

**Research and Standards Unit**

**Division of Occupational Safety and Health**

**California Department of Industrial Relations**

**Via email: [rs@dir.ca.gov](mailto:rs@dir.ca.gov)**

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**RE: Comments on the July 2026 discussion draft of proposed section 3343, Workplace Violence Prevention in General Industry**

## **Introduction**

I am a Certified Safety Professional (CSP) and the principal of Safewest, an occupational health and safety consulting firm serving employers in San Diego County and across California. I hold an M.A. in Political Science from San Diego State University, where my thesis analyzed the enforcement of workplace safety regulation through criminal penalties and received the department's Best Thesis award. My practice involves helping employers build and implement compliance programs, including workplace violence prevention plans.

A broad workplace violence standard is warranted and long-overdue. Workplace violence has always been a recognized hazard subject to the identification and correction requirements of section 3203, and most employers have simply not treated it as one.

Unfortunately, Labor Code section 6401.9, enacted by SB 553, wrote a substantial amount of prescriptive detail (including detailed Plan elements, the Log's classification scheme, and record-retention periods) directly into statute before this rulemaking ever began. Section 6401.9(h) directs that the adopted standard include, "at a minimum, the requirements of this section." My understanding is that subdivision (i) keeps subdivisions (b) through (g) operative and independently enforceable regardless of what this rulemaking adopts. As a practical matter, that means the Division cannot make substantial subtractions from what the statute already requires. That is a real problem, because the result, even before anything the rulemaking has added, is more complex than its subject matter or its audience can support.

I have difficulty reading this regulation. I have difficulty applying it, and I have difficulty explaining it to clients. On several provisions in this draft I have consulted attorneys, and in more than one instance the attorney was also uncertain. If a CSP with almost two decades of safety experience and a graduate background in regulatory enforcement and access to counsel cannot easily determine what a regulation requires, the owner of a twelve-person machine shop, a small retail store, or a restaurant has no realistic prospect of doing so.

I am not alone in this. In conversations with other consultants who advise California employers, a consistent reaction to this regulation is confusion. When experienced practitioners whose profession is compliance cannot reliably interpret a standard, that is not a sign the standard is

thorough. It is a sign the standard has exceeded the level of complexity a workable regulation should carry.

The burden of this complexity does not fall evenly on employers. A large employer can assign a compliance officer or retain counsel to work through it. A small employer cannot. In my practice, the clients most confused by this draft are consistently the smallest ones: the employers with the fewest resources to absorb the cost of getting it wrong, and, not incidentally, employers whose workers are frequently the least protected by other safety infrastructure to begin with. A standard this dense does not scale down. It simply becomes an unmet compliance obligation for the employers least equipped to meet it, which serves neither the worker the standard is meant to protect nor the Division's enforcement priorities.

The same problem appears in training. A substantial part of my practice is delivering workplace safety training, including workplace violence prevention courses. Training materials should be workplace-specific and, per (e)(1), appropriate to employees' educational level, literacy, and language. But the complexity of this regulation, its definitions, control taxonomies, and implementation requirements, makes developing training that is both effective and simple extremely difficult, particularly for supervisors and managers, who must actually apply the classification and recordkeeping provisions rather than simply know they exist.

The more durable fix for these problems sits with the Legislature rather than with this rulemaking. My comments below are addressed to what remains within the Division's own discretion: what it adds beyond the statutory floor, how it organizes and expresses what it must include, and what interpretive rules it supplies for statutory terms the Legislature left undefined. I have tried to indicate which category each comment falls into. Except where prefixed "6401.9," subsection references below are to proposed section 3343 as it appears in the July 2026 draft.

The comments that follow are not exhaustive, and they likely contain errors of my own. I reviewed this draft in hours found outside client obligations, without research support, which I mention as context rather than an excuse. A dedicated technical and plain-language review before the next draft would serve the Division well, and would likely surface points this letter has missed.

Many of the specific comments that follow are attempts to patch problems that a simpler initial regulatory approach would not have created. I recommend clearer triggers, tighter definitions, and narrower cross-references throughout this letter, but I want to be direct that these are patchwork repairs, not a vote of support for the current structure of this regulation.

## Technical and Drafting Corrections

**A. Plan review trigger in subsection (c)(12) departs from the statute.** The draft requires review "after a workplace incident." Section 6401.9(c)(2)(L) requires review "after a workplace violence incident," and every other trigger in the draft uses that phrase.

Recommendation: Insert "violence" for consistency.

