August 17, 2026

Re: Workplace Violence Prevention Standard - General Industry

Dear Eric Berg,

We appreciate the opportunity to comment on the July 22, 2026 discussion draft of the proposed Workplace Violence Prevention in General Industry standard. These comments supplement our prior submissions dated July 14, 2025, November 26, 2025, and June 1, 2026.

We commend the Division for adopting two of our prior recommendations. However, the comments below address areas where the Division remains unresponsive or has raised new concerns.

I. Scope and Application.

Section 3343(a) of the July Draft newly limits the standard's coverage of employer-provided transportation to transportation "under the employer's control." The Division explains that the change responds to stakeholder concern that the prior language was "overly broad."

However, the term "under the employer's control" is undefined, and that omission creates an issue. An undefined term creates interpretative uncertainty and creates incentive structures around it. Employers that contract with a third-party shuttle service, reimburses employees for rideshare fees, or organizes a vanpool that it does not operate itself could plausibly argue that none of these arrangements are "under its control," even though the employer arranged, sponsored, or paid for the transportation. A worker's exposure to workplace violence risk during

transit does not depend on who technically operates the vehicle. It depends on whether the employer put the worker in that transportation in the first place.

Additionally, this qualifier narrows a provision we previously supported. Our June 2026 letter commended the addition of employer-provided transportation to the standard's scope as meaningful progress because workers face workplace violence risk during employer-arranged transit just as they do at a worksite. But a control-based limitation reopens the gap we advocated closing by excluding third-party-operated, employer-arranged transportation, where an employer has the least incentive to assess and correct hazards precisely because it does not view itself as "in control."

Therefore, we recommend that §3343(a) be amended to remove the qualifier "under the employer's control" and restore unqualified coverage of employer-provided transportation. In the alternative, if the Division retains the qualifier, we recommend that "under the employer's control" be defined to include any transportation that the employer arranges, sponsors, requires, or reimburses, regardless of whether the employer or a third party operates the vehicle.

II. Definitions.

A. "Threat of Violence."

Section 3343(b)(7) defines "threat of violence" as conduct that "conveys an intent, or that is reasonably perceived to convey an intent, to cause physical harm." We raised this concern in our June 2026 letter, drawing on a related concern from our July 2025 letter about the Division's removal of the Penal Code definition of stalking, and it remains unaddressed in the July Draft.

Intent is a mental state concept. Determining whether a person acted with intent to harm is a task courts and juries perform through evidence, testimony, and cross-examination, developed over the course of a legal proceeding designed for that purpose. The draft standard asks employers and supervisors, who are not legal factfinders, to make that same determination on the spot, often from an isolated statement or an ambiguous gesture. An employer cannot reliably distinguish a genuine threat from a poorly worded joke, a cultural or linguistic difference in expression, or a statement made in anger without any intent to act on it. Conditioning a "threat of violence" finding on intent asks employers to do something legal systems do not ask untrained laypeople to do in any other context.

Therefore, we again recommend that §3343(b)(7) be amended to remove "intent" as the operative element of "threat of violence," and replace it with the definition the Division already uses in the health care workplace violence standard (8 CCR 3342):

> ***"Threat of violence" means a statement or conduct that causes a person to fear for his or her safety because there is a reasonable possibility the person might be physically injured, and that serves no legitimate purpose.***

Maintaining consistency in definitions across standards is important to ensure appropriate and protective enforcement and implementation.

B. "Workplace Violence."

Section 3343(b)(8) defines "workplace violence" as "any act of violence or threat of violence that occurs in a place of employment," followed by examples of types of workplace violence. Neither the definition nor its examples name sexual assault, domestic violence, sexual harassment, or stalking. We raised the first three in our June 2026 letter, and stalking in our July 2025 and June 2026 letter. The July draft does not address any of them in the definition.

Sexual assault and domestic violence fit squarely within the existing framework without any need to expand it. §3343(b)(8)(A) already covers "the threat or use of physical force against an employee that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress." Sexual assault and domestic violence, by definition, involve physical force or its imminent threat. Naming them does not broaden the standard's coverage; it simply removes ambiguity about the conduct that qualifies, so that an employer reading the definition does not have to infer coverage from a general physical-force clause when a direct answer is available.

