



**Office of  
Employee Relations**

# **Prevention of Workplace Violence**

**Law, Policy, and Program 2023**

# Prevention of Workplace Violence

## Learning Objectives

Participants will:

- Identify the elements of the Workplace Violence Prevention law and regulations
- Define workplace violence and list the types
- Identify the workplace violence prevention policy and program requirements and know where to obtain or view a written copy
- Be aware of risk factors and prevention efforts
- Know how to report incidents of workplace violence
  - With your employing agency
  - With Department of Labor



# Workplace Violence Prevention: Law and Regulations



# Workplace Violence Prevention Law and Regulations

NYS Labor Law Section 27-b, known as the Workplace Violence Prevention Act, was enacted in 2006.

In 2009, NYS Department of Labor (DOL) implemented regulations to accompany the Workplace Violence Prevention Act. These regulations can be found at 12 NYCRR 800.6 and are enforced by DOL.



# Workplace Violence Prevention

## Law and Regulations

The law and regulations require a public employer (agency) to develop and implement programs to prevent and minimize risks of workplace violence.

The agency will:

- Develop and implement a workplace violence policy statement
- Perform a risk evaluation and determination
- Develop a written workplace violence prevention program that
  - Establishes and implements recordkeeping and recording of workplace violence incidents
  - Provides employee reporting of concerns or incidents
- Provide employee information and training
- Perform an annual review of the program and incident reports



# Workplace Violence: Definitions and Categories

# Workplace Violence Definition

Any physical assault or acts of aggressive behavior occurring where a public employee performs any work-related duty in the course of employment including, but not limited to:

1. Any attempt or threat (verbal or physical) to cause physical injury on an employee
2. Any intentional display of force giving employee reason to fear or expect bodily harm
3. Intentional or wrongful physical contact with a person, without person's consent, that entails some injury
4. Stalking an employee with the intent of causing fear of material harm to physical safety and health when such stalking has arisen through and in the course of employment



# Workplace Definition

The law defines a workplace as any permanent or temporary location away from an employee's domicile where an employee performs any work-related duty in the course of employment.

Some examples include:

- Central office
- Field work location
- Out-of-office meeting





# Categories of Violence

**Type 1:** Violent acts by criminals, who have no other connection with the workplace, but enter to commit a robbery or another crime

**Type 2:** Violence directed at employees by customers, clients, patients, students, inmates, or any others for whom an organization provides services



# Categories of Violence

**Type 3:** Violence against coworkers, supervisors or managers by a current or former employee

**Type 4:** Violence committed in the workplace by someone who has a personal relationship with the employee, such as a boyfriend, girlfriend, spouse, or domestic partner



# Why do we care about verbal and physical violence in the workplace?

- Employees and customers have a right to a safe and secure workplace
- Workplace violence can impact employees' physical and mental well-being
- Workplace violence interferes with the mission of the agency



# Workplace Violence Policy Statement

# Workplace Violence Policy Statement

To ensure all Division employees, including supervisors and managers, comply with this policy to make the workplace more secure and do not engage in verbal threats or physical actions that create a security hazard for others in the workplace, it is the Division's policy to:

- Inform employees, supervisors and managers of the provisions of this program for workplace security
- Evaluate the performance of all our employees in complying with our agency's security measures



# Workplace Violence Policy Statement

- Upon employment, provide each employee with a copy of the Division's program
- Provide training to all employees with regard to workplace safety and security
- Address workplace security deficiencies
- Recognize employees who perform work practices that promote security in the workplace
- Discipline employees if they fail to comply with workplace security practices

# Workplace Violence Policy Statement Location

Our agency's Workplace Violence Prevention Policy statement is located:

[DOB Policies Home](#)

[DOB Employee Handbook](#) (Pages 36-38)



# Risk Evaluation and Determination



# Risk Evaluation and Determination

Labor Law §27-b and the accompanying regulations require an agency to perform a risk evaluation and determination that includes:

- Record examination
- Administrative risk factors
- Evaluation of physical environment



# Risk Evaluation and Determination

## Record Examination

The agency must review past workplace violence incidents to identify patterns:

- In the type and cause of injuries
- Of injuries in a specific area within the workplace
- Of incidents involving specific operations or specific individuals



# Risk Evaluation and Determination: Administrative Risk Factors

The agency must assess related policies, procedures, and work practices that impact risk of workplace violence.



# Risk Evaluation and Determination

## Evaluation of Physical Environment

The agency must evaluate the workplace locations to determine the presence of factors that potentially place employees at risk of workplace violence.

Factors may include but are not limited to:

- Contact with the public
- Working late night or early morning hours
- Exchanging money with the public
- Working alone or in small numbers
- Uncontrolled public access to the work location



# Workplace Violence Prevention Program



# Workplace Violence Prevention Program

Labor Law §27-b and the accompanying regulations place responsibility on the agency to create a comprehensive written workplace violence prevention program (WVPP).

