August 17, 2026

Department of Industrial Relations
California Division of Occupational Safety and Health
1515 Clay Street, Room 1303
Oakland, CA 94612

Submitted: - rs@dir.ca.gov

RE: §3343 Workplace Violence Prevention in General Industry — July 2026 Discussion Draft

Please accept the following written comments from the OSH Proterie[1] on the July 22, 2026, Discussion Draft of §3343, Workplace Violence Prevention in General Industry.

The July draft reflects meaningful movement on several issues we raised in our written comments submitted on June 1, 2026 and we appreciate the Division's continued responsiveness. Our comments below are targeted. One issue — records access under §3343(b)(2) and §3343(f)(7) — remains unresolved and is the primary focus of this letter.

Acknowledgment of Positive Changes

Scope — §3343(a). Adding "under the employer's control" adopts the limiting principle we proposed and resolves our concern. It draws a boundary between transportation the employer operates and manages and transportation the employer pays for but cannot inspect, staff, or control.

Work Practice Controls — §3343(b)(9)(A). Removing "to maintain order in the facility…" and tying staffing to the employer's hazard assessment is a substantive improvement. It replaces an unworkable, hindsight-based measure with a standard grounded in the employer's own documented evaluation of its workplace. We note that staffing continues to appear in the definition of work practice controls at §3343(b)(9), as an example at §3343(b)(9)(A), and as a hazard factor at §3343(b)(10)(I) and (J). The residual redundancy remains and warrants attention as the text is finalized – see our June 1 submitted comments for details.

Stalking — §3343(b)(10). Removing stalking from the hazards list entirely resolves the residual concern we raised about the "reasonably aware of" limitation. Addressing stalking in guidance as an example of workplace violence is the correct structural approach.

[1] OSH Proterie is a network of occupational safety and health compliance leaders across industries. Our members are directly responsible for workplace environmental safety and health at complex, multi-site operations in utilities, technology, infrastructure, and related industries. We provide their collective experience and voice, as individual safety professionals, to OSH agencies to improve safety, compliance, and operational effectiveness.

Trauma Counseling — §3343(c)(11)(C). Moving employee assistance programs into the enforceable regulatory text provides employers with a clear compliance path and is consistent with OAL direction on notes. This directly addresses the recommendation in our June comments.

Areas of Concern

1. "Designated Representative" and Records Access | §3343(b)(2) and §3343(f)(7)

This remains our most significant concern, and the July draft does not address it. We recognize the Division's intent is to ensure employees are not left without information about incidents they reported. We share that goal. Our concern is not that the Division has provided victim access. It is that §3343(f)(7) not only provide victim access — it provides access to every employee, and to anyone an employee designates, for every report and evaluation the employer holds.

The regulation already provides the victim with a document and has in every draft - §3343(d) requires the violent incident log (Log) to contain, for every incident: the date, time, and location; the violence type; a detailed description of the incident; the classification of who committed the violence; the circumstances at the time; the type of incident; whether security or law enforcement was contacted and their response; and the actions taken to protect employees from a continuing threat.

The Log is a §3343(f)(3) record and §3343(f)(7) has required employers to make the Log available to employees on request in every version of this draft. In addition, §3343(e)(1)(E) requires employers to train employees on how to obtain a copy of it. An employee who experienced an incident can therefore already obtain a written record containing a detailed narrative of that incident, the law enforcement response, and the protective actions taken. That is document production, not a communication requirement. The de-identification requirement in §3343(d)(1) does not obstruct her access to her own incident; she knows its date, time, and location. That redaction protects other people. Section 3343(c)(6)(B) then adds mandatory communication of the investigation results and corrective actions, without a request. Adding §3343(f)(4) to the access provision was not necessary to give a victim a written record. She already has one.

What §3343(f)(4) in (f)(7) adds is not victim access. It is class-wide access - Section 3343(f)(4)(A) covers *all* reports of workplace violence threats, incidents, and concerns made by any employee, any authorized employee representative, or anonymously. Section 3343(f)(4)(B) covers *all* employer evaluations of those reports and corrective actions taken. Section 3343(f)(7) makes those records available to "employees" — not to the employee involved in the incident, and not to the employee who made the report. Any employee. Plus, any individual or organization an employee designates in writing. Plus, automatically and without any authorization, a recognized or certified collective bargaining agent.

Under this text, an employee seeking the record of her own assault and a coworker seeking the record of another employee's domestic violence disclosure have identical rights.