Similarly, sexual harassment and stalking fit squarely within the current framework because they involve an imminent threat of physical violence and, in and of themselves, can result in a high likelihood of psychological trauma. Harassment can include unwanted physical contact, but it frequently consists of verbal conduct, visual conduct, or a pattern of behavior that causes psychological trauma or stress. Stalking presents the same problem: a pattern of surveillance, unwanted contact, or intimidation can cause serious psychological harm.

The July draft removes stalking as an example of workplace violence hazards in §(b)(10), consistent with our position that stalking is itself an act of violence rather than a background condition that merely increases risk. But the Division has not restored stalking to the definition of "workplace violence" in the operative text, and states instead that it will address stalking in a future guidance document. It would be more protective to name stalking directly in (b)(8).

Therefore, we recommend that §3343(b)(8) be amended to add the following:

> ***(C) Sexual assault; domestic violence.***
>
> ***(D) Sexual harassment that occurs in the course of employment, or in connection with a place of employment, and that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress to the employee, regardless of whether the conduct involves physical force.***
>
> ***(E) Stalking of an employee that occurs at a place of employment, or in connection with a place of employment, that is brought to the attention of the employer or that the employer could otherwise be reasonably***

aware of, and that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress to the employee, regardless of whether the conduct involves physical force.

C. Work Practice Controls.

Section 3343(b)(9)(A) defines appropriate staffing as staffing levels "based on the employer's workplace violence hazard assessment required by subsection (c)(9)." The Division's explanation states that the change was made because stakeholders found the original "not helpful in clarifying appropriate staffing levels in general industry."

This creates an issue. It measures adequate staffing entirely against the employer's own hazard assessment, with no independent reference point. An employer whose hazard assessment understates the violence hazards present at a worksite will, under this language, correspondingly understate the staffing needed to address them. Especially within industries where workers are often isolated and working during non-traditional hours — such as the domestic worker and janitorial service industries — relying on just the employer's evaluation of the worksite to determine adequate staffing levels will not keep workers safe. Because this standard provides no floor beneath the self-assessment, the staffing requirement will only be as protective as the employer's evaluation of its facility.

Therefore, we recommend that §3343(b)(9)(A) be amended to read: ***"appropriate staffing to effectively prevent and respond to the workplace violence hazards present in the workplace."*** This language ties staffing directly to the violence hazards present in the workplace without predicating it on the employer's assessment.

D. "Workplace Violence Hazards."

The April 2026 draft included "working with persons with a history of violence" as a hazard factor at §3343(b)(10)(I). The July draft does not restore it, and still offers no explanation for the omission.

A documented history of violent conduct at a given worksite is precisely the kind of information §3343(c)(9) asks employers to use in identifying and evaluating hazards: it is specific, it is knowable to the employer, and it predicts risk better than most factors already retained in §(b)(10), such as poor lighting or isolated work locations. Removing it does not make the underlying risk disappear.

Still, we believe the original language was too narrow. It referred to "working with persons," without specifying whether that included clients, patients, or members of the public. Workers in healthcare, social services, and retail settings often face risk not from coworkers but from their clients, patients, or customers they are required to serve, some of whom have a documented

history of violent conduct at the same workplace. A hazard factor limited to coworkers, or left ambiguous, misses a substantial share of the risk the standard is meant to address.

At the same time, an unbounded hazard factor creates a different problem. If "history of violence" is read to include conduct anywhere in a person's life, it invites employers to investigate the personal history of employees, clients, or patients well beyond what the workplace has any legitimate need to know. As a result, the hazard factor should be tied to the conduct that the employer actually has a basis to know about: violence or violent behavior that is connected to that employer's operations. Importantly, that connection should not be read so narrowly that it resets when an employee or manager with a known history of violent conduct is transferred to a different location operated by the same employer. An employer aware of an employee's or manager's violent conduct at one worksite has that same awareness when it reassigns that person elsewhere; the risk moves with the individual.