# Workplace Violence Prevention Program

The law and regulations provide that information obtained in developing a WVPP will be kept confidential for security reasons where, if disclosed, would:

- Interfere with law enforcement investigations or judicial proceedings
- Deprive a person of a right to a fair trial
- Identify a confidential source of or disclose confidential information
- Reveal criminal investigative techniques or procedures
- Endanger the life or safety of any person



# Workplace Violence Prevention Program

Our agency's written Workplace Violence Prevention Program can be found on DOB Online:

[DOB Policies Home](#)

[DOB Employee Handbook](#)

(See pages 36 - 38 for program and policies)





# Workplace Violence Prevention Program

A written WVPP includes:

- Risk factors identified
- Methods and means to prevent the incidence of workplace violence and address specific risk factors identified
- Hierarchy of work controls
- Incident reporting system
  - Recordkeeping and recording of workplace violence incidents
  - Employee reporting of concerns or incidents
- Employee information and training including an outline or lesson plan
- Annual program review and update



# Workplace Violence Prevention Program: Risk Factors Identified

The law and regulations require a list of the risk factors identified in the workplace risk evaluation and determination

# Workplace Violence Prevention Program: Risk Factors Identified

- Division offices are primarily located in the NYS Capitol; a public building with a relatively high flow of public access
- The nature of the work of the Division requires employees to often work late in the evening or on weekends, which may result in employees walking to parking garages after dark during times that are otherwise devoid of normal pedestrian traffic



# Workplace Violence Prevention Program: Methods to Address Specific Risk Factors Identified

The law and regulations require a method by which the agency will address each specific risk identified in the workplace risk evaluation and determination



# Workplace Violence Prevention Program: Methods to Address Specific Risk Factors Identified

- Keep valuables out of sight and/or locked up
- Consider walking to parking areas in groups, particularly after dark and at times with minimal pedestrian traffic, and note that a police escort may be available upon request
- Remain cognizant of surroundings and any persons or activity that appears out of place



# Workplace Violence Prevention Program: Hierarchy of Work Controls

The law and regulations require a hierarchy of controls for the program to adhere to

The hierarchy is:

- Engineering controls
- Work practice controls
- Personal protective equipment



# Workplace Violence Prevention Program: Hierarchy of Work Controls

What are the specific controls your agency/location has implemented to protect employees:

- Electronic ID and password system to enable secure access to buildings and parking garages
- After hours building access portals
- Office door keys
- ID swipe access, combinations and/or keys for employee restrooms
- Intercom system for work areas located in the agency buildings



# Workplace Violence Prevention Program: Incident Reporting System

The law and regulations require a system designed and implemented by the agency to report any workplace violence incidents that occur in the workplace that includes:

- Recordkeeping and recording of workplace violence incidents (process to file an incident report with the agency and the agency's recordkeeping of the filed reports)
- Employee reporting of concerns or incidents (process to file a complaint with the Department of Labor)





# Workplace Violence Prevention Program: Incident Reporting System

The agency cannot take retaliatory action against any employee who exercises their rights under this law

Retaliatory action is a discharge, suspension, demotion, penalization or discrimination against any employee, or other adverse employment action taken against an employee in the terms and conditions of employment



# Workplace Violence Prevention Program: Reporting Protocol

For workplace locations where there is a developing pattern of incidents that involve criminal conduct or a serious injury, an agency must attempt to develop a protocol with the District Attorney or police to ensure that violent crimes committed against employees are promptly investigated and appropriately prosecuted. If a protocol exists, the employee training must include:

- Information on protocols
- Contact information for employees that wish to file a criminal complaint after a workplace violence incident



# Workplace Violence Prevention Program: Reporting Protocol

- Threats or assaults that require immediate attention by security or police should be reported to the police first by calling 911.
- Supervisors and managers who receive reports from employees of incidents of workplace violence are to contact the Division's Administrative Officer at (518) 474-9619.
- The Administrative Officer will investigate all reported incidents of workplace violence and take appropriate action, including reporting certain incidents as required by law to the New York State Labor Department.



# Workplace Violence Prevention Program: Reporting of Workplace Violence Incidents

The agency must develop and maintain a workplace violence incident report, in any format, that contains at a minimum:

- Workplace location where incident occurred
- Time of day/shift when incident occurred
- Detailed description of the incident, including events leading up to the incident, and how the incident was resolved
- Names and titles of employee(s) involved
- Name or other identifier of others involved
- Nature and extent of injuries arising from the incident
- Names of witnesses



# Workplace Violence Prevention Program: Reporting of Workplace Violence Incidents

DOB's Incident Report Form is linked within the Workplace Violence Prevention Program section in the policy handbook and can be found directly at:

[DOB Policies and Forms](#)

[DOB Workplace Violence Incident Report Form](#)



# Workplace Violence Prevention Program: Reporting and Protecting Privacy

An incident can be classified as a privacy concern case and the report will replace the employee's name with "PRIVACY CONCERN CASE". The following are to be treated as privacy concern cases:

- An injury or illness to an intimate body part or the reproductive system
- An injury or illness resulting from a sexual assault
- Mental illness
- HIV infection
- Needle stick injuries and cuts from sharp objects that are or may be contaminated with another person's blood or other potentially infectious material
- Other injuries or illnesses if the employee independently and voluntarily requests their name not be entered on the report



