

TITLE 8. INDUSTRIAL RELATIONS
DIVISION 1. DEPARTMENT OF INDUSTRIAL RELATIONS
CHAPTER 6. DIVISION OF LABOR STANDARDS ENFORCEMENT

ADDING SUBCHAPTER 13: JANITORIAL REGISTRATION AND TRAINING

ADOPTING SECTIONS 13820 THROUGH 13822, INCLUSIVE, REGULATING SEXUAL
VIOLENCE AND HARASSMENT PREVENTION TRAINING FOR
PROPERTY SERVICE WORKERS

Article 6. Sexual Violence and Harassment Prevention Training for
Property Service Workers

The proposed changes to the text of the regulations are indicated by bold underlined text to identify additions (e.g., **added language**) and bold strikeout to identify deletions (e.g., ~~**deleted language**~~) made upon the original proposed text.

§ 13820. Definitions

For purposes of this Subchapter:

(a) “Covered worker” as defined in Labor Code section 1420(a) includes full time, part time, and temporary janitorial workers.

(b) “Employer” has the same meaning as in Labor Code section 1420(e).

(c) “Training” means in-person, interactive instruction, provided to ~~a janitorial employee or supervisor~~ **nonsupervisory covered workers and supervisors of nonsupervisory covered workers** by a trainer. Audio, video, webinar and e-learning training methods may be used as supplemental tools in conjunction with in-person instruction but cannot solely fulfill the requirements of this subchapter. Interactive instruction shall include questions that assess learning, skill-building activities that assess the ~~employee's~~ **trainee's** application and understanding of content learned, and hypothetical scenarios about sexual violence and harassment, each with one or more discussion questions.

Examples of in-person interactive instruction include pre- or post-training quizzes or tests, small group discussion questions, discussion questions that accompany hypothetical fact scenarios, use of brief scenarios discussed in small groups or by the entire group, or any other learning activity geared towards ensuring interactive participation as well as the ability to apply what is learned to the ~~employee's~~ **trainee's** work environment.

(d) “Supervisor” has the same meaning as in Labor Code section 1420(g).

(e) “Trainers” **for purposes of providing training to supervisors of nonsupervisory covered workers** ~~under this section~~ has the same meaning as individuals who are qualified to provide training under Government Code section 12950.1 and regulations implementing section 12950.1.

(f) “Trainers” for purposes of providing training to nonsupervisory covered workers means a qualified peer trainer provided by a qualified organization listed on the website of the Department of Industrial Relations. Until such website list of qualified organizations is made available, “trainers” for purposes of providing training to nonsupervisory workers has the same meaning as “trainers” in subdivision (e). Additionally, as set forth in Labor Code section 1429.5(k), if there is no qualified peer trainer available a “trainer” for a nonsupervisory covered worker may also be a trainer as described in subdivision (e) of this section.

Note: Authority: Section 1422, Labor Code. Reference: Sections 1420, 1429 and 1429.5, Labor Code.

§ 13821. Standards Regarding Timing, Documentation, and Languages for Training

(a) Frequency of Training. An employer shall ~~provide~~ **ensure that** at least two hours of training ~~are provided to janitorial employees~~ **nonsupervisory covered workers** and their supervisors in identifying, preventing, and reporting sexual violence and harassment in the workplace, at least once every two years. New ~~nonsupervisory covered workers and supervisors of nonsupervisory covered workers~~ **janitorial employees and new supervisors** shall be trained within six (6) months of assuming ~~employment or~~ their ~~supervisory~~ position. **The burden of establishing that the training was provided as required shall be on the employer, including where the employer has ensured that the training was provided by another entity or janitorial employer.**

(1) For purposes of complying with the frequency requirement for training under this article, a “covered successor employer” that retains the same workforce as a predecessor employer for at least one hundred and twenty (120) days and maintains a supervisor’s or ~~employee’s~~ **nonsupervisory covered worker’s**: (A) original seniority date with the predecessor employer; and (B) wage rate equal to or greater than that provided by the predecessor employer, may use the retained supervisor’s or ~~employee’s~~ **nonsupervisory covered worker’s** last documented date of required training to determine the date when they must receive their next biennial training and must provide them a copy of the successor employer's sexual harassment policy and reporting procedures.

(b) Documentation of Training. To track compliance, an employer shall maintain a record of the training ~~it has~~ **that has been** provided as required under this section, including, but not limited to, the names of the ~~janitorial employees~~ **nonsupervisory covered workers** and supervisors trained, the date of training, ~~the a~~ sign-in sheet **containing the printed written name as well as the signature of each participant both at the commencement and at the completion of the training**, a copy of all certificates of attendance or completion issued, the type of training, a copy of all written or recorded materials that comprise the training, ~~and~~ the name of the training provider, **and a signed form (DLSE 800) which is hereby incorporated by reference certifying that the training was provided and that the qualified organization that provided a peer trainer to train nonsupervisory covered workers was paid in full for each**

participant. The employer shall maintain these records for a minimum of three years and shall make them available, upon request, to the Labor Commissioner.

(1) Upon a trainee's request, the employer must provide a copy of the training materials presented to the trainee and a copy of any certificate of attendance or completion issued to trainee.

(c) Duration of Training. The training required by this section does not need to be completed in two (2) consecutive hours. The minimum duration of a training segment shall be no less than one (1) hour.

(d) Training required by this section shall be provided in the language and literacy level understood by the **janitorial employee nonsupervisory covered worker** and supervisor.

Note: Authority: Section 1422, Labor Code. Reference: Sections 1429 and 1429.5, Labor Code.

§ 13822. Objectives and Content

(a) An employer shall **ensure that the content of the** ~~provide~~ training on the prevention of sexual violence and harassment for all **janitorial employees nonsupervisory covered workers** and their supervisors **is the training content developed by the Labor Occupational Health Program (LOHP) under the direction of the director of the Department of Industrial Relations, or as amended in the future by the director of the Department of Industrial Relations.** ~~which shall include, at a minimum, the content-based training requirements in Government Code section 12950.1 and regulations implementing section 12950.1.~~

(b) **The above-referenced training content will be available on the website of the Department of Industrial Relations, Division of Labor Standards Enforcement. The training content developed by LOHP under the direction of the director, or as amended in the future by the director, shall include, at a minimum, the content-based training requirements in Government Code section 12950.1 and regulations implementing section 12950.1.** In addition, ~~all the~~ training shall include identification of local, state, and national resources for victims of ~~unlawful~~ sexual violence and harassment, including **hotlines and helplines for survivors,** community-based resources such as rape crisis centers, counseling services and mental health supports, and **agencies or organizations** to whom they ~~should~~ **may** report ~~any alleged~~ sexual violence and harassment.

Note: Authority: Section 1422, Labor Code. Reference: Sections 1429 and 1429.5, Labor Code.