

DEPARTMENT OF INDUSTRIAL RELATIONS

**Office of the Director**

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**AB 547 Advisory Committee**  
**DRAFT – MINUTES OF MEETING**  
**Friday, July 22, 2022**  
Via Video/Audio Conference

**In Attendance:****DIR:**

Deanna Ping, *DIR Chief Deputy Director*  
Sulma Guzman, *Legislative and Regulatory Affairs,*  
*Deputy*  
Kumani Armstrong, *Special Counsel*  
Zakiya Ali, *DLSE*  
Dave Gurley, *DLSE*  
Patricia Salazar, *DLSE*

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

**Committee Members:**

Yardena Aaron, *Maintenance Cooperation Trust Fund*  
Anabella Aguirre, *Ya Basta*  
Chris Bouvier, *ABM Industries Inc. (via Zoom)*  
Sandra Diaz, *SEIU United Service Workers West*  
Alejandra Domenzain, *UC Berkeley - LOHP*  
Rashida Harmon, *DFEH*  
Andrew Gross Gaitan, *SEIU United Service Workers*  
*West*

**Interpreters:**

David Myers, *DIR Interpreter*

**I. Approval of Minutes**

Motion: Approval of the minutes from the June 29, 2022 meeting

Vote: The committee members in attendance voted unanimously for approval of the minutes from the June 29, 2022 meeting.

**II. Stay of Enforcement**

- Recap from last meeting:
  - Discussion of timeline
  - Implementation plan
  - Stay of enforcement
  - Application
  - List of qualified organizations

- Committee voted to have the list ready by October 1, 2022
- Roadmap for the rest of today's meeting
  - Revisit/review the extension on the stay of enforcement to January 1, 2023
  - Will have committee vote again with the new implementation timeline/dates
  - Janitorial Advisory Committee (JAC) to assist with compiling the Qualified Organizations (QO) list
  - LCO requesting the JAC for assistance with the application process; what documents filed in support of the application are needed
  - Revisit Conflict of Interest – when a member who is also a QO, and how it impacts the recommendation and implementation process
- Proposal to Extend In-Person Training with Online Training as Required under the FEHA
  - Suspend until January 1, 2023, enforcement of Labor Code section 1429.5, subsections (a), (c), (d), (e), and (k)
    - Subsection (a): In-person sexual violence and harassment prevention training, qualifications for trainers for nonsupervisors
    - Subsection (c): List of qualified organizations to provide employers with qualified peer trainers for nonsupervisors
    - Subsection (d): LOHP training requirement
    - Subsection (e): Compliance certification requirements for use of qualified organizations
    - Subsection (k): Alternatives when no qualified peer trainers available
  - LCO already posted guidance on the temporary substitution of the Section 12950.1 training requirements and DFEH's online materials
  - Suspend until January 1, 2024, enforcement of section 1429(a)(10)'s attestation requirement
  - Reconvene JAC during 2022 to continue development of the list of QOs
- Questions/Comments:
  - Andrew Gross Gaitan – During the period where the proposal states to suspend enforcement of section 1429.5, who is enforcing the requirement of the DFEH training requirement?
    - LCO response: Enforced by DFEH
  - Andrew Gross Gaitan – In order to renew registration, employers would have to give evidence or proof to DIR that they are providing the training.
    - LCO response: Employers will need to advise on their application that they have completed sexual harassment training. The question on the application asks whether their workers were trained in sexual harassment prevention.

Motion: Proposal to extend the stay of enforcement to January 1, 2023, and suspend until January 1, 2024, enforcement of section 1429(a)(10)'s attestation requirement.

Vote: The committee members in attendance voted unanimously for approval of the proposal.

