

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
(916) 274-5721
FAX (916) 274-5743
Website address: www.dir.ca.gov/oshsb

**PROPOSED PETITION DECISION OF THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
(PETITION FILE NO. 517)****INTRODUCTION**

The Occupational Safety and Health Standards Board (Board) received a petition dated July 26, 2010, from Michael Geyer (Petitioner). The Petitioner recommends that the Board adopt a regulation regarding English language in the workplace. The Petitioner proposes the following:

- “The Board should adopt a regulation that all workers in California must be able to speak and understand the English Language.”
- “...the Board should adopt a regulation requiring (or at a minimum recommending) English as the universal language spoken at California’s job sites.”

Labor Code section 142.2 permits interested persons to propose new or revised regulations concerning occupational safety and health and requires the Board to consider such proposals and render a decision no later than six months following receipt. Further, as required by Labor Code section 147, any proposed occupational safety or health standard received by the Board from a source other than the Division of Occupational Safety and Health (Division) must be referred to the Division for evaluation, and the Division has 60 days after receipt to submit a report on the proposal.

SUMMARY

The Petitioner states that he has “observed significant accidents and losses occurring at job sites because languages other than English were spoken,” and he indicates that safety would be enhanced if all workers were required to speak and understand English or if English were the universal workplace language.

DIVISION’S EVALUATION

The Division recommends that the petition be denied because such provisions of California law as Government Code Sections 12940 and 12951 preclude the Board from promulgating the Petitioner’s recommended regulation.

STAFF'S EVALUATION

The Petitioner's proposal to make English the universal workplace language is contrary to Government Code Section 12951. That statute sets forth the Legislature's determination that employers, on a case-by-case basis, may consider language-limiting policies, but there is no indication that the Legislature intends that an administrative agency, such as the Board, may, by promulgating a regulation, adopt such a policy on behalf of all employers.

Both versions of the regulation proposed by the Petitioner are inconsistent with State policy as reflected in several statutes and regulations. For instance, Labor Code Section 105 states in part that the Labor Commissioner is to provide explanatory materials in non-English languages, and Labor Code Section 176 states a Legislative determination that the Division is to take affirmative steps to ensure that persons with limited English proficiency can communicate effectively with the Division. A further example is Labor Code Section 7991, which requires in part that the Division offer the explosive blaster's license examination "in Spanish, or any other language, when requested by the applicant."

The Labor Code and various Title 8 regulatory provisions show that both the Legislature and the Board recognize the multi-lingual nature of California's work force and follow a policy of accommodating that facet of workplace reality. If the Board were to adopt either version of the Petitioner's proposal, the Board would contravene the Legislature's policy of accommodating linguistic diversity in the workplace, and it is not appropriate for the Board to do so. As indicated in the Division evaluation, the proper place for the Petitioner to pursue his proposal is in the Legislature, not at the Board.

CONCLUSION AND ORDER

The Occupational Safety and Health Standards Board has considered the petition of Michael Geyer, to adopt a regulation regarding English language in the workplace. The Board has also considered the recommendations of the Division and Board staff. For reasons stated in the preceding discussion of the Division and Board staff evaluations, the Petition is hereby DENIED.