Therefore, we recommend that §3343(b)(10) be amended to reinstate a hazard factor along the following lines: ***"working with a client, patient, customer, or coworker with a history of violence or violent behavior connected to the employer's operations, including at any worksite operated by the employer."***

III. Workplace Violence Prevention Plan.

A. Supervisor Reporting.

We appreciate and welcome the Division's changes to Section 3343 (c)(6)(A), now permitting an employee to report to a designated person other than their direct supervisor where the supervisor "has not adequately addressed the hazard," adopting the language we proposed in our June 2026 letter. We do find that an additional barrier exists with the provision as is.

Research on the California janitorial industry finds that reporting silence is driven by a general distrust of supervisory and human-resources-based channels, not only by the conduct of a particular supervisor. Workers described supervisors as frequently being the harassers themselves, and HR representatives as routinely disregarding reports rather than acting on them.[1] One worker described the experience of reporting through those channels, "there is no trust and there is a fear of retribution." The study's authors concluded that trained peers should play a greater role in reporting systems precisely because supervisor and HR-based channels cannot be assumed to be trustworthy by default in workplaces with these dynamics.[2]

A similar pattern appears outside the janitorial context: one low-wage worker who reported workplace sexual harassment to her employer was told only that she "always had problems at

[1] Zoë West, Sanjay Pinto, and K.C. Wagner, *Sweeping Change: Building Survivor and Worker Leadership to Confront Sexual Harassment in the Janitorial Industry*, 27 (Cornell University, ILR School, The Worker Institute 2021).
[2] *Id*. at 46.

work, always had problems at home," illustrating how a report brought through a single supervisory relationship can be dismissed rather than addressed.[3]

While designating an alternate supervisor is a meaningful change. It unfortunately does not resolve an issue in workplaces where the underlying distrust runs the whole management-aligned reporting channels. An employee who does not trust supervisors as a category has no more reason to trust a different supervisor than the one directly involved.

Therefore, we recommend that §3343(c)(6)(A) be amended to add a third reporting channel: ***"To a peer-led reporting group, where the employer has established one, consisting of trained employee peers designated to receive and respond to reports of workplace violence."*** We recommend that this option be available to employers as an additional channel alongside those already required.

B. Hazard Identification.

Section 3343(c)(9) requires employers to maintain effective procedures for hazard identification and evaluation, including through "employee and authorized employee representative reports and concerns." The July draft leaves this language unchanged.

The Division has already recognized elsewhere in this standard that meaningful employee representation should not depend on union membership. Section 3343(b)(2) defines "designated representative" as any individual or organization to whom an employee gives written authorization, a definition that extends representation to non-unionized workers who have no "authorized employee representative" as defined in §3343(b)(1), which is limited to labor organizations with a collective bargaining relationship or formally recognized public employee organizations.

However, that definition does not appear in §3343(c)(9). Including designated representatives in the records process but excluding them from the most consequential process of hazard identification is an inconsistency. Workers cannot meaningfully participate in preventing workplace violence if their chosen representatives are excluded from the process of identifying the hazards that put them at risk.

This recommended change is especially important because most private-sector workers, including fast food workers, do not have collective bargaining representatives. Forcing a technical union representative requirement would essentially preclude almost all fast food workers from having any meaningful or expert assistance during this process. Workers, especially those who don't have the legal protections of a collective bargaining agreement deserve the opportunity to have an advocate in this process, particularly having direct experiences with the hazards.

[3] Elizabeth Kristen, Blanca Banuelos & Daniela Urban, *Workplace Violence and Harassment of Low-Wage Workers,* 36 Berkeley J. Emp. & Lab. L. 169, 181 (2015).

Therefore, we recommend that §3343(c)(9) be amended to include designated representatives alongside authorized employee representatives. If the Division declines, we renew our request from our July 2025, November 2025, and June 2026 comments that the definition of "authorized employee representative" in §3343(b)(1) be expanded consistent with the broader representation standard established under the Injury and Illness Prevention Program regulation to ensure that all workers have meaningful representation in the hazard identification process.