# Workplace Violence Prevention Program: Reporting of Workplace Violence Incidents

- In emergencies, staff should call 911. For non-emergency situations, staff may call the State Police (stationed on the Concourse) directly at 518-474-5330
- All workplace violence incidents should be reported to the Administrative Services Unit using the Incident Report Form, linked within the policy information and located on DOB Online:
  - [DOB Workplace Violence Incident Report Form](#)
- DOB's Administrative Officer can be reached at 518-474-9619



# Workplace Violence Prevention Program: Recordkeeping of Workplace Violence Incidents

The workplace violence incident reports must be maintained for use in the annual program review and update.

The agency must conduct a review of the workplace violence incident reports at least annually to identify trends in the types of incidents in the workplace and review the effectiveness of the mitigating actions taken.





# Workplace Violence Prevention Program: Recordkeeping of Workplace Violence Incidents

Reports of workplace violence will be kept on file with the DOB's Administrative Officer.



# Workplace Violence Prevention Program: Employee Reporting of Concerns or Incidents

Under the law, an employee must provide written notice to a supervisor when they believe that:

- A serious violation of the employer's workplace violence prevention program exists **or**
- An imminent danger of workplace violence exists

Once the notice is submitted, the agency must be given a reasonable amount of time to correct such activity, policy, or practice



# Workplace Violence Prevention Program: Employee Reporting of Concerns or Incidents

However, an employee or does **not** have to provide written notice to a supervisor in instances where:

- Imminent danger of workplace violence exists **and**
- The employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action



# Workplace Violence Prevention Program: Employee Reporting of Concerns or Incidents

An imminent danger is defined by the law and regulations as:

- Any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the risk of such danger can be eliminated through the enforcement procedures of the workplace violence prevention program



# Workplace Violence Prevention Program: Employee Reporting of Concerns or Incidents

A supervisor is defined by the law and regulations as:

- Any person in an employer's organization who has the authority to direct and control the work performance of an employee, **or**
- Any person who has the authority to take corrective action regarding the violation of a law, rule, or regulation that an employee reported with written notice



# Workplace Violence Prevention Program: Employee Reporting of Concerns or Incidents

After referral to the employee's supervisor **and**:

- A reasonable time to correct the matter has elapsed
- The matter has not been resolved
- The employee believes the serious violation or imminent danger still exists the employee may request an inspection by giving notice to the Department of Labor (DOL) Commissioner of the alleged violation



# Workplace Violence Prevention Program: Employee Reporting of Concerns or Incidents

The notice to the DOL Commissioner must:

- Be in writing
- Describe in detail the reason for the notice
- Must be signed by the employee

The DOL Commissioner will provide a copy of the written notice to the agency no later than the time of inspection.

- The employee may request that their name(s) be withheld from the agency's copy



# Workplace Violence Prevention Program: Employee Reporting of Concerns or Incidents

The DOL inspection:

- Will take place at the workplace location where the alleged violation occurred
- Does not have to be limited to the alleged violation
- May include other areas of the location if there is reason to believe that a serious violation exists
- May include other workplace locations of the agency if there is reason to believe that a serious violation exists





# Workplace Violence Prevention Program: Employee Information and Training

The law and regulations require a written outline or lesson plan for employee program training to be included in the written workplace violence prevention program.



# Workplace Violence Prevention Program: Employee Information and Training

The laws and regulations require an agency to provide each employee with information and training on the risks of workplace violence in their workplace locations

Training shall occur:

- At the time of the employee's initial assignment
- At least annually thereafter
- Whenever significant changes have been made to the agency's workplace violence prevention program



# Workplace Violence Prevention Program: Employee Information and Training

At a minimum, the training shall include:

- What is required within the regulations, 12 NYCRR 800.6
- The risk factors identified in the evaluation and determination (with the exception of information kept confidential for security reasons)
- Measures that employees can take to protect themselves from the identified risks including specific procedures implemented to protect employees such as:
  - Incident alert and notification procedures
  - Appropriate work practices
  - Emergency procedures
  - Use of security alarms and other devices
- Location of the written workplace violence program



# Workplace Violence Prevention Program: Annual Program Review and Update

The law and regulations require an agency plan for program review and update at least annually. An agency review is also recommended whenever there has been a significant change to the work location (such as renovations), or when a significant violent incident occurs.

The agency will conduct a review of filed incident reports to identify trends in the types of incidents in the workplace and review the effectiveness of the mitigating actions taken.



# Workplace Violence Prevention Program: Annual Program Review and Update

- The Division reviews and updates Employee Policies periodically as needed, including Workplace Violence
- This Workplace Violence Prevention Program training is reviewed and updated annually



# Workplace Violence Prevention Resources

- NYS DOL Safety and Health Website
- PEF Health and Safety Website
- CSEA Occupational Safety and Health Website
- OSHA
- NIOSH
- FBI



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# Prevention of Workplace Violence

Thank You

