

City of Carmel-by-the-Sea

POST OFFICE BOX CC
CARMEL-BY-THE-SEA, CA 93921
(831) 620-2000

The Honorable Stephanie E. Hulsey
Judge, Superior Court of California
County of Monterey
240 Church Street
Salinas, CA 93901

August 5, 2020

Re: 2019-2020 Monterey County Civil Grand Jury Final Report – “Sexual Harassment Prevention #TrainingCompliance”

Judge Hulsey:

This letter is written in response to the Monterey Civil Grand Jury Final Report - “Sexual Harassment Prevention #TrainingCompliance.” As required by the report, dated June 24, 2020, this letter serves as my City’s response pursuant to Penal Code section 933 and 933.05. The responses contained in this correspondence were approved by the City of Carmel-by-the-Sea City Council at their regular meeting of August 4, 2020.

On behalf of the City of Carmel-by-the-Sea City Council, I would like to assure you that the City of Carmel-by-the-Sea is committed to providing a workplace and environment free of harassment and discrimination. Over the last several years, we have made sexual harassment prevention a priority for our organization, and the City does not tolerate harassment/abusive conduct in our workplace.

Our comments follow in the order that they were presented in the report. The actual report language is displayed in **bold** type for readability.

FINDINGS

Finding 1: A November 2018 classroom training by the United States Equal Employment Opportunity Commission was not in compliance with AB 1825 and 2 CCR § 11024: a) it was not undertaken within 24 months of the last training event for any of the attendees; b) insufficient time was allocated to the required subject matter, and c) written proof of attendance and/or course completion was not generated.

The City of Carmel-by-the-Sea partially disagrees with this Finding. On November 15, 2018, the United States Equal Employment Opportunity Commission (EEOC) provided training that **was in full compliance** with AB1825 and CCR § 11024. EEOC staff met with the California Department of Fair Employment and Housing (DFEH) executive director and a deputy director to discuss EEOC's Respectful Workplaces training to ensure compliance with AB 1825 and California standards in their PowerPoint presentation and materials. Although the EEOC training was not undertaken within the 24 months of the last training event (January 14, 2016), sufficient time was allocated to the required subject matter and written proof (sign-in sheet) is on file*. The City recognizes the course certificates were not generated for the November 15, 2018 training and has updated the City's training procedures to ensure certificates are generated in the future.

**The November 15, 2018 sign-in sheet was discovered after submitting documents to the Monterey County Grand Jury.*

Finding 2: A contributing factor to the city's failure to meet the two-year timeframe for sexual harassment/abusive conduct re-training was the absence of city staff with the responsibility to oversee employee training.

The City of Carmel by the Sea partially disagrees with this Finding. The Human Resources division had staff during this timeframe and although recognizes the importance and priority of sexual harassment / abusive conduct training, staff failed to complete the training by January 2018. A contributing factor to the delay of the training is in part to HR researching best practices that were identified in the EEOC's Harassment Prevention Report. The City training has changed from a 2-hour (lecture format) course to a 4-hour (interactive) course that focuses on effective tools and methodologies for middle-managers and first-line supervisors to prevent and stop harassment that goes above and beyond traditional anti-harassment training.

The City has added procedures that regardless of the absence of city staff that is responsible to oversee employee training, the City will monitor and continue to provide sexual harassment/abusive conduct re-training within the required timeframe.

Finding 3: The lack of attendance and completion for the November 2018 EEOC classroom training was due in part to the city's assumption that the trainer would be responsible for all such documentation, and in part to the EEOC's practice of not generating certificates.

The City of Carmel-by-the-Sea partially agrees with this Finding. At the time of the Monterey County grand jury request, staff was unable to locate the corresponding sign-in sheets. Staff has located the documentation and confirms that 21 out of 25 supervisors attended the EEOC in-person training (per the sign-in sheet), so there was not a lack of attendance. In addition, Human Resources Division staff has updated the procedures for all trainings and now routinely collects sign-in sheets while also generating certifications and/or work with consultant trainers to provide a certificate for each employee that attends the training session.

Finding 4: There were six people who the city either hired or promoted to supervisory positions at some point during the 2017/18 fiscal year, and who should have received AB 1825 training within six months of hire/promotion. The November 15, 2018 EEOC training could have afforded a timely compliance scenario only for those FY 17/18 employees that were hired/promoted during the six week period between May 16 and June 30, 2018. There were no other AB 1825 trainings of city employees during the period May 16, 2017 to November 15, 2018.

The City of Carmel-by-the Sea partially disagrees with this Finding. It appears the spreadsheet submitted did not clearly reflect that the six people identified actually separated from City employment in FY2017/18.

The City now requires, as part of the new hire onboarding process, that all new employees take the AB 1825 training on-line through TargetSolutions within 6 months of employment and attend the in-person AB 1825 sexual harassment/abusive conduct training upon scheduling. As such, the City believes in providing additional training when it comes to maintaining and building a professional and respectful organization.

RECOMMENDATIONS

Recommendation 1: By September 30, 2020, AB 1825 sexual harassment/abusive conduct training undertaken by and/or at the direction of the city of Carmel-by-the-Sea should follow the directives and protocols laid out in 2 CCR § 11024, including but not limited to the following areas: frequency, duration, and documentation of training; content of training; method of delivery of training; qualification of the trainer.

This Recommendation has been implemented by the City of Carmel-by-the-Sea. The Human Resources Division has updated and revised the training procedures and protocols to continue to meet the directives and protocols laid out in 2 CCR § 11024, including but not limited to the following areas: frequency, duration, and documentation of training; content of training; method of delivery of training; qualification of the trainer.

The City of Carmel-by-the-Sea is committed to harassment prevention and will continue to provide prevention trainings that are on-site, interactive and skills based versus lecture format. Most harassment prevention trainings focus on the legal concepts underlying harassment law. Instead, the City of Carmel-by-the-Sea has selected trainings that focus on the positive behaviors that may prevent conduct from rising to the level of illegal conduct.

Recommendation 2: By September 30, 2020, Carmel-by-the-Sea should always have a staff member whose responsibility includes oversight of AB 1825 sexual harassment/abusive conduct workforce training.

This recommendation has been implemented by the City of Carmel-by-the-Sea. As indicated above, the Senior Human Resource Analyst has updated and revised the training procedures and protocols to meet and exceed compliance. The City of Carmel-by-the-Sea staff started contact with the training consultant in January 2020 to schedule the sexual harassment/abusive conduct training citywide in October 2020. In addition, a copy of the Monterey County Civil Grand Jury recommendations has been provided to the trainer to ensure continued compliance.

Respectfully,



Dave Potter
Mayor



Chip Rerig
City Administrator