The Division's model regulation contains the narrowing principle this provision is missing - Section 3204(e)(2)(A)(1) limits access to records *relevant to the requesting employee*. That limitation is not incidental to §3204 — it is what makes §3204 an individual access right rather than an open file. Section 3343(f)(7) omits it, along with the written request, stated purpose, and expiration requirements that §3204 and §3203(a)(8)(A)3. both impose. Our June 1, 2026, comments address those omissions in detail and are incorporated by reference.

The consequences fall on the employees this provision was written to protect - An employee at a 40-person site tells her manager that her former partner has been appearing in the parking lot after her shift and has threatened her. She asks for a different parking assignment and a front desk alert. That is a §3343(f)(4)(A) report. Under §3343(f)(7) it is producible to any employee at the site, or to anyone an employee designates. Her name may be redacted; The parking lot, the shift, the front desk instruction, and a description of the former partner are not. Inside a 40-person workplace, colleagues do not need publicly available information to identify her from those details. They already have it.

The regulation recognizes this problem and solves it. Section 3343(d)(1) requires the employer to omit from the log "any element of personal identifying information sufficient to allow identification of any person involved in a violent incident... or other information that, alone or in combination with other publicly available information, reveals the person's identity." That is a mandatory re-identification control, applied to a de-identified statistical log containing no first-person narrative. Section 3343(f)(7) provides only that the employer "may redact information that may reveal personal identifying information" — permissive, narrower, no re-identification concept — and applies it to the raw reports themselves. **The regulation applies its strongest de-identification control to its least sensitive record and its weakest to its most sensitive.**

The exposure also runs the other direction. An employee named in a report the employer investigates and finds unsubstantiated is identifiable in that record by the same combination of details. Nothing limits access to finalized or substantiated records, and nothing imposes a confidentiality obligation on the recipient.

The same records disclose the employer's security countermeasures - Section 3343(f)(4)(B) covers *corrective actions taken*. This regulation defines what those are: §3343(c)(10)(A) requires engineering and work practice controls, and §3343(b)(4) and §3343(b)(9) list them — access controls to employee-occupied areas, weapon detectors, video monitoring and recording, locks, lighting and sight-line modifications, dedicated security personnel, threat alert systems, visitor entry control.

A record of corrective actions taken in response to a report is therefore a description of the security posture at a specific location — which controls exist, where, how they function, and by implication which did not exist or did not work. Redaction of personal identifying information removes none of it, because none of it is personal identifying information.

Consider a Type 3 report. An employee reports that a coworker made a statement she reasonably perceived as a threat. The employer restricts the coworker's badge access to certain areas, adjusts camera coverage in the parking structure, briefs the front desk, and arranges an escort at shift change. Those are §3343(f)(4)(B) records. The coworker is an employee. Section 3343(f)(7) makes these records available to "employees," and nothing excludes the subject of the report. That individual is entitled to a document describing exactly what was done to monitor and restrict him — and where the coverage ends.

We do not believe that outcome was intended. Protective measures work only when the person they are directed at does not know their scope, and a record produced under §3343(f)(7) carries no confidentiality obligation and no restriction on redistribution. For employers running standardized security programs across many sites, a record describing the response at one facility describes the architecture at all of them. This presents a significant threat to corporate security and critical infrastructure.

Two effects work against the regulation's own purpose - The regulation depends on reports. They drive the procedures under §3343(c)(4) and (c)(6), trigger inspections under §3343(c)(9), populate the log, and generate the hazard information corrective action is built on. Employees experiencing domestic violence, stalking, or threats from a former partner or co-worker disclose for one reason: to get protection at work. If disclosure carries a foreseeable risk of production to coworkers, to their union without consent, or to an outside organization designated by someone else, a predictable number will not disclose. The employer cannot then identify the hazard, control it, or protect anyone else at the site.

Separately, records written for open production get written differently. If internal evaluations under §3343(f)(4)(B) are producible on request — including to an employee who disputes the report or outcome — those evaluations will become shorter, more conclusory, and less candid. A records provision that discourages the reporting the regulation depends on, and that simultaneously exposes the protective measures taken in response, works against the standard's purpose.

Our Recommendation.

- Define “written authorization” as part of the definition of “designated representative” in §3343(b)(2). To limit exposure, ensure it includes names, document(s) requested, and purpose for the release. This will align with §3203(a)(8)(A)3. and §3204(c)(12)(A).

- Remove (f)(4) from the records subject to §3343(f)(7). The violent incident log under §3343(f)(3) already provides the employee with an obtainable written record of the incident, the law enforcement response, and the protective actions taken, and §3343(c)(6)(B) requires communication of the investigation results and corrective actions without a request.