**B. Cross-reference to "workplace violence hazard assessment" in subsection (b)(9)(A).** The revised text refers to "the employer's workplace violence hazard assessment required by subsection (c)(9)." Subsection (c)(9) requires procedures to identify and evaluate workplace violence hazards, and requires inspections. It does not create, name, or require a document called an assessment. Both the term and the cross-reference are additions to the statute, so this is entirely within the Division's control.

Recommendation: Either define "workplace violence hazard assessment" in subsection (b) as the output of the (c)(9) process, or revise (b)(9)(A) to read "based on the identification and evaluation of workplace violence hazards required by subsection (c)(9)."

**C. Conflicting definitions of "designated representative" in subsections (b)(2) and (f)(4)(B).** Section 6401.9 does not define this term; both the definition at (b)(2) of the draft and the cross-reference at (f)(4)(B) to "designated representatives as defined in section 3204" are the Division's own additions. Section 3204's definition carries qualifications specific to access to exposure and medical records. A term defined in the section's own definitions subsection should not appear to acquire a second meaning by cross-reference later in the same section.

Recommendation: Strike "as defined in section 3204" from (f)(4)(B). If the section 3204 definition is the intended one, the cleaner fix is to delete (b)(2) and cross-reference section 3204 consistently throughout. Either resolution works; retaining both creates an interpretive question with no answer in the text.

**D. The draft creates a training and access mismatch the statute does not have.** Under section 6401.9, the training requirement at (e)(2)(E) and the employee access provision at (f)(6) both reference paragraphs (1) through (3) of subdivision (f); they match exactly. The draft adds a new record category at (f)(4) and extends employee access to it at (f)(7), but the training list at (e)(1)(E) has not been updated to match – it still references only (f)(1) through (3). Employees are therefore not trained on how to obtain a record the draft expressly makes available to them.

Recommendation: Add (f)(4) to the list in (e)(1)(E).

**E. "High-risk persons" is undefined in subsection (b)(4)(F).** The engineering-control examples are a Division addition, and this one appears drawn from section 3342's "separate rooms or areas for high risk patients." In section 3342 the phrase is anchored by that standard's defined patient-specific risk factors; section 3343 has no analogue. In a general-industry standard the phrase reads as a label attached to a person rather than a description of a hazard condition.

Recommendation: Replace with hazard-based wording describing the condition the control is meant to address, or define the term "high-risk persons" using objective, workplace-relevant criteria.

**F. Incorrect cross-reference in the violent incident log at subsection (d)(3)(B).** This is presumably a known issue that will be corrected once the draft is renumbered, but the citation should be fixed regardless. The provision requires recording "the workplace violence type or types, as defined in subsection (b)(6)(C)." Subsection (b)(6) is the definition of "Plan." The four workplace violence types are defined in subsection (b)(8)(C).

Recommendation: Change the citation to (b)(8)(C).

**G. Editorial consistency.** The draft uses both "multi-employer" and "multiemployer," and both "post-incident" and "postincident." It also alternates among "worksite," "workplace," and "place of employment." Consistent usage would reduce interpretive questions.

Recommendation: Standardize hyphenation, standardize location terminology where no distinction is intended, and define "worksite" if one is.

## Plain Language and Readability

Recommendations in this part follow the Office of the Federal Register's readable-regulations guidance: organize around the reader's task, use informative headings, use vertical lists for multiple conditions, and place limitations where the duty is stated rather than in definitions. All are matters of form, which is squarely within the Division's discretion.

**A. Add informative headings to the twelve Plan elements.** Subsection (c) presents them as an undifferentiated list, so a reader must remember that (4) concerns reporting, (6) communication, (9) hazard identification, and (10) correction. Headings deliver most of the navigational benefit at no drafting cost and make citation more precise for employers and inspectors.

Recommendation: Add headings in the draft's existing order: Responsibility for the Plan; Employee involvement; Coordination among employers; Reporting and non-retaliation; Employee compliance; Communication and investigation of concerns; Emergency response; Training procedures; Hazard identification and evaluation; Hazard correction; Post-incident response and investigation; Plan review.

**B. Convert embedded condition lists to vertical lists.** Three provisions state multiple independent conditions in a single sentence: (c)(9), the inspection triggers, one sentence containing an interior colon and four separate triggers; (b)(7), the definition of threat of violence, a single sentence of roughly sixty words; and (a)(1), Exception 4, a sentence containing two nested CCR citations. The (b)(7) definition is statutory in substance, but its presentation is the Division's.

