

Communication from Public

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July 22, 2026

TO: Interested Parties

FROM: Kurt R. Oneto

RE: Fast Food Industry Predictive Scheduling and “Know Your Rights”
Training (Council File 19-0229-S2): Threshold Legal and
Constitutional Issues

I write on behalf of Protect LA Restaurants (“PLR”), a coalition of restaurant operators and employers in the City of Los Angeles, regarding the workplace training framework for fast food workers proposed in the Chief Legislative Analyst’s April 22, 2026 report, *Fast Food Industry Predictive Scheduling and “Know Your Rights” Training* (the “CLA Report”).

As currently structured, the proposed training framework is vulnerable to legal challenge, impracticable to implement at the scale contemplated, and ultimately risks undermining the very objectives it seeks to advance.

This letter outlines those legal concerns and proposes a legally sustainable alternative modeled on California’s sexual harassment training framework.

I. The Proposed Framework Impermissibly Compels Employer-Funded Access to Employees by Third-Party Advocacy Organizations in Violation of Federal Labor Law and the First Amendment

The proposed framework violates federal labor law and the First Amendment.

At its core, the proposal contemplates compelling employers to fund and facilitate workplace training by third-party organizations that may include worker advocacy groups, rather than neutral training professionals; thereby, compelling employers to subsidize and provide third-party worker advocacy groups access to employees. Federal labor law does not permit government-mandated access of this nature merely because the activity is characterized as employee education rather than organizing.

A. National Labor Relations Act Preemption

Section 8(c) of the National Labor Relations Act (“NLRA”) reflects Congress’s intent to ensure a free and balanced exchange of views on unionization and labor relations. *See Linn v. United Plant Guard Workers*, 383 U.S. 53, 58 (1966) (recognizing that the NLRA protects “free debate on issues dividing labor and management”); *Healthcare Ass’n of N.Y. State, Inc., v. Pataki*, 471 F.3d 87, 100 (2d Cir. 2006).

Consistent with that principle, the Supreme Court has made clear that employers cannot be required to provide their facilities or employee time to support union advocacy or solicitation. *See, e.g., NLRB v. Steelworkers (NuTone)*, 357 U.S. 357, 363 (1958) (holding that an employer is not obligated to offer “the use of his facilities and the time of his employees for pro-union solicitation”); *Harris v. Quinn*, 573 U.S. 616, 647 (2014) (“compelled funding of the speech of other private speakers or groups’ presents the same dangers as compelled speech”). Any such outcome is preempted under the NLRA.

Further, under *Machinists* preemption principles, local governments may not regulate matters that Congress intended to leave to the free play of economic forces. *See Lodge 76, Int’l Ass’n of Machinists & Aerospace Workers v. Wis. Emp. Relations Comm’n*, 427 U.S. 132 (1976). The proposed framework has the potential to do precisely that by requiring employers to provide third-party worker advocacy groups paid access to employees—access that federal labor law does not require employers to provide. *See NuTone*, 357 U.S. at 363.

These concerns are further heightened where the proposed framework contemplates disclosure of employee names and contact information to third-party worker advocacy groups. Such provisions facilitate ongoing access to employees beyond the training itself and raise additional concerns regarding solicitation, organizing activity, and compelled employer support for labor-related advocacy, extending the proposal well beyond workplace training and into matters governed exclusively by federal labor law.

B. First Amendment Violations

The Supreme Court has likewise held that government may not compel private parties to fund, host, or disseminate third-party speech beyond neutral factual disclosures. *See, e.g., Janus v. AFSCME*, 585 U.S. 878, 892–94 (2018)

(compelled subsidization of third-party speech violates core First Amendment protections); *Nat'l Inst. of Family and Life Advocates v. Becerra*, 585 U.S. 755, 775 (2018) (government cannot require dissemination of non-neutral or controversial messages); *Harris v. Quinn*, 573 U.S. 616, 647 (2014) (compelled funding of private speech presents the same concerns as compelled speech itself).