### III. Qualified Organization Process

- Implementation Plan
  - Week of July 25, 2022 – LCO finalizes application, or the Qualified Organization Assessment Form (QOAF)
  - August 5, 2022 – LCO posts announcement of QOAF and uploads QOAF to website
  - September 30, 2022 – Application and supporting documentation deadline

- September 30, 2022 – October 30, 2022 – LCO reviews QOAFs
- October 31, 2022 – LCO prepares list of applicants
- November 1, 2022 – Send applicant list to JAC
- December 1, 2022 (proposed date) – Schedule JAC meeting for QO recommendation
- December 21, 2022 – LCO sends final list to DIR
- December 30, 2022 – QO list to be approved and posted on the LCO website
- Conflict of Interest
  - The QO process allows the committee to recommend to the LCO QOs to the list. A recommendation should be a show of support or non-support. Predictable that a committee member could also be a qualified organization applicant, and would be put in a position to advance his/her own interest. QO chosen by the committee will obtain a vested financial interest in the form of fees, training, and other non-financial interests when becoming a QO. Is there an inherent conflict with an applicant supporting himself or herself or rejecting another? We must keep this process fair for everyone.
  - JAC member/QO applicants can influence the process in a way where a non-JAC member cannot. Should a JAC member, who is also a QO applicant, have a voice to influence this process? Is this fair?
  - Questions/Comments:
    - Sandra Henriquez – In other state committees, participation in the conversation was allowed, but not in the vote. Experts are going to see things that an outside party may not. That input/insight is important.
    - Sandra Diaz – Experts from different areas such as employers, unions, workers, lawyers, have been involved in this process, not just the topic, but the delivery of the goals and visions to change the culture. They need to have a parallel understanding of this.
      - LCO response: We will look to other state agencies to see how this situation was handled in the past. Unsure about how we will be moving forward on this topic until LCO confers with the Labor Commissioner.
    - Sandra Diaz – Voices of the workers count and should be included in the voting process.
    - Sandra Henriquez – California Office of Emergency Service has a state advisory committee on sexual assault and a similar committee on domestic violence, where experts weigh in on standards and job funding, but refrain from voting.
    - Alejandra Valles – Agree with sentiment on having the workers’ voices and experiences included the discussion would be valuable. Excluding themselves from the voting process gives the power to those that don’t have this conflict of interest.
- QOAF (application) and Supporting Documents – Qualified Organizations
  - Sandra Diaz – Question re training partners and required documents for them
  - A qualified organization shall be a nonprofit corporation (501(c)) – Applicant can provide IRS tax document to show/confirm 501(c) status.
  - Question/Comment:
    - Andrew Gross Gaitan – There is a specific IRS tax document for when someone applies for 501(c) status. A list of the recommended documents was distributed to the committee, but may have missed some folks. Recommend to incorporate this list into the conversation.
      - DIR response (*Kumani Armstrong*): Under the mandate of Bagley-Keene, any type of cross conversation among committee members. Discussions to only happen in the public setting, and not on the side.

- Have and maintain at least 30 qualified peer trainers who are available to provide training to nonsupervisory covered workers
- Question/Comment:
  - Andrew Gross Gaitan – Evidence of completion of 40 hours of training. A separate list of questions about documentation which has criteria for what/who is qualified
  - Yardenia Aaron – More details on what “peer” means. Peer can take on many meanings in the advocate industry.
    - LCO response: Will go over the specific peer trainer requirements. Don’t believe there is a specific definition in Labor Code section 1429.5 that specifically states how a peer trainer is defined. There are requirements that will make someone a peer trainer.
- Have access to local and regional sexual violence-related trauma services and resources for local referrals documented through letters of acknowledgement from service providers
- Questions/Comments:
  - Sandra Henriquez – Has samples to share.
  - Andrew Gross Gaitan – Not only the letters, but who are those other providers? Not just self-determination. The law maintains a list of all the services online.
    - Response from Sandra Henriquez: There is a whole state-wide safety net that provides services to victims of sexual assault. This list is on our website.
- Be committed to ongoing education and development as documented by a min 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
- Questions/Comments:
  - Sandra Henriquez – Can provide sample documents.
  - Andrew Gross Gaitan – Let’s say there is a training log that shows the dates of the training, topics covered, the instructor and signatures of attendance. These instructors need their credentials and curriculum.
- Have 7 years of demonstrated experience working with employers to provide training to employees both on and off the worksite in the janitorial industry, including 7 years demonstrated experience working with immigrant low-wage workers
- Questions/Comments:
  - Andrew Gross Gaitan – Sworn attestations to outline/document the areas of experience with employers providing training to employees on and off the worksite
  - Sandra Diaz – Best way to enforce some sort of agreement or contract between the trainers and employers
  - Andrew Gross Gaitan – Many of the trainings have been done through a service contract. There may be a fund that employers contribute to to pay for the trainings.
  - Sandra Henriquez – Along with the attestation that Andrew Gross Gaitan suggested, we may request a resume, a history of 7 years and reference than can be verified.
  - Yardenia Aaron – Request a letter of recommendation from an employer, and from someone who has been trained. Also, the number of employers the trainer has worked with.