C. Post-Incident Response.

1. Trauma Counseling.

Section 3343(c)(11)(C) provides that trauma counseling offered through workers' compensation, an employee assistance program, or "initial counseling" offered by the employer, satisfies the trauma counseling requirement. We previously raised concerns about the insufficiency of workers' compensation and undefined "initial counseling" in our November 2025 and June 2026 letters. The July draft does not remove either, and adds employee assistance programs as a third satisfying avenue, further diluting a provision we have twice asked the Division to strengthen.

During the Division's November 12, 2025 advisory committee process, employers argued that requiring trauma counseling independent of workers' compensation would be infeasible. As we showed during our November comment letter, that claim is already contradicted by the Division's own regulations. Healthcare employers are already required to make "available individual trauma counseling to all employees affected by the incident" under 8 Cal. Code Regs. § 3342(c)(12)(C), and have implemented that requirement across healthcare workplaces of varying sizes and settings. If the requirement is operationally feasible for healthcare employers, the Division has no basis to treat it as infeasible for general industry.

Additionally, the timing of care for workers matters. To illustrate, a randomized study of robbery victims found that those debriefed within 10 hours of the incident showed lower and more rapidly declining posttraumatic stress symptoms at every follow-up point than those debriefed more than 48 hours later, even though symptom levels did not differ at the initial debriefing itself.[4] Importantly, workers' compensation is not structured to deliver counseling on that timeline. As explained in our prior letters, the system involves eligibility determinations, claims adjudication, and coverage disputes that introduce delay by design, and its providers are not required to have trauma-informed training. When measured against research showing that delayed care produces measurably worse outcomes, an adjudication-based approach is the wrong tool for this requirement.

Regarding the term "initial counseling," it remains undefined. The Division still provides no guidance on what "initial" means (whether it refers to a single session, a first appointment pending further authorization, or something else entirely). This ambiguity leaves both employers

[4] Kerrianne M. Campfield & Adelma M. Hills, *Effect of Timing of Critical incident Stress Debriefing (CISD) on Posttraumatic Symptoms*, 14 J. Traumatic Stress 327 (2001).

and employees without a clear standard and invites inconsistent application. While Employee Assistance Programs (EAPs) could address the immediacy problem better than workers' compensation, EAPs typically provide only a small, fixed number of counseling sessions per issue. A worker who has experienced a workplace violence incident may need more sustained care than EAPs allow, and the standard should not treat a capped, short-term benefit as fully satisfying an open-ended trauma requirement.

Two further points to note on how this requirement should be structured. First, counseling made available under this provision should be at no cost to the employee. Second, the provision should not be satisfied by counseling already available to the employee under a collective bargaining agreement, independent of this standard; a CBA-provided mental health benefit is not triggered by, or designed around, a workplace violence incident specifically, and treating it as satisfying §3343(c)(11)(C) would mean unionized employers face no distinct obligation under this provision at all.

Therefore, we recommend that §3343(c)(11)(C) require employers to affirmatively offer individual trauma counseling to all employees affected by a workplace violence incident, immediately following the incident and at no cost to the employee, with the employee retaining the right to accept or decline. We recommend that the Division explicitly clarify that access to workers' compensation does not, by itself, satisfy this requirement, and that the requirement is not satisfied by counseling otherwise available under a collective bargaining agreement. In the alternative, if the Division retains workers' compensation and employee assistance programs as satisfying avenues, we recommend that the provision distinguish between the two: an employee assistance program, or equivalent immediately accessible service, may satisfy the requirement for immediate initial care, while workers' compensation may be used only to provide continuing care beyond that initial period.

2. Gender Responsive Support.

The post-incident response requirements in §3343(c)(11) do not address the distinct needs of employees who have experienced gender-based workplace violence. Workers who experience sexual assault, domestic violence, or gender-based harassment face specific psychological, physical, and practical challenges that standard post-incident protocols may not adequately address.

Further, the inadequacy of workers' compensation as a substitute for trauma counseling is particularly acute for survivors of gender-based workplace violence. Workers' compensation providers are not required to have trauma-informed training and are even less likely to have specialized in gender-based violence response.

