



## **Workplace Violence Prevention Programs** **Answers to Frequently Asked Questions**

### ***What is Workplace Violence?***

Workplace violence is defined as any physical assault, threatening behavior, or verbal abuse occurring where a public employee performs any work-related duty in the course of his or her employment.

### ***What employers must comply with the provisions of this law?***

At this time, all public employers with the exception of school districts (K-12) are required to meet the provisions of this rule. However, there is current legislation in the State Assembly and Senate to expand the law to include school districts and not-for-profit organizations that receive 50% or more public funding. Check the workplace violence prevention web notices for breaking news on this legislation. Private sector employees are not covered by this law.

### ***What is this workplace violence prevention standard and is it different from the workplace violence prevention law?***

Laws can be vague and often do not provide enough structure or guidance for employers to follow. Rules or standards are put into place in addition to the law, not only to establish a standard for comparison, but also to establish procedures, limits and other guidelines to assist employers in worker protection. The rule is more specific about what should happen in this process and what employers must do to be in compliance.

### ***What does a compliant workplace violence prevention program look like?***

Employers, with the union's participation and involvement, will be responsible for performing and documenting workplace hazard assessments by focusing on high risk jobs and the hazards associated with them, and establishing and implementing policies to reduce or eliminate workplace violence through protective measures.

### ***What is participation of the designated employee representative?***

Section 27-b of New York State Labor Law clearly states that the designated employee representative, the union, must be given the opportunity to participate in various program areas. Unions must be given the opportunity to:

1. contribute information;
2. participate in the review of various records, such as incident and accident reports, SH-900 Injury and Illness Logs, and workers' compensation data;
3. participate in walk-throughs and inspections of work areas;



4. participate in conducting risk evaluations and identification of specific risk factors that may result in workplace violence; and
5. participate in developing the workplace violence prevention policy statement and program.

***My employer chose the labor representatives they wanted to be on their violence committee, can they do this?***

Absolutely NOT! Only the local or unit president can designate authorized employee representatives.

***How much does the employer have to involve the union in this process?***

The purpose and intent of the law is for public employers **AND** their employees to examine the workplace for risk factors that may lead to workplace violence. The regulation references employee participation in a number of areas. Participation can be through meetings, questionnaires, committees and other means. Ultimately, the responsibility lies with the employer and the union holds no "veto" power. The employer is required to outline the level and manner of employee participation in their policy statement.

***What do we do if an employer refuses to allow the union to be involved?***

First, contact your Labor Relations Specialist (LRS) and inform them that your employer has not provided you with an opportunity to participate in your workplace violence prevention program. Provide written notice to a supervisor with the authority to change policy or procedures outlining your demand that the union must be given the opportunity to participate in the physical assessments and other required program areas. Give your employer a reasonable amount of time to respond. If you are still not given the opportunity to participate, work with your LRS and OSH Specialist to file a complaint with the Department of Labor.

***What, specifically, must the public employers do to comply with this law?***

1. The public employer must include the authorized employee representative(s).
2. The public employer must perform workplace risk evaluations and analyze its accident and injury records to determine the presence and magnitude of risk factors that place workers at risk of workplace violence.
3. The public employer must provide information and annual training for employees on the risk factors in the workplace, hazard control methods, and the details of the written workplace violence prevention program.
4. The public employer must develop a workplace violence prevention policy statement that at a minimum states the goals and objectives of the program, the employer's workplace violence prevention policy, and the employer's reporting and notification system.
5. Any public employer with more than 20 employees must develop a written workplace violence prevention program. The written program must list the risk factors identified in the risk evaluation and determination, and the control methods the employer will utilize to prevent or minimize the hazard of workplace violence. The written program must establish a reporting system for workplace violence incidents.



***When does the Workplace Violence Prevention Program have to be finished?***

The law went into effect in March of 2007. The effective date of the rule was April 29, 2009. Employers should have completed their workplace violence prevention programs in 2009. PESH will cite all employers not in compliance.