Recommendation: Break each into a vertical list.

**C. Restructure the exceptions.** Six exceptions, one carrying two conditions and a three-item carve-out, would be clearer as a table. If they are kept in paragraph text, the grammatical subject should be made consistent: Exceptions 1, 2, 3, 4, and 6 exempt employers or facilities, while Exception 5 exempts employees.

Recommendation: Reframe all six as "This section does not apply to ..." and let the object vary explicitly.

## Exceptions for Small Employers

Exception 6 requires that the employer "has less than a total of 10 employees at the place of employment at all times during the preceding 365 days."<sup>1</sup> The condition mixes an aggregate formulation ("a total of") with an instantaneous one ("at all times"), and it is unclear how the combination applies. A three-shift operation with nine employees per shift never has ten people present at once, but employs well over ten people across a year.

Recommendation: Clarify whether the headcount is measured instantaneously, in aggregate, or both, and state how it applies to multi-shift operations and to newly opened places of employment that lack a full 365-day history.

Two further questions the text of Exception 6 does not answer: whether temporary, seasonal, dispatched, staffing-agency, and other employers' employees are counted; and what makes a place of employment "not accessible to the public," given that deliveries, vendors, customers by appointment, and shared parking are common situations. Both should be resolved in the regulation rather than in a future FAQ.

## "Threat of Violence" and Employer Knowledge

Subsection (b)(7) reflects the statutory definition of "threat of violence" and removes the earlier draft's exception for electronic messages and personal social media not brought to the employer's attention. I understand that preserving the statutory definition takes precedence.

The definition and the trigger for the employer's resulting duty are distinct questions, however, and the second is the Division's to answer. As drafted, the duties in (c)(4) and (d) can be read to apply to communications the employer has no reasonable means of knowing about, with no knowledge trigger stated anywhere in the operative text. The explanatory note defers the question to a future Cal/OSHA guidance document.

Guidance can explain the Division's interpretation, but an operative limitation should not have to be supplied later by a document not adopted through rulemaking, particularly when the ambiguity is already apparent in the draft.

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<sup>1</sup> The 365-day lookback is a Division addition; section 6401.9(b)(2)(F) exempts employers by instantaneous headcount, with no lookback period at all.

Recommendation: State directly that the employer's duty attaches when a threat is reported to the employer or when the employer otherwise becomes aware of it. This preserves the statutory definition and simply specifies when the duty attaches.

## Hazard Factors in Workplace Violence

The hazard factor list at (b)(10) has no statutory counterpart, so its content is entirely the Division's to set. I understand it to be a nonexclusive list of factors to consider rather than a mandatory checklist. Even so, its emphasis is heavily on built-environment conditions: lighting, entries, escape routes, visibility, and physical access. Several common indicators of violence risk are not named.

Recommendation: Add factors to the following effect:

- Prior workplace violence incidents, near misses, and reported threats at the place of employment or in the operation.
- Calls for security or law enforcement assistance associated with the place of employment or work activity.
- Work requiring employees to communicate or enforce adverse decisions.

On the third: work involving terminations, evictions, repossessions, collection activity, denial of benefits or services, or enforcement action creates a foreseeable mechanism of violence risk: an employee acting on the employer's behalf against a person who may respond with anger directed at that employee. The current list does not name it, though it is at least as salient as "exchange of money or valuable goods" and "selling, distributing, or providing alcohol, marijuana, or pharmaceutical drugs," both of which it does name.

## Reprisal Against Employees Seeking Assistance

The draft requires procedures for reporting to the employer or law enforcement "without fear of reprisal" at (c)(6)(A) and (e)(1)(C), and requires that employees know how to obtain help from law enforcement at (c)(7)(C). These track the statute.

Section 3342 states the rule more directly, requiring effective procedures for obtaining assistance from the appropriate law enforcement agency during all work shifts, together with a policy statement prohibiting the employer from disallowing an employee from, or taking punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement when a violent incident occurs.

The difference matters: the Section 3343 draft says reports may be made without fear of reprisal, but does not require a policy saying so, and does not address an employer that discourages or penalizes an employee for calling emergency services during an incident. Given

how much of the proposed structure in section 3343 is adapted from section 3342, the more explicit language would improve clarity without meaningful additional burden.

Recommendation: Add an express prohibition on employer policies or retaliation that prevent an employee from seeking emergency services or law enforcement assistance in connection with a violent incident.

