

BOARD OF DIRECTORS

**Ruth Wooden**  
CHAIR  
Retired President  
Public Agenda

**Judi Kanter**  
VICE CHAIR  
Former Director  
San Francisco Office  
EMILY's List

**Nathan Brostrom**  
TREASURER  
Executive Vice President  
for Business Operations  
University of California

**Susan Leal**  
SECRETARY  
Chief Strategy Officer  
Water, Americas  
AECOM

**The Honorable  
Ronald B. Adrine**  
Administrative and  
Presiding Judge  
Cleveland Municipal  
Court

**Jacquelyn Campbell**  
Anna D. Wolf Chair  
and Professor  
School of Nursing  
Johns Hopkins University

**M.L. Carr**  
Former NBA Player  
and Coach  
Boston Celtics

**The Honorable  
Bill Delahunt**  
Former Member  
U.S. House of  
Representatives

**Sunny Fischer**  
Executive Director  
The Richard H.  
Driehaus Foundation

**Ellen Friedman**  
Executive Director  
Compton Foundation

**Peter Harvey**  
Partner  
Patterson Belknap  
Webb & Tyler LLP

**William B. Hirsch**  
President  
Peer Review Films

**Esta Soler**  
PRESIDENT &  
FOUNDER



March 30, 2018

**Kevin Graulich**  
Senior Safety Engineer  
DOSH Research & Standard Health Unit  
495-2424 Arden Way  
Sacramento, CA 95825

*Sent Via Email*

Re: Workplace Violence Prevention Standard - General Industry

Thank you to the Advisory Committee for providing us with the opportunity to submit comments on the workplace violence prevention (WVP) standard for general industry.

While we appreciate all of the work that has gone into developing this standard, we believe several key changes outlined below, and commented on more fully by our ally Worksafe, should be incorporated in order to reflect how violence most often presents in the workplace.

### **I. Scope of the Rule**

We are concerned the current draft's definition of "threat of violence" is too narrow. First, the definition should not be limited to threats at the "work site." The definition should unambiguously cover all incidents within the scope of work. We want to ensure workers without a fixed "work site" or who are away from their work site as part of their job (at a conference, for example) are covered.

Second, we want to make sure that "threat of violence" includes conduct such as stalking. Stalking conduct has been identified as the most prevalent form of abuse occurring at work.<sup>1</sup>

---

<sup>1</sup> Reeves, C.A., & O'Leary-Kelly, A (2009), A Study of the Effects of Intimate Partner Violence on the Workplace. University of Arkansas, Fayetteville, AR.

**SAN FRANCISCO**  
100 Montgomery Street, The Presidio  
San Francisco, CA 94129-1718  
tel. 415.678.5500

**WASHINGTON**  
1320 19th Street, NW, Suite 401  
Washington, D.C. 20036-0343  
tel. 202.595.7382

**BOSTON**  
281 Summer Street, 5th Floor  
Boston, MA 02210-1509  
tel. 617.702.2004



Sexual violence, domestic violence, sexual violence, and stalking are pervasive in all demographics, and impact every workplace. The vast majority of victims of stalking know their stalkers, and stalking is often closely connected and related to domestic violence. According to the Center for Disease Control and Prevention, an estimated 60.8% of stalking victims are stalked by a current or former intimate partner.

Other jurisdictions have used language to ensure there is no ambiguity about the inclusion of stalking in the definition of WVP.<sup>2</sup> We urge you to adopt comparable language.

## **II. Recordkeeping Requirements**

The National Institute for Occupational Safety and Health recognizes that workplace violence comprises a continuum of behaviors ranging from threatening comments to homicide.<sup>3</sup> As we sadly know from news coverage of workplace violence events, many instances of workplace violence are preceded by warning signs such as threats, stalking, or similar behavior. Just as an employer should assess recognized workplace hazards, such as leaks or dust collection, a threat against an employee is a predictor of potential escalation to violence that should be assessed by employers.

Unfortunately, the current draft language does not adequately recognize the importance of assessing and documenting threats and other indicators of violence. The current language only requires employers to log incidents of violence that result in an injury serious enough to require treatment beyond first aid, or that keep the injured worker from performing her normal job duties – records already required under current law.<sup>4</sup> This high bar for recording a workplace violence incident is troubling. Documentation of threats and potentially dangerous behavior ensures accountability, and action. Recordkeeping often prompts employers to take steps to address a hazard, and helps employees, their representatives, and DOSH determine whether the employer has been proactive in assessing and addressing hazards. Limiting recordkeeping requirements to incidents resulting in injury does not prevent violent incidents, and could actually mask important warning signs of potential violence from senior management.

This documentation should occur in a single log dedicated to the purpose of recording workplace violence. While some employers may track incidents in individual personnel files, a log of all incidents is necessary to “connect the dots,” so that troubling patterns can be addressed before they escalate. Requiring documentation only of incidents actually resulting in violence is simply too narrow, and is reactive, instead of proactive.

## **III. Hazard Assessment and Control Measures in the Workplace Violence Prevention Plan**

Unlike the recently adopted WVP standard in health care (and contrary to basic health and safety principles), the proposal for the general industry WVP does not include a robust hazard assessment

---

<sup>2</sup> See, e.g., Public Employer Workplace Violence Prevention Programs, 12 NYCRR PART 800.6.

<sup>3</sup> NIOSH 2009, Violence in the Workplace

<sup>4</sup> Draft Workplace Violence General Industry Standard. The draft language incorporates Title 8, section 14300.7(b)(1)(A)-(F) of the California Code of Regulations, which requires employers to log injuries resulting in death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or significant injury or illness diagnosed by a physician or other licensed healthcare professional or loss of consciousness

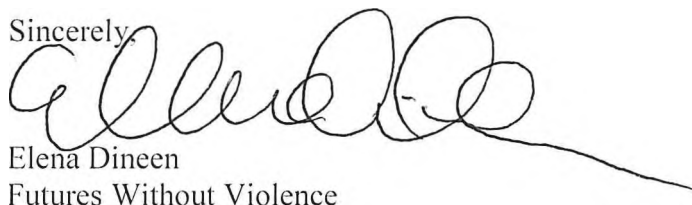
process or the adoption of specific control measures to address the hazards that are identified. The more specific a plan is in assessing hazards and potential hazardous conditions, the more effective the corrective measures. Further, all WVP should address active shooter protocols, as every workplace has the potential for such incidents to occur.

#### **IV. Definition of Representative**

Finally, the standard should include a definition of employee representative that permits employees to elect a representative where there is no collective bargaining agent. **Worker-designated representatives play a key role in increasing safety and health in California workplaces. Their role is especially important when workers are disempowered and not protected by a union. We recommend, as an example, the definition of representative used in the federal Mine Safety and Health Act.<sup>5</sup>**

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Elena Dineen', with a long horizontal line extending to the right from the end of the signature.

Elena Dineen  
Futures Without Violence

---

<sup>5</sup> 30 C.F.R. 40