***Compliance Timeline for Rule 800.6***

(1) The Employer's Policy Statement required by section (e) shall be complete 30 days after the effective date of this Part. (May 29, 2009)

(2) The workplace examination required by section (f) of this Part shall be completed within 60 days of the effective date of this Part. (June 29, 2009)

(3) The workplace violence prevention program required by section (g) shall be complete within 75 days of the effective date of this Part. (July 14, 2009)

(4) Employers shall be in compliance with the entire Part within 120 days of the effective date of this Part. (August 29, 2009)

***Is my employer required to have a domestic violence policy?***

Yes. It is a requirement of 27-b and 800.6 that employers address all four types of workplace violence, including domestic violence in the workplace. In addition to this law, Executive Order 19 requires all State Agencies (with a few exceptions) to have a domestic violence policy modeled after the policies created by the Office for the Prevention of Domestic Violence (OPDV). Exempted agencies that are governed by an elected official (ie: Office of the Attorney General, Office of the State Comptroller) should still have policies and should see them as an essential part of their workplace violence prevention program. Local governments do not fall under this order as well, but again they must comply with 27-b and 800.6.

***Are Zero Tolerance Policies Good or Bad?***

Zero tolerance policies should never be implemented for employees. There may be circumstances, which require further scrutiny or an investigation. Policies like these allow for others to be easily "set-up" and terminated when they may have done nothing wrong. Each situation must be looked at individually. Investigation of each incident also allows an employer to get to the root cause of an issue, which may be easily resolved without having to turn to discipline or termination.

It is especially important for employers to remember that zero tolerance policies often go against many bargaining unit agreements and that the disciplinary procedures laid out in the contract must always be followed.



It is however acceptable to have zero tolerance policies when creating public codes of conduct. Some actions by the public when they are at the site of a public employer are inappropriate and should be strictly off limits for the safety of all workers. An investigation should still occur after every incident so that measures can be taken to protect employees from future occurrences.

***My employer is using profiling to decide who may become violent. Is this a method we should use?***

Employers and consultants often attempt to match workers to certain violent traits on a list of “profiles” in order to predict who will become violent in the future. Consultants often use these profiles to make money. They claim to allegedly help employers to “recognize” potentially violent employees before they are hired and how to identify any current “potentially” violent employees.

Most professionals have serious problems with profiling. These problems include:

- ✓ Sometimes these profiles may be useful in the hands of trained professionals, but managers and untrained persons can use these profiles to label and harass workers.
- ✓ After a violent incident occurs, it is easy to fit the assailant into a profile, but most people who fit lots of items on a profile will never become violent.
- ✓ Almost anyone can become violent if pushed beyond a certain point.
- ✓ Profiles sometimes use race, sex or age criteria that may violate anti-discrimination laws.
- ✓ Profiles can make things worse if an employee who may indeed become violent is singled out in a negative way.

The period of time that profiling can be used to predict violent behavior is often too short to be of much value. Employers should take responsibility for employees who truly exhibit threatening behavior that has a potential for violence, not just because they fit a certain profile.

***Is harassment included in this law?***

Many kinds of harassment are addressed in Rule 800.6. Stalking, shoving, kicking, striking, physically harming someone or threatening to physically harm someone will be covered. Threatening e-mails, phone calls with no purpose of legitimate conversation (prank calls), sexual harassment, or repeatedly committing acts, which places a person in reasonable fear of physical injury are covered as well.

***Is bullying included in this law?***

Bullying is not included in this law; however, bullying has been proven to create a hostile, “toxic” work environment and can be a precursor to physical violence. Addressing bullying in your workplace violence prevention program will provide a safer working environment. It will



also decrease lost workdays, work tension, anxiety, and turnover rates. Benefits include increased morale, effective communication, and increased productivity.

***Can CSEA's Workplace Violence DVD be used by our employer for compliance training?***

Only if your employer has actively included local or unit CSEA leadership in all program areas and have met all requirements of the regulation. Merely showing the DVD is not enough to meet the training requirements of the regulation. Specific details about your workplace must be addressed.

***What can CSEA leadership and activists do?***

-Inform the membership of the key provisions of the rule. This can be accomplished by holding membership meetings, direct mailings, flyers, bulletin boards, newsletters, and the CSEA website.

-Identify workplaces and list risk factors that can lead to workplace violence. Also identify and list areas of security concerns. This can be accomplished by conducting walk-through inspections, surveys, membership meetings, safety committee meetings, etc. Remember, a workplace is anywhere that workers perform any work-related duty, i.e., roads, people's homes, etc.

-Identify and list high-risk job titles and tasks affected by workplace violence.

-Identify and list what "control methods" the employer should implement to protect the members. Control methods are means to alleviate various hazards such as better lighting, proper staffing levels, metal detectors, training, fences, panic alarms, increasing visibility, and others.

-Prepare a list of designated employee representatives on-site during normal business hours. The employer must notify and include the union in the NYS Department of Labor's Public Employee Safety and Health (PESH) inspections and walkthroughs.