## Hazard Identification in Non-Fixed Workplaces

Subsection (c)(9) requires "scheduled periodic inspections to identify unsafe conditions and work practices," tracking section 6401.9(c)(2)(I), while the (b)(10) hazard factor examples are dominated by built-environment conditions.

I recognize that scheduled periodic inspections are named in the statute. The regulation should, however, clarify how that requirement applies to delivery, route sales, field service, in-home services, utility and meter work, process serving, repossession, inspection, transportation, and other community-based operations, where employees work at locations the employer does not control and often cannot identify in advance. A physical inspection of "the place of employment" has limited meaning when the place of employment changes every stop.

Recommendation: Clarify how the required inspection process applies to operations without a fixed location, including what constitutes an effective inspection where the employer does not control or know the work location in advance.

## Post-Incident Response

Section 6401.9(c)(2)(K) requires only "Procedures for postincident response and investigation." The seven-part procedure at (c)(11)(A) through (G) is the Division's own drafting, and two provisions in it would benefit from revision.

**A. Debriefing, subsection (c)(11)(D).** The draft requires a post-incident debriefing "with employees, supervisors, other persons (if possible), and security involved in the incident." Read literally, this implies assembling the listed participants together. That may be inappropriate when the alleged aggressor is a coworker or supervisor, when accounts conflict, when law enforcement has an open investigation, when confidentiality is required, or when an affected employee is not prepared to participate in a group setting.

Recommendation: Clarify that the debriefing may be conducted individually or in separate groups as circumstances warrant, and need not place an affected employee together with an alleged aggressor or interfere with an investigation, a confidentiality obligation, or employee safety.

**B. Employee input on cause, subsection (c)(11)(G).** The draft requires soliciting employees' observations "regarding the cause of the incident." Even as an initial phase of

information-gathering, this runs contrary to established incident investigation practice, which treats incidents as the product of multiple contributing factors rather than a single proximate cause.

Recommendation: Replace "the cause of the incident" with "the conditions and factors that contributed to the incident."

## Violent Incident Log

Section 6401.9(d)(2) requires the Log to record nine categories of information, several of which, including the perpetrator classification at (D), circumstances at (E), and incident type at (G), are introduced by "including" or "including, but not limited to," language that is nonexclusive on its face. I defer to the Division's legal counsel on whether that language obligates the regulation to reproduce the statutory examples as an enumerated, closed list, or permits the Division to state the classification duty while treating the examples as illustrative.

Whichever way the legal question above resolves, the practical problem is the same. The draft reproduces the statutory examples as enumerated subparagraphs in (d)(3). Presented that way, they function as a fixed menu: employers struggle with the nuances of which category an incident falls into. That granularity serves no practical purpose that is apparent from the text. Unlike section 3342's hospital reporting system, section 3343 establishes no routine submission or statewide aggregation of these reports, so it is unclear how this level of nuance would improve an employer's own tracking of workplace violence, or serve any broader statistical purpose.

Recommendation: Clarify whether section 6401.9(d)(2) requires the classification categories at (d)(3) to be reproduced as an enumerated, closed list, or permits the Division to state the classification duty and note that the statutory examples are illustrative. If the latter, adopt that approach and confirm that employers may describe an incident accurately without being confined to the listed examples. Absent a concrete compliance or prevention purpose, do not add classification detail beyond the statutory minimum.

## Violent Incident Log Interpretive Questions

The animal attack and physical display categories raise the same question in sharper form. Both are statutory examples that have generated significant client confusion; if the Division cannot remove them, it should at least clarify them.

**A. Animal attack, subsection (d)(3)(G)(5).** This category comes from section 6401.9(d)(2)(G)(v). Read against (b)(8), which defines workplace violence as an act or threat of violence, and (b)(7), which defines a threat by conduct conveying intent, it is difficult to place: an animal acting on its own has neither.

In my practice this has been a disproportionate source of client confusion relative to its importance. Clients in veterinary care, grooming, and boarding have repeatedly asked whether routine animal bites, an inherent risk of that work, must be logged as workplace violence, and I have fielded the same question from landscaping and utility clients regarding insect stings and reptile encounters. These employers are spending real time, and in some cases legal fees, on a question with nothing to do with the violence this standard exists to prevent.

