



**Governor's Office of  
Employee Relations**

# **Prevention of Workplace Violence**

**Law, Policy, and Program 2016**

# 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 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

Law and regulations are enforced by NYS 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



# 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

The agency must develop and implement a written policy statement on the agency's workplace violence prevention program that describes the goals, objectives, method for incident reporting, and level and manner of participation of an authorized employee representative (AER)

An AER is an employee authorized by the employees or the designated representative of any employee organization recognized or certified to represent the employees pursuant to Article 14 of the Civil Service Law

The policy statement must be displayed where notices to employees are normally posted

# Workplace Violence Policy Statement

Key elements of the Justice Center policy include:

- Encouraging communication
- Creating an environment of mutual respect
- Established procedures to maintain a safe, secure environment



# Workplace Violence Policy Statement Location

Our agency's Workplace Violence Prevention Policy statement is posted on bulletin boards located in established agency common areas.

# 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, with participation of the AER, 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, with participation of the AER, to create a comprehensive written workplace violence prevention program (WVPP)

The AER will provide input on situations in the workplace that pose a threat of workplace violence and on the program the agency will implement



# 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 the agency Intranet under the Policies tab, Workplace Safety heading.



# Workplace Violence Prevention Program

A written WVPP includes:

- Risk factors identified
- Methods to 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
- 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

Specific identified risks include:

- Contact with the public
- Working early morning or late at night when fewer people are around
- Uncontrolled access to the workplace
- Working alone in remote locations
- Poorly lit parking lots



# 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

- What are the specific methods and measures your agency/location has implemented for each of the identified risks
- What are the measures employees can take to protect themselves
- Are there different measures for different work location types, such as office, field, or secure facilities



# 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

The Justice Center has specific controls and policies in place to protect employees:

- Secured Building Access
- Lighted Entrances
- Annual Risk Assessments
- Emergency response policies and procedures



# 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 also develop a protocol with the District Attorney or police to insure 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

- The Justice Center's report form "Employee Report of Workplace Violence Incident Form" can be found on pages nine (9) and ten (10) of the Workplace Violence Prevention Policy posted on the Intranet
- The policy also clearly outlines the reporting process and the roles and responsibilities of both the agency and the employee



# 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

The Justice Center's agency Incident Report Form can be found on the agency intranet site under the Polices Tab, Workplace Safety heading.



# 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

- Incident reports should be filed with the Nicole McCulloch, Director of Personnel or Debra Nolin, Director of Labor Relations, 161 Delaware Ave. Delmar, NY 12054.
- Contact Information
  - Nicole McCulloch, Director of Personnel, 518.549.0251, [Nicole.McCulloch@justicecenter.ny.gov](mailto:Nicole.McCulloch@justicecenter.ny.gov)
  - Debra Nolin, Director of Labor Relations, 518.549.0253, [Debra.Nolin@justicecenter.ny.gov](mailto:Debra.Nolin@justicecenter.ny.gov)



# Workplace Violence Prevention Program: Recordkeeping of Workplace Violence Incidents

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

The agency, with participation of the AER, 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

The personnel office maintains a written record of all workplace violence incident reports and the results of the agency's investigations.



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

Under the law, an employee or their AER 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 their AER 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 or their AER believes the serious violation or imminent danger still exists the employee or their AER 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 or their AER

The DOL Commissioner will provide a copy of the written notice to the agency before the DOL inspection

- The employee or AER 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 should 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 should 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: Employee Information and Training

All new employees are advised of the agency policy as part of initial onboarding. Additionally all employees are required to complete the Workplace Violence Prevention Training on an annual basis.



# 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, with participation of the AER, 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 Justice Center review process includes evaluation of data on employee injury, worker's compensation, and workplace violