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Assistance  
Foundation  
(CRLAF)

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**By Email**

March 3, 2017

Hon. Steven Bradford, Chairman  
Labor and Industrial Relations Committee  
California State Senate  
Sacramento, CA. 95816

Re: SB 295—Support (Sponsor)

Dear Mr. Chairman:

We write as the sponsor of SB 295 (Monning), which calls for greater transparency in the sexual harassment prevention training required for farm workers by SB 1087 (Monning; 2014) and also addresses recent concerns about non-compliance by some farm labor contractors (FLCs).

**Background**

SB 1087 was a response to farm worker lawsuits and administrative claims that revealed shocking instances of sexual harassment, including rape, against undocumented farm worker women, that also drew significant media attention. (*See 'Rape in the Fields' (2013) NPR/Frontline/Center for Investigative Reporting.*)

SB 1087 attacked this widespread culture of sexual harassment of farm worker women through a combination of mandatory sexual harassment prevention training of FLCs and their supervisors, and by training of farm workers in how to prevent, identify and report sexual harassment.

**The Problem**

In late 2016, CRLAF, the sponsor of SB 1087, conducted several statewide conference calls with legal services providers to gauge whether there were significant problems with compliance with these requirements.

Among other things, lawyers and other advocates representing farm workers reported that: indigenous language speaking farm workers were not being trained in a language they understood; many farm workers were not being trained at all; others were being trained inadequately; many others received no record of their training (which SB 1087 required to be provided to them); some received falsified records of training which was never provided to them; and that some women were trained by employees of farm labor contractors who were known sexual predators.

To document the extent of these problems, dozens of interviews were conducted with farm workers in eleven rural counties in late 2016 and early 2017.

The interviewees were individuals or members of work crews totaling more than 1,200 farm workers. The results of the interviews showed that:

- Roughly 20% were not trained at all;
- Roughly 20% were trained for 20 minutes or less;
- More than 40% of those trained were not given a record of their training (which includes name of trainer, and date of training).

**Results of Sexual Harassment Training Interviews with Farm Workers**

	Wkr	Crew		How long	Record		<i>Of those Trained,</i>	<i>Of those Trained,</i>
County	Trained?	Trained?	# in Crew	Training?	Given?	# Not Trnd	# 20 mins or less	# No Record Given
Imperial #1	y	y	16	8 mins	N		16	16
Imperial #2	N	N	3	NONE	N	3		
Riverside #1	y	y	10	15 mins	N		10	10
Riverside #2	N	not sure	1	NONE	N	1		
Riverside #3	y	y	30	2 mins	y		30	
Riverside #4	N	not sure	1	NONE	N	1		
Riverside #5	y	y	50	15 mins	N		50	50
Riverside #6	y	y	55	30 mins	N			55
Riverside #7	y	y	20	20 mins	N		20	20
Riverside #8	y	y	not sure	20 mins	not sure			
Riverside #9	N	not sure	1	NONE	N			
Riverside #10	N	not sure	1	NONE	N			
Kern #1	y	y	40	60 mins	y			
Kern #2	N	N	12	NONE	N	12		
Kern #3	y	y	20	20 mins	N		20	20
Kern #4	y	y	40	30-60 mins	y			
Kern #5	y	y	5	30 mins-2x	y			
Kern #6	N	N	50	NONE	N	50		
Kern #7	y	y	25	30 mins	N			25
SDiego #1	y	y	7	und 30 mins	N			7
SDiego #2	y	y	20	10-15 mins	y		20	
Monterey #1	N	N	26	NONE	N	26		
Monterey #2	N	N	28	NONE	N	28		
Monterey #3	N	N	35	NONE	N	35		
San Joaquin #1	y	not sure	1	und 30 mins	y			
San Joaquin #2	N	N	30	NONE	N	30		
San Joaquin #3	N	N	40	NONE	N	40		
San Joaquin #4	N	N	1	NONE	N	1		
San Joaquin #5	y	y	300	60 mins	y			
Stanislaus #1	N	not sure	1	NONE	N	1		
Tulare #1	y	y	24	30 mins	N			24
Tulare #2	y	y	23	30 mins	N			23
Tulare #3	y	y	35	30 mins	y			
Tulare #4	N	not sure	1	NONE	N	1		
Tulare #5	N	not sure	1	NONE	N	1		
Fresno #1	y	y	50	20 mins	N		50	50
Fresno #2	y	y	15	20 mins	N		15	15
Merced #1	y	y	200	40 mins	N			200
Santa Barbara #1	N	N	5	NONE	N	5		
<b>TOTALS</b>			<b>1222</b>			<b>235</b>	<b>231</b>	<b>515</b>

### **Some Solutions**

- *Enforcement & Compliance*

The interview results raise important questions about whether the enforcement compliance model of SB 1087 is adequate since the only remedy for non-compliance available to the state Labor Commissioner is to take an adverse license action against an FLC (i.e., denial, suspension or revocation). To date, no adverse license actions have been taken against any FLC in California for failure to comply with SB 1087.

SB 295 proposes additional remedies for the Labor Commissioner when an inspection or investigation reveals non-compliance. Specifically, the bill gives the state Labor Commissioner the discretion to cite when she finds, for example:

- 1) no sexual harassment prevention training was provided at the time of hire;
- 2) inadequate training was provided that did not address all mandatory elements;
- 3) no record was given of training to farm workers; and
- 4) no copy of the DFEH sexual harassment prevention pamphlet was given to farm workers.

*All of the above are basic requirements of the statute, and the English and Spanish versions of workers' training records, and of the DFEH pamphlet, are available on-line.*

5) in addition, SB 295 allows the state Labor Commissioner to cite if she finds there has been falsification of training records given to farm workers; and

6) for a failure to train workers in a language they understand (which is a new requirement added by SB 295).

*This latter requirement is particularly important given the very large number of indigenous language speaking farm workers in California, who speak neither English nor Spanish. SB 295 requires training for them to be in a language they understand, or, for that training to be interpreted for them in that language.*

Finally, in recognition of the seriousness of these specific violations, if the Labor Commissioner cites, she may issue a civil citation of \$100 per employee for the above-listed violations, any of which may be appealed under the same procedures established for appeals from other Labor Commissioner-issued citations.

- *Transparency & Accountability in Sexual Harassment Training*

SB 295 also brings greater transparency to the sexual harassment training being given by FLCs in two ways.

First, by requiring FLCs to disclose annually to the Labor Commissioner the materials they're using to train workers in sexual harassment prevention. While it seems clear from the survey results that some FLCs appear to be allocating sufficient time to provide adequate training, no one really knows that since FLCs are not required to disclose to the Labor Commissioner the materials and resources they utilized.

Second, by requiring FLCs to report to the Labor Commissioner the total number of farm workers they have trained in the previous calendar year, and by requiring her to aggregate that number each year and publish a statewide total on her web site.

For all the foregoing reasons, we strongly support SB 295 and urge the Senate Labor and Industrial Relations Committee to vote "YES" on the measure when it comes before it. If you or your staff have questions about this bill, please contact me at [email@markschacht.com](mailto:email@markschacht.com) or 510-812-5399.

Sincerely,

Mark Schacht  
Deputy Director

cc: Senate Labor and Industrial Relations Committee Members  
Senator Monning