Those concerns are reinforced by the recent decision in *California Chamber of Commerce v. Bonta*, in which the federal district court invalidated SB 399 (addressing “captive audience” meetings) because it conflicted with federal labor policy, interfered with employers' statutory and constitutional rights to communicate with employees regarding unionization, and required regulators to engage in impermissible scrutiny of employer speech to determine liability. 802 F. Supp. 3d 1227 (E.D. Cal. 2025).

The same constitutional defects are present here. By designating—or effectively restricting—the pool of approved trainers, particularly where those trainers include third-party labor advocacy groups, the proposed framework may require employers to fund, facilitate, and mandate attendance at third-party labor-related speech. The framework thus directly regulates how, when, and by whom labor-related speech is delivered within the workplace.

These concerns are particularly acute where the proposed framework may result in a highly concentrated or even *exclusive* pool of approved trainers. If, for example, certification effectively results in a single labor advocacy group delivering training across the fast food industry, the constitutional concerns identified in *Bonta* are significantly amplified. In that circumstance, the proposed framework would move well beyond neutral workplace education. Employers would be compelled not only to host, but to subsidize and facilitate third-party speech on matters at the core of federal labor policy, which likely include perspectives on advocacy positions with which they disagree. That is precisely the type of regulatory intrusion federal labor law and the First Amendment prohibit.

II. Mandatory Data Disclosure Requirements Create Material Privacy and Liability Risks

The proposed framework also creates substantial privacy and compliance concerns by requiring employers to disclose employee-identifying information to third parties.

California employers are subject to stringent obligations under both state and federal law to protect employee personal data and to limit disclosure except where expressly authorized and properly disclosed in applicable privacy notices. *See, e.g.*, California Constitution's right to privacy (Cal. Const., art. I, § 1); the California Consumer Privacy Act of 2018, as amended by the California Privacy Rights Act of 2020 (collectively, the "CCPA"); and Section 5 of the Federal Trade Commission Act.

Requiring disclosure of employee names, contact information, attendance records, or other identifying data to third parties raises serious legal concerns and infringes upon employees' constitutional privacy rights. *See, e.g., Porten v. Univ. of San Francisco*, 64 Cal. App. 3d 825, 830 (1976) (recognizing that improper collection and disclosure of personal data are core privacy harms addressed by the California Constitution). It also conflicts with the CCPA's data minimization and purpose limitation requirements, which permit disclosure only where "reasonably necessary and proportionate" to the stated purpose and prohibit uses incompatible with that purpose. Cal. Civ. Code § 1798.100(c).

California regulators have actively enforced these principles, including through the California Privacy Protection Agency's Enforcement Advisory No. 2024-01 on data minimization and recent enforcement actions brought by the California Attorney General. *See, e.g., The People of the State of California v. General Motors LLC and OnStar LLC*, No. 26CV001011 (Cal. Super. Ct. May 8, 2026); *The People of the State of California v. Healthline Media, LLC*, No. CGC-25-626794 (Cal. Super. Ct. July 1, 2025).

Beyond legal compliance, mandated disclosure of employee data creates material privacy and operational risks. Once in the City's possession, such data may be subject to disclosure under the California Public Records Act. Compelled disclosure may also chill participation by vulnerable employees, particularly in the current immigration environment, who may fear government monitoring or misuse of their information. These concerns are further exacerbated where employers are required to disclose employee data to third-party training providers that they are unable to fully vet or control.

The proposal also ignores the increasing prevalence of data breaches. Between 2021 and 2025, the frequency of U.S. data compromises increased by 79%, with government-related breaches more than tripling from 2020 to 2025. *See Identity Theft Resource Center, 2025 Data Breach Report* at 8, 28.

Importantly, these risks are unnecessary. California's mandatory sexual harassment training regulations demonstrate that employers can successfully implement training and maintain training records to demonstrate compliance, without routinely disclosing employee-identifying information to third parties. *See* Cal. Code Regs. tit. 2, § 11024. The City could achieve its enforcement objectives through employer attestations, aggregated reporting, and/or de-identified records while substantially reducing legal and privacy risks.

