

DEPARTMENT OF INDUSTRIAL RELATIONS

Office of the Director

1515 Clay Street, Ste 2208, CA 94612

Telephone: 510-286-7100

[AB 547 Email Address: AB547@dir.ca.gov](mailto:AB547@dir.ca.gov)[Director's Office Website: https://www.dir.ca.gov/directors_office.html](https://www.dir.ca.gov/directors_office.html)

AB 547 Advisory Committee
DRAFT – MINUTES OF MEETING
Thursday, April 27, 2023
 Via Video/Audio Conference

In Attendance:

<p><u>DIR:</u> Deanna Ping, <i>DIR Chief Deputy Director</i> Sulma Guzman, <i>Legislative and Regulatory Affairs, Deputy</i> Kumani Armstrong, <i>Special Counsel</i> Zakiya Ali, <i>DLSE</i> Dave Gurley, <i>DLSE</i> Melinda Davis, <i>DLSE</i></p> <p><u>Committee Members:</u> Anabella Aguirre, <i>Ya Basta</i> Chris Bouvier, <i>ABM Industries Inc.</i> Lucia Carillo, <i>DMS Facility Services</i> Alejandra Domenzain, <i>UC Berkeley – LOHP</i> Dick Dotts, <i>DMS Facility Services</i> Andrew Gross Gaitan, <i>SEIU United Service Workers West</i></p>	<p><i>Beatriz Guillen, Maintenance Cooperation Trust Fund</i> <i>Mariel Block, Civil Rights Department</i> <i>Sandra Henriquez, VALOR</i> <i>David Hernandez, Servicon Systems, Inc.</i> <i>Stacey Jue, ABM Industries Inc.</i> <i>Veronica Lagunas, Ya Basta</i> <i>Beth Malinowski, SEIU California</i> <i>Maria Nieto, Maintenance Cooperation Trust Fund</i> <i>Tony Ruiz, SEIU United Service Workers West</i> <i>Maricela Salinas, Maintenance Cooperation Trust Fund</i> <i>Luis Sandoval, Building Skills Partnership</i> <i>Denise Velasco, Maintenance Cooperation Trust Fund</i> <i>Laura Zwick, ABM Industries Inc.</i></p> <p><u>Interpreters:</u> David Myers, <i>DIR Interpreter</i></p>
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I. Approval of Minutes

- **Motion:** Approval of the minutes from the January 27, 2023 meeting
- **Vote:** Dick Dotts motioned to approve the minutes from the January 27, 2023 meeting. Andrew Gross Gaitan seconded.

II. Implementation Plan Timeline

- Assuming the AC approves the application and appendix today, the LCO will be ready in a couple weeks to post the application and appendix.
- May 12, 2023: LCO finalizes and posts the QOAF and Appendix.
- May 12, 2023: update LCO website to announce the application process.
- May 12th through June 23rd: LCO accepts QOAFs and supporting documents for the first round of applicants.
- July 7, 2023: LCO review and redaction.
- July 7, 2023: LCO prepares list of applicants.

- July 7, 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 August 7, 2023.
- The first set of QOs approved and posted on LCO website *TBD*.
- June 23rd to Dec 23rd: LCO accepts QOAFs and supporting documents on a rolling basis.
- Applications received after December 23rd will be considered at a future meeting *TBD*.
- Additional recommendation meetings scheduled as necessary.
- Questions/comments
 - Appendix provides a pretty thorough guide
 - Suggestion to replace odd dates on the timeline (7th, 23rd)
 - For the first open period for enrolling, extend it through the end of June
 - What has been the training requirements up to this point? What would change once we launch this?
 - There will be a clean slate.
 - No credit to the employers who trained under DFEH because those trainings are not interchangeable (content and delivery)
 - DFEH trainings do not meet these statutory requirements
 - Once launched, employers required to comply with the new training
 - Enforcement? When will enforcement start?
 - LCO will not start enforcing until 6 months later.
 - For example, if the QO list is posted on 6/1, LCO will start compliance until 12/1
 - What if there are only 1 or 2 QOs on the list, and those QOs do not cover the breadth of CA? What would employers need to do if there are no trainers in those areas?
 - Employer may use a trainer as prescribed by DFEH
 - So employers will have to start over, and the DFEH training doesn't count even with all the costs incurred so far by the employers?
 - Look at the legislation intent – employers were already required to provide sexual harassment training before this bill was launched. Going back to the statute, it seems that the intent of the legislation was that whatever training was conducted prior to 1/1/2021, employers were still required to find a QO and start complying after 1/1/2021.
 - In round 1 of the applications, if the applicant is approved to cover 10 counties, what happens if they can cover 10 more? What is the process for this?
 - Make update on the website
 - Make the change without convening
 - What if none of the QOs are available due to scheduling? Or if no QOs are available?
 - What would determine someone being available? Need to discuss.
 - Proposal to move the initial application period to June 1 – July 31. Then the second rolling period from August 1 – December 31. Review process would be the month of August, and the QOs approved and posted on September.
 - We were looking at having the committee meeting no later than August 7. By pushing it and extending the first application period, the committee period would probably happen sometime in mid- to late-September.
 - Committee member suggested to post the QO list on October 1 instead.