The Division's FAQ *now* answers this question correctly: an animal attack is workplace violence where a person uses the animal as a weapon against another person; an attack by an aggressive animal at a veterinary clinic, animal sitter, doggy day-care, groomer, zoo, or petting zoo is normally not covered unless it was at the direction of a person; and qualifying injuries from an ordinary animal attack are recorded on the Form 300 as a regular workplace injury. That answer is sound, and it should not live only in an FAQ.

Recommendation: Codify the limiting principle the Division has already articulated.

**B. "Physical display," subsection (d)(3)(G)(4).** This phrase appears within the sexual-assault-or-threat category, drawn from section 6401.9(d)(2)(G)(iv). It also appears in section 3342, where it has gone undefined for nine years. It is unclear whether it means indecent exposure, a display of physical or sexual aggression, or some other conduct. Because the term determines how an incident is classified in a record the employer must maintain and produce, employers should not have to infer its scope.

Recommendation: Define "physical display," or otherwise clarify what conduct the term is intended to capture.

## Personal Identifying Information

**A.** Subsection (d)(1) requires the employer to omit from the Log any element of personal identifying information sufficient to identify anyone involved. Subsection (f)(6) then requires that personal identifying information be made available to the Division upon request. This second sentence is the Division's own; the statute's corresponding provision, 6401.9(f)(5), speaks only to records generally, with no separate personal identifying information clause. As drafted, it is unclear which of two things (f)(6) means: that the employer must create and maintain a separate record of identifying information precisely because that information had to be excluded from the Log, or that identifying information already present in some other required record simply cannot be withheld from the Division.

Recommendation: Clarify which reading is intended. If the former, identify the record employers are expected to create or maintain and its retention period. If the latter, state that (f)(6) does not itself create a new recordkeeping obligation.

**B.** Subsection (f)(7) states the redaction rule as a general permission with an exception: "The employer may redact information that may reveal personal identifying information, except for

training records." Grammatically, an exception to a grant of permission functions as a prohibition, so this presumably means training records may not be redacted. The rule should not depend on that inference, particularly because (f)(2) requires the names and job titles of all attendees.

Recommendation: State the rule directly: "(7) The employer may redact information that may reveal personal identifying information from records made available under this subsection. Names and job titles required in training records shall not be redacted."

## **Training for New and Newly Assigned Employees**

Section 6401.9(e)(2) requires initial training "when the plan is first established, and annually thereafter," and the draft tracks it. An employee hired immediately after an annual session can therefore work for nearly a year without plan-specific training.

This is a gap the Division has authority to close under section 6401.9(h), and section 3342(f)(1) supplies the model: initial training "when the Plan is first established and when an employee is newly hired or newly assigned to perform duties for which the training required in this subsection was not previously provided."

The gap is not merely technical. A newly hired or reassigned employee is among those least likely to know the employer's reporting channels, emergency procedures, location-specific hazards, and protective measures. Other stakeholders have raised the same point, including the United Food and Commercial Workers Union letter during the 2022 public comment period, which urged that new hires be trained when hired rather than waiting for the next annual cycle.

Recommendation: Add a new-hire and new-assignment training trigger modeled on section 3342(f)(1), or state the Division's reason for declining to do so.

## **Training Record Retention**

The one-year training record retention period at (f)(2) is statutory, appearing at section 6401.9(f)(2) and matching section 3203(b)(2) and section 3342(h)(2).

One year is an awkward verification window for an annual obligation. The prior record becomes eligible for destruction at essentially the moment the next session comes due, leaving no interval in which an employer or the Division could confirm the annual sequence was maintained without a gap. Training records are also relevant to incident follow-up, particularly where the question is whether an employee or supervisor involved had received the required training at the time, and the window may already have closed before that question arises. UFCW made a similar point in 2022, opposing one year as too short and proposing five years as a more customary requirement that would let employers assess hazards and strategies over time.

Recommendation: Extend the training record retention period to five years. This would match the period already used for the other four record categories in the draft, would not add significant administrative burden, and would leave a single uniform retention period across all workplace violence prevention records.

## Closing

I appreciate the Division's work on this rulemaking and the care evident in its response to earlier stakeholder comments. I recognize that much of the draft's structure is set by section 6401.9 and lies outside the Division's authority to substantially revise.

My central request concerns what remains within its discretion: be sparing in what is added beyond the statutory floor, resolve the ambiguities identified above in regulatory text rather than deferring them to guidance, and subject the next draft to a dedicated technical and plain-language review.

I am glad to discuss any of these comments, to provide additional practice-based detail on how specific provisions are landing with small employers, or to participate in an advisory meeting.

Respectfully submitted,



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