*(7) All records required by subsections (f)(1), (f)(2), and (f)(3), **~~and (f)(4)~~** shall be made available to employees and their designated representatives, upon request and without cost, for examination and copying within 15 calendar days of a request.*

If the Division concludes that an employee should also receive a copy of the report she personally made, that must be provided directly, without opening every report and evaluation the employer holds. Protections for security information and personal privacy must also be addressed:

(7)(a) An employee who made a report of a workplace violence threat, incident, or concern pursuant to subsection (c)(4) or (c)(6)(A) shall, upon request and without cost, be provided a copy of that employee's own report within 15 calendar days.

The employer may redact information that is confidential, private, security-sensitive and shall omit any element of personal identifying information sufficient to allow identification of any other person referenced in the record, consistent with subsection (d). Nothing in this section requires disclosure of information describing security countermeasures, protective measures implemented in response to a specific threat, or coordination with law enforcement, or of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable legal privilege.

---

2. Reporting to a Designated Person — "Adequately Addressed the Hazard" | §3343(c)(6)(A)2

The July draft adds a second trigger for the alternative reporting path: where the direct supervisor "has not adequately addressed the hazard." We support the objective. If a supervisor receives a report and takes no action, employees need another route. Our concern is that "adequately addressed" is undefined, subjective and can only be evaluated after the fact.

The provision does not indicate what satisfies it. Does acknowledging the report qualify? Does opening an investigation? Does implementing an interim control while an assessment is underway? If the employee is dissatisfied with the pace of the response, has the hazard been inadequately addressed? For employers operating across many sites with supervisors at multiple levels, this creates an obligation that can be found to have been triggered at any point in a response sequence, evaluated in hindsight, with no standard against which the supervisor's conduct is measured.

There is a direct solution available in this draft. The Division resolved a similar problem in §3343(b)(9)(A) by tying an undefined adequacy judgment to the employer's own required program element. The same technique works here. Section 3343(c)(4) already requires effective procedures for the employer to accept, evaluate, and respond to reports of workplace violence. Measuring the supervisor's response against those procedures makes the trigger objective, verifiable, and consistent with the Plan the employer is already required to implement.

Our Recommendation.

(6)(A)2. To a designated person who is not ~~a~~ ***the*** *direct supervisor for type 3 violence, where the* ***direct*** *supervisor is involved or associated with the incident, or where the direct supervisor has not ~~adequately addressed the hazard~~* ***responded to the report in accordance with the procedures established under subsection (c)(4)****.*

This revision also ensures "direct supervisor" is used consistently across the subsection.

---

3. <u>Removal of the Threat of Violence Exception | §3343(b)(7)</u>

The July draft removes the exception providing that the employer is not responsible for texts, electronic messages, or personal social media not brought to the employer's attention, on the basis that removal aligns the regulation with Labor Code §6401.9.

Alignment with the statute is not a sufficient explanation for this deletion. The draft departs from §6401.9 in multiple places where the statutory language would produce an unworkable result, including Exception 6 in §3343(a)(1) where the Division substituted a 365-day measurement for the statute's "at any given time" and explained that the change was made "to avoid the absurd result where a workplace could go back and forth with being covered or not." The draft also adds employer-provided transportation, employer-provided housing, a designated representative definition, a records access framework, and a training response obligation, none of which appear in §6401.9. The statute establishes a floor. This draft builds above it throughout.

The practical difficulty is that employer responsibility for personal electronic communications is bounded by other law. Labor Code §980 prohibits an employer from requiring or requesting that an employee divulge personal social media, except where reasonably believed relevant to an investigation of alleged misconduct or a violation of law. An employer cannot monitor or systematically obtain the content the deleted exception addressed. Removing the exception leaves employers uncertain about the scope of an obligation they are separately restricted from monitoring and creates ambiguity about employer exposure that the regulatory text no longer resolves.

We appreciate that the Division intends to address this in a future guidance document, and we support that. Guidance is helpful but it is not enforceable, and the certainty it provides does not survive an enforcement proceeding.

Our Recommendation. Retain the exception in enforceable regulatory text. If the Division declines, we ask that the guidance document expressly address the interaction between §3343(b)(7) and Labor Code §980, and that it be published before the regulation takes effect.

---

4. Controls — "To the Extent Feasible" | §3343(c)(10)(A)

We appreciate the Division's response to stakeholder comments here. Our concern is that "feasible" does not do the work the qualifier is intended to do.

Feasibility asks whether a control can be accomplished. It does not ask whether the control is warranted for the hazard identified or appropriate to the workplace where it would be installed. Nearly every control listed in §3343(b)(4) is feasible at nearly every workplace — weapon detectors, bullet-resistant glazing, deep service counters, and video monitoring can be installed almost anywhere. A feasibility standard alone would support a citation for failing to install a control that no reasonable hazard assessment would call for.