- Chris Bouvier – While respecting the requirements, we need make it “easy.” If there are other organization that want to train and if they can meet the minimum qualifications within reason, they should be allowed to do training. It is not necessary to get so absolutely granule in terms of specifying what these people have to provide in order to get qualified. We should consider something holistic, where there is a fair determination made. We need to create an opportunity for interested organizations up and down the state to potentially get involved, instead of just reinforcing that there could only be one qualified organization.
- Sandra Diaz – The spirit of the law was to have a worker-centered and survivor-centered training to change culture. How to we find concrete ways to make it enforceable?
- David Hernandez – If I was looking for a training organization I would consider their reputation and what type of training they have done for this type of group. The more we raise the bar, the more we depress some of what are going to be able to leverage. We need to find a fair balance in what is required of these training organizations so the trainings are available through the state.
- Andrew Gross Gaitan – There can be many factors to take into consideration when conducting training such as various language, capabilities, logistics, etc.
- Alejandra Valles – The intent of peer-to-peer training under AB 547 was to preserve the worker-centered janitor expertise by having janitors be the ones to develop these trainings because of the trust and their experience of how sexual violence lives in the building.
  - Written partnership agreement with the training partner
- QOAF (application) and Supporting Documents – 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:
    - Minimum of 40 cumulative hours of sexual assault advocate training in the following areas:
      - Survivor-centered and trauma-informed principles and techniques
      - Long-term effects of sexual trauma and the intersection of discrimination, oppression, and sexual violence
      - 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 2 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

- Questions/Comments:
  - Andrew Gross Gaitan – There is a list of all sexual assault advocate trainings that are certified in California online.
  - Sandra Henriquez – VALOR has complete in-depth training and certified by the State. Opposed to the idea of the attestation because sometimes people are well intended when they attest to something, but does not necessarily speak to the level of expertise to meet the criteria. We need to make sure people are qualified.
  - Veronica Lagunas – Goal is to have the experts who are janitors and establish them as teachers. Goal is to have this qualify training. It may appear that there are too many requirements, but necessary to change the culture.
  - Andrew Gross Gaitan – Two years of supervisory experience and to be fluent in the language of the participants.
  - Veronica Lagunas – This training is based on the janitorial industry. I'd like to see something speaking specifically to the experience we've had.
  - Yardenna Aaron – It is more powerful and have had more success when hearing from people that have experience such harassment in the work place.
  - Sandra Henriquez – The 40-hour training requires a lot of foundation. We need more time.

#### **IV. Next Steps**

- LCO/DIR to meet internally to discuss next steps
- Email [AB547@dir.ca.gov](mailto:AB547@dir.ca.gov) for any additional comments/questions
- All of the discussion must happen in the public setting
- Committee suggestion to have a full-day meeting in order to have adequate time for discussion instead of running out of time for each meeting