Therefore, we continue to recommend that §3343(c)(11) be amended to require employers to provide gender-responsive support to employees reporting gender-based workplace violence incidents, including trauma-informed, victim-centered counseling.

IV. Violent Incident Log.

Section 3343(d)(3)(G) requires the violent incident log to record whether an incident involved sexual assault or threat. However, this classification does not capture other forms of gender-based violence, including sexual harassment, domestic violence, and stalking. As argued above, these are examples of workplace violence that the standard should expressly recognize.

Therefore, consistent with our recommendation above, we continue to recommend that §3343(d)(3)(G)(4) be amended to add ***"or other form of gender-based violence including, but not limited to, sexual harassment, domestic violence, and stalking."***

V. Training.

A. Reporting Rights.

Section 3343(e)(1)(C) requires employers to train employees on how to report workplace violence incidents or concerns "to the employer or law enforcement without fear of reprisal." This continues to omit Cal/OSHA. We raised this in our June 2026 letter, and the July draft does not address it.

California workers have an independent right to report workplace safety concerns directly to Cal/OSHA, separate from any right to report to their employer or the police. An anti-retaliation protection tied to that right is only useful to a worker who knows it exists. A training requirement that does not name Cal/OSHA does not reliably produce that knowledge, regardless of whether the Division believes this is already covered under the notice regulations.

In ordinary usage, "law enforcement" refers to police, sheriffs, and other agencies that respond to and investigate crimes. An employee trained only to report "to the employer or law enforcement" has no reason to conclude that this includes a regulatory report to Cal/OSHA about a safety concern that may not involve any crime at all. The term does not communicate what a training requirement is supposed to communicate: a clear, recognizable list of where an employee can report.

Therefore, we recommend that §3343(e)(1)(C) be amended to read: "How to report workplace violence incidents or concerns to the employer, ***Cal/OSHA***, or law enforcement without fear of reprisal."

B. Interactive Training.

Section 3343(e)(1)(F) permits training to be conducted remotely, provided that interactive questions are answered within one business day by a person knowledgeable about the employer's workplace violence prevention plan. We raised concerns about this provision in our June 2026 letter, and the July draft leaves it unchanged. Knowledge of a written plan is not always the same as knowledge of a worksite, and the standard's own hazard factors show why this distinction is important. Section 3343(b)(10) identifies specific, physical features of a workplace as hazards:

entries where unauthorized access can occur, work locations lacking effective escape routes, and areas with poor lighting or blocked visibility, among others. These are questions about a particular building, parking lot, and entry points that can only be answered by someone who actually has been there and is knowledgeable about workplace violence prevention. A trainer who knows the employer's plan but has never visited the worksite may be able to describe what the plan says in general terms, but cannot tell an employee how to apply it to the actual worksite.

This is a particular concern for larger employers operating multiple work sites where someone from a central management team conducting training may not understand the specific considerations of each individual workplace, which are critical for effective workplace violence prevention and training. Moreover, in fast food establishments, a recurring hazard is individuals who enter a specific store while experiencing a mental health or substance use crisis and cause a violent disturbance, a pattern that employees and on-site managers learn to recognize from repeated experience at that location, but that a trainer based elsewhere would have no way to know.

Therefore, we continue to recommend that §3343(e)(1)(F) be amended to require in-person training as the default. We further recommend that the "knowledgeable person" requirement be amended to require demonstrated familiarity with the specific worksite, including its physical layout, parking areas, and points of entry and exit, and not just familiarity with the written plan.

VI. Conclusion.

In closing, we appreciate the Division's efforts in establishing a strong and comprehensive workplace violence prevention standard for general industry and the opportunity to participate in the process. While the draft reflects meaningful progress, the revisions proposed above address critical gaps that remain. We believe these revisions would create a more effective and equitable standard that protects all California workers from workplace violence. We urge the Division to adopt these proposed changes and ensure the final standard delivers protection without the ambiguities that would undermine its effectiveness. Thank you for your consideration.

Respectfully submitted,

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