III. Appendix

- Inserted text box at the top – let applicants know that the applications/appendix materials will be published with some redaction
- Appendix will have hyperlinks for the different labor code statutes and links where applicants can click on the appendix and then go directly to the section of the application that speaks to that part of the appendix.
- Organized by requirements:
 - Qualified Organization Document (Section I)
 - A qualified organization shall be a nonprofit corporation as described in subsection (c) of Section 501 of the Internal Revenue Code of the United States (26 U.S.C. 501(c)).
 - Supporting document (Appendix Section I. A.)
 - IRS determination letter confirming that the organization is the 501(c) non-profit corporation. Letter includes EIN.
 - Documents for QOs and/or Training Partners (Section II)
 - Have and maintain at least 30 qualified peer trainers who are available to provide training to nonsupervisor covered workers.
 - Supporting documents (Appendix Section II. A)
 - List of names of 30 qualified peer trainers
 - Have access to local and regional sexual violence-related trauma services and resources for local referrals documented through letters of acknowledgment from service providers.
 - Supporting documents (Appendix Section II. B)
 - Operational Agreement or contractual agreement that include the names of the organizations, the scope of services to be provided by each agency, geographic area of where the services will be provided, duration of the agreement, and the signatures of designated representatives from each agency or organization.
 - A documented letter of acknowledgement from a service provider, which includes the letter on letterhead of the service provider, name of the service provider, name of the QO, terms of the referral with a couple bullet points that explain the services that the service provide will offer, terms of referral agreement that QO will committee to, signature of both parties, dates of acknowledgement (1-2 years).
 - That the applicant be committed to ongoing education and development. Documented by a minimum of 10 hours of professional development each year for staff and peer trainers.
 - Supporting documents (Appendix Section II. C)
 - Excel spreadsheets, training logs, sign in /out sheet, continuing education track sheet or some way to monitor and confirm that the QO staff and their peer trainers have received this yearly 10 hours
 - They have to demonstrate 7 years of demonstrated experience and working with employers to provide training to employees with on and off the work side in the janitorial industry working with immigrant low wage workers
 - Supporting documents (Appendix Section II. D)
 - Include any type of grants that an organization might have received from different entities to be able to provide the training

- over the 7 year scope.
 - The parties to the contract, the services provided and where they were provided
 - A description of who received the training
 - The dates of the training
 - Recommendation to edit wording in section II.D.1.d.: ...service contracts from private foundations, public foundations, labor-management trust funds, ...Government entities can have labor management fund or Taft Hartley funds. (Employers pay money into a Taft Hartley fund, which may fund the education for janitors)
 - Recommendation to further edit section II.D.1.d.: ...government entity that awards grants or service contracts
 - Recommendation to further edit section II.D.1.d.i: a copy of the grant or service contract
- Documents for a training partner (Section III)
 - Definition of a training partner – “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.”
 - Required document: a written partnership agreement (Labor Code section 1429.5(j)). A sample written partnership agreement may include:
 - Supporting documents (Appendix Section III. B.)
 - A written partnership agreement is required by statute. This could be a Memorandum of Understanding between the qualified organization and the training partner
 - Recommendation to move III.B. and III.C. up to be listed under section III.A., as these are part of defining the qualifications of a qualified training partner.
- Documents for Peer Trainers (Section IV)
 - No questions or edits on Sections IV.A. and IV.B.
 - Be culturally competent and fluent in the language or languages that the relevant covered workers understand.
 - Recommendation to edit Section IV.C.1.g.: change “that the person” to “that the *peer trainer*”

IV. Discussion

- Timeline reviewed [see [Implementation Plan Timeline](#)]
 - June 1st: Documentation posted, applications for “QOAFs” open up.
 - July 31st: Application period closes.
 - August 18th: Deadline for LCO and DIR to review the list, redact stuff if necessary, and pass along to the “JAC”
 - September 30th: Deadline for JAC meeting, giving the committee five to six weeks to review the applications. The details of the recommendation meetings have not yet been finalized.
- Motion: Approve the stated timeline.
- Vote: All members present voted to approve the stated timeline.

- Question – Is this an internal document? What would the recommendation look like for employers on what they should be doing now and at what point there should be a change in their operations?
 - Response – everything discussed earlier, including clean slate issue, six month grace period for enforcement and the specific timelines, and employer requirements if there are no QOs to meet their needs in a particular county, it would be beneficial to all stakeholders that this be posted so that this is clear to all.
 - Clarification of response – A clearer, timeline would be posted without the internal elements included, with a note that the list will be posted sometime in early Spring, rather than specific dates.
- Question: What does “compliance,” “clean slate,” “grace period,” etc. mean?
 - Response: Want to communicate what is needed, but also underscore that these measures are temporary and that there is still an existing requirement under DFEH
 - The committee will need to vote to continue the DFEH training requirement so that there is no gap until the QO list is posted. A vote would be needed so that the DFEH training requirement is in effect until October 2023.
 - DIR will think about the wording, continue with the timeline as it stands and the application posting, and discuss further the notification process and what the communication will say about what compliance looks like.