Pomona Economic Opportunity Center

March 28, 2018

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

Sent Via Emai

Re: Workplace Violence Prevention Standard - General Industry

Thank you to the Advisory Committee for providing us with the opportunity to provide comments on this workplace violence prevention (WVP) standard for general industry. The Pomona Economic Opportunity Center (PEOC) is supportive of these measure because it provides further protections to our membership of low-wage workers. We are a worker center based in Pomona, CA that facilitates support to day laborers, household workers and warehouse workers

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 made in order to better focus on violence prevention.

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 hotel for example) are covered.

Second, we want to make sure that "threat of violence" includes conduct such as stalking and other conduct known to be a predictor of sexual violence. Stalking has been identified as the most prevalent form of abuse at work.[1] Other jurisdictions have used language to ensure there is no ambiguity about the inclusion of stalking in the definition of WVP, and we urge you to adopt comparable language.[2]

II. Recordkeeping Requirements

---

[1] 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.

[2] See, e.g., Public Employer Workplace Violence Prevention Programs, 12 NYCRR PART 800.6.

The National Institute for Occupational Safety and Health recognizes that workplace violence is a continuum of behaviors ranging from threatening comments to homicide.[3] 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 a recognized workplace hazard, a threat against an employee is a predictor of escalation that should be assessed by employers.

Unfortunately, the current draft language does not adequately recognize the importance of assessing and documenting threats and other predictors 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.[4] This high bar for recording a workplace violence incident is troubling. Documentation is a way to ensure accountability, and for senior management to assess the risk of escalation. Recordkeeping often prompts employers to act on a hazard, and helps employees, their representatives and DOSH determine whether the employer has been proactive in assessing and addressing hazards. Limiting recordkeeping to incidents resulting in injury does not further the goal of prevention, and could actually mask important warning signs of an escalating incident 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. Incidents resulting in violence is simply too narrow and incomplete a picture for a preventative approach.

Our proposed solution is to simply eliminate the use of the term "injury" in the recordkeeping section of the standard. Eliminating any reference to injuries would require reporting on all workplace violence (including threats), regardless of degree of injury.

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 general industry WVP does not include a robust hazard assessment process or the adoption of specific control measures to address the hazards that are identified. The more specific a plan is in assessing hazards, the more effective corrective measures can be. There are also hazards common to all workplaces, such as active shooter scenarios, that should be specifically addressed in all WVP plans.

The standard should also define and identify the types of engineering controls, environmental risk factors, and work practice controls that should be included in a WVP plan. The definitions in the WVP in health care standard provide examples of the types of controls employers should adopt.[5] The

---

[3] NIOSH 2009, Violence in the Workplace

[4] 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

[5] Cal. Code of Regs., Tit. 8 § 3342 (b).

general WVP standard should include similar definitions and examples, and require appropriate controls based on a hazard assessment that includes environmental risk factors.

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's 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.[6]

Thank you for your consideration of these comments.

Sincerely,
Fernando Romero

Executive Director, Pomona Economic Opportunity Center

[6] 30 C.F.R. 40