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*Sent Via Email*

Re: Workplace Violence Prevention Standard - General Industry

I was privileged to read the comments submitted by Worksafe on this regulation and I offer my support to a variety of issues brought forth that were lacking or not protective enough in the draft regulation. I will list the topics of the comments and you may reference the Worksafe document for more detailed information.

The lack of employee participation in the development and monitoring of the Plan is a concern.

“Workplace Violence” and “Threat of Violence” Definitions

“Workplace violence” means any act of violence or threat of violence that occurs at the worksite or while using employer supplied or arranged transportation or any threat of violence by a supervisor that occurs at employer supplied lodging. The term workplace violence shall not include lawful acts of self-defense or defense of others.

(C) Stalking of an employee that results in, or has a likelihood of resulting in material harm to the physical safety and health of such employee when such stalking has arisen through and in the course of employment or occurs at the worksite.

“Threat of violence” means a statement or conduct that has a reasonable possibility of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury that causes a person to fear for his or her their safety because there is a reasonable possibility the person might be physically injured, and that serves no legitimate purpose.

Our proposed solution is to simply eliminate the use of the term “injury” in the definitions and to incorporate language requiring the employer to keep a violent incident log.18 Eliminating any reference to injuries would require reporting on all workplace violence (including threats), regardless of degree of injury.

(e)(3) Records of violent incidents, including but not limited to; workplace violence injury investigations conducted pursuant to subsection(c)(10) and violent incident logs

required by subsection (d), shall be maintained for a minimum of five years.

(c) The Plan shall be in writing and shall be available to employees and their (qualified) representative at all times.

The definitions for engineering controls, environmental risk factors and work practice controls should follow the definitions for these terms in the WVP in health care regulation.

Environmental factors such as physical space...work at night and in isolation  
“(c)(8) Procedures to identify and evaluate workplace violence hazards and environmental risk factors.

Engineering and work practice controls shall be used to eliminate or minimize employee exposure to the identified hazards to the extent feasible. The employer shall take measures to protect employees from imminent hazards immediately and shall take measures to protect employees from identified serious hazards within seven days of the discovery of the hazard, where there is a realistic possibility that death or serious physical harm could result from the hazard. When an identified corrective measure cannot be implemented within this timeframe, the employer shall take interim measures to abate the imminent or serious nature of the hazard while completing the permanent control measures.

Plan must be in effect at all times and there must be an employer obligation to review the plan

The employer should be responsible for creating procedures for reporting all types of violence, procedures for workers to report to someone other than their direct supervisor.  
(c)(4) Effective procedures for the employer to accept and respond to reports of workplace violence, in a manner that does not discourage reporting, including procedures for reporting all types of violence to a designated person, and procedures for reporting Type 3 violence to a designated person who is not a direct supervisor.”

(c)(6) (A) How an employee can report a violent incident, threat, or other workplace violence concern without fear of reprisal.

(c)(6) (D) How an employee can report a violent incident or threat to local law enforcement without fear of reprisal.

(c)(10) Procedures for response to and investigation of complaints and injuries including completion of a form created by the Division that explains an employee's right to make a police report about the incident and provides contact information for local law enforcement. A form must be provided to any employee who is a victim of workplace

violence. The form must be provided in a language the employee understands or with translation service, including phone translation service if needed to help complete the form. Any worker who files a complaint or suffers an injury should be provided with a copy of the completed incident investigation.

(c)(9)(A) Creating an effective means by which employees can be alerted to the presence, location, and nature of a security threat.

(c)(9)(B) Establishing an effective response plan for actual or potential workplace violence emergencies that includes obtaining help from facility security or law enforcement agencies as appropriate. Employees designated to respond to emergencies must not have other assignments that would prevent them from responding immediately to an alarm to assist other staff. The response plan shall also include procedures to respond to mass casualty threats, such as active shooters, by developing evacuation or sheltering plans that are appropriate and feasible for the facility, a procedure for warning employees of the situation, and a procedure for contacting the appropriate law enforcement agency.

Training. The employer shall provide effective in-person workplace violence prevention training to a covered worker or supervisor by a qualified trainer who is physically present in the room to present information, lead discussions, and respond to questions as specified in subsections (d)(1) and (d)(2).

(d)(5) The employer shall have an effective procedure for obtaining active involvement of employees and their representatives in developing training curricular and training materials, participating in training sessions and reviewing and revising the training program.

**new subsection (d)(4):** A definition of qualified trainer should be added to include: Qualified trainer means a human resource professional or harassment prevention consultant, including a peer advocate, engaged as an employee or independent contractor, who is aware of “trauma-informed approaches,” as defined by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA) to violence prevention education and training and has a minimum of two years of practical experience in one or more of the following:

- a. designing or conducting discrimination, retaliation and workplace violence and/or sexual violence prevention training;
- b. responding to workplace violence complaints or other discrimination complaints;
- c. conducting investigations of workplace violence and/or sexual violence complaints;
- d. advising employers or employees regarding discrimination, retaliation and workplace violence and/or sexual violence prevention.

How to contact other agencies such as DFEH or law enforcement without fear of reprisal.  
How to contact support publically available resources for victims of violent crimes.

Employee Representative” means any individual or organization to whom an employee gives written authorization to exercise such employee’s right under this standard. Where there is a recognized or certified collective bargaining agent, that individual shall be treated automatically as a designated employee representative without regard to written employee authorization. “Qualified Representative” an authorized employee representative selected by two or more employees which representative shall be an attorney, a health or safety professional, union representative, or a representative of a community organization such as a worker center or worker advocacy organization.

Because representatives play a significant role, especially where there is no union, we propose inserting “and qualified representative” to ensure that representatives have access, in the following sections: WVP plan, investigation records and the workplace violence incident log.

Thank you for your consideration of these comments.

Sincerely,

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