for all janitorial employers to use the DFEH training
- Suspend until January 1, 2023, enforcement of both section 1429(a)(10) attestation requirements:
 - January 1, 2021 – new applications for registration and renewal of registration must attest they are in compliance with the training
 - January 1, 2022 – attestation requirement to demonstrate completion of the in-person training, including whether training was provided by a peer trainer and, if not, why not.
- Advisory Committee to reconvene in 2021 to continue development of the list of qualified organizations and reassess conditions with the pandemic that may impact future implementation and enforcement.
- DLSE will post the materials for the DFEH training in the interim. Question raised by the committee in regards to whether or not the LOHP training will remain posted during this interim period.
 - DIR in the process of confirming if a link to the DFEH website can be posted on the DIR website
 - DIR recommends the LOHP training remain posted for informational purposes, but it will not satisfy the DFEH requirements
- Committee voiced concerns that simultaneous posting of both the DFEH training and the LOHP trainings may cause confusion among the employers in terms of which one to use
- Concerns raised by the committee regarding the LOHP training. Curriculum was designed for in-person use, and the committee requested to remove the LOHP training until it is the mandated training.
 - DIR to discuss internally and will relay this concern to the Labor Commissioner. DIR to email the committee members through the AB547 email address.
- DIR to provide outreach to the public and employers that reinforces the intention and spirit of the law pertaining to both AB 1978 and AB 547. Also, encourage employers to lay groundwork with building a relationship with peer trainers.

III. Next Steps

- AB 547 Advisory Committee to reconvene in the middle of 2021 to develop/set-up a list of qualified training providers for when in-person training resumes.
- DIR will recirculate the new proposal to members and allow for questions or comments to be submitted via email.