III. The Proposed Framework Is Not Feasible at Scale and Risks Creating Systemic Noncompliance

The proposal is also not feasible at scale. The City seeks to apply a training model designed for approximately 3,000 hotel workers to more than 66,000 fast food workers – a workforce that is more than twenty times larger. *Compare* Hotel Worker Training Ordinance, Article 2.1, Sec. 182.20 *with* CLA Report at p. 5.

At the same time, the proposal contemplates centralized City trainer certification, a limited pool of approved trainers, and a compressed implementation timeline—creating a structural bottleneck where demand will exceed supply. Employers would have no control over trainer availability or scheduling, yet would bear responsibility for compliance.

This is not simply a policy concern—it is a structural flaw that threatens the viability of the entire program.

IV. State Law Preemption Concerns Must Be Carefully Considered

The City has already recognized that any fast-food-specific training requirement raises significant state law preemption concerns. As the CLA Report explains:

After examining existing law and consulting with the City Attorney and OWS, our Office believes legal obstacles exist regarding the implementation of a required 'Know Your Rights' training program specifically covering the fast food industry. Recently passed legislation known as the 'Workplace Know Your Rights Act,' the authority granted to the Fast Food Council regarding fast food industry workplace training standards, and the September 30, 2025 court decision relating to 'captive audience' meetings, requires any training

program be carefully crafted so it is not preempted by State law. (*See* CLA Report at p. 17).

We agree.

The Legislature established the Fast Food Council to create rule-making recommendations to the California Department of Industrial Relations on statewide minimum standards on wages, hours, working conditions and training for fast food restaurant employees. Lab. Code § 1475(b). In doing so, the Legislature created a statewide regulatory framework for workplace standards in the fast food industry.

As the CLA Report recognizes, that framework creates limits on the City's ability to impose fast food industry-specific training requirements. Courts have long held that local governments may not adopt requirements that conflict with or intrude upon comprehensive statewide regulatory schemes. *See, e.g., C & T Mgmt. Servs. Inc. v. City of San Francisco*, No. A057554, 1993 BL 725, 16 OSHC 1329 (Cal. App. 1st Dist. Aug. 5, 1993); *Isaac v. City of Los Angeles*, 66 Cal. App. 4th 586, 600 (1998).

Those concerns are particularly relevant where a local ordinance would prescribe trainer qualifications, trainer certification requirements, training content, recordkeeping obligations, employee data reporting requirements, or other substantive workplace training standards specific to fast food employers. As the scope of local ordinance expands, so too does the risk that the ordinance will intrude upon matters already governed by state law.

Accordingly, any training framework adopted by the City must be narrowly tailored and carefully structured to avoid state law preemption legal challenges. As the CLA Report itself concludes, these issues warrant particular attention before any training proposal moves forward.

V. A Proven Model Exists: California's Sexual Harassment Training Model

California has already implemented a highly effective and scalable workplace training framework through its mandatory sexual harassment training requirements. That model:

- Defines clear, objective standards for trainer qualifications
- Places responsibility on employers to ensure compliance
- Avoids centralized certification bottlenecks

- Requires recordkeeping without mandating unnecessary disclosure of personal data
- Scales efficiently across millions of employees statewide

Importantly, this model achieves the same fundamental objective – ensuring employees are informed of their rights – without raising the constitutional, federal labor law preemption, privacy, and feasibility concerns described above.

VI. Recommended Path Forward

In order to address the above-identified concerns, we would recommend the following modifications to the current proposal:

1. Adoption of a “qualified trainer” structure modeled on California's sexual harassment training framework;
2. Elimination of any mandatory disclosure of employee-identifying information in favor of anonymized reporting, employer attestations, and/or de-identified training records; and
3. Avoidance of a centralized trainer certification model that creates capacity constraints and implementation bottlenecks.

VII. Conclusion

As currently contemplated, the proposed framework raises substantial concerns under federal labor law, the First Amendment, California privacy law, state law preemption principles, and basic implementation feasibility.

Proceeding without addressing these defects creates significant litigation risk and jeopardizes successful implementation. Alternatively, proceeding with a structure modeled on California’s existing sexual harassment training framework would be a legally sustainable approach.