The regulation already contains the right qualifier. Sections 3343(b)(4), (b)(9), and (b)(10) each use "as applicable," recognizing that not every control or hazard factor fits every workplace. That principle should carry into the implementation requirement, where it governs the obligation.

We also note a placement question. As drafted, "to the extent feasible" appears at the end of the sentence, modifying "eliminate or minimize employee exposure." This reads as limiting the degree of exposure reduction rather than which controls must be implemented. If the intent is to qualify the selection of controls, the placement should reflect that.

Our Recommendation.

*Engineering and work practice controls appropriate **and applicable** to the workplace shall be implemented **to the extent feasible** to eliminate or minimize employee exposure to identified workplace violence hazards **~~to the extent feasible~~**."*

---

5. Training — Interactive Q&A Response Time | §3343(e)(1)(F)

The one-business-day response requirement is unchanged, as is the limitation to "a person." Our June 1 comments explained why this provision does not translate from healthcare to general industry, and those comments are incorporated by reference. We restate the concern briefly.

The one-business-day standard is workable in a fixed-facility, defined-shift environment. General industry is not that environment. A substantial and growing portion of the covered workforce works remotely, on flexible schedules, or in field locations across time zones. Training completed at 9:00 PM on a Friday triggers a response obligation due by close of business Monday. For multi-site employers, meeting that obligation reliably requires maintaining a standing resource on a just-in-case basis. No safety rationale has been offered for requiring faster turnaround on a training question than §3203 requires for access to the written IIPP and the incorporated Workplace Violence Prevention Plan itself, which is five business days.

The limitation to "a person" presents a separate problem. Interactive, plan-specific tools already answer employee questions accurately and immediately in many member organizations. The regulation should not preclude a method that serves the requirement's purpose at least as well.

Our Recommendation. Replace the one-business-day response requirement with five business days, consistent with §3203, and revise the provision to permit responses through interactive, plan-specific tools capable of providing accurate answers.

Additional Technical Recommendations

Trauma counseling — add "directly" | §3343(c)(11)(C). "Affected by the incident" remains undefined. Consider a Type 1 incident in the lobby of a campus with 2,000 employees. Employees who witnessed the incident are plainly affected. Whether every employee in the building is "affected" is unanswerable from the text, and the employer bears the enforcement risk of guessing. We recommend: "individual trauma counseling to employees **directly** affected by the incident."

Cross-reference to §3204 | §3343(f)(4)(B). This subsection continues to reference "designated representatives as defined in section 3204" while §3343(b)(2) supplies its own definition of the same term. The cross-reference is not necessary should be deleted.

Closing

The July 2026 draft resolves several concerns we raised in June, and the pre-rulemaking process continues to work as it should.

Records access is the exception. The provision was introduced late in this process, it reaches records well beyond what the Division's stated purpose requires, and the objective it was added to serve is already accomplished — through the communication required by §3343(c)(6)(B), and through the violent incident log, which employees may already obtain under §3343(f)(7) and which they are trained to request under §3343(e)(1)(E). What §3343(f)(4) adds is not victim access. It is access for

every employee, and for anyone an employee designates, to every report and evaluation the employer holds. It exposes employees who disclose personal safety situations in confidence, and it exposes the measures the employer implements to protect them. The predictable result is fewer disclosures, less hazard information, and weaker controls — in a standard built to produce the opposite.

Our recommendation is removal. If the Division is not prepared to remove §3343(f)(4) from subsection (f)(7), we ask for the opportunity to meet with staff before this draft advances to formal notice. The reasoning for retaining the provision has not been set out in the notes to either draft, and we would rather understand it directly than continue exchanging written comments on a point where we appear to be talking past one another.

Separately, members have asked us about timing. They have operated workplace violence prevention programs under Labor Code §6401.9 since its requirements took effect, and those programs are established, staffed, and trained. We are not asking the Division to move faster. Additional drafts that get this standard right are more valuable than an early proposal that does not, and the issues that remain in this draft warrant that work.

What would help members is planning certainty on the other end. When adopted, this section will require plan revisions, recordkeeping and system changes, and retraining — §3343(e)(2) requires additional training whenever changes are made to the Plan, which for our members means a full training cycle across many sites and a distributed workforce. We request that the rulemaking package include a deferred effective date of one year from adoption. We also support the Division's stated intent to publish guidance documents and ask that they be issued before the standard takes effect, so that employers are building to the understanding the Division intends rather than reconstructing it afterward.

Sincerely,

Helen Cleary
Founder & Leader
OSH Proterie

cc: Kevin Graulich – kgraulich@dir.ca.gov
Eric Berg – eberg@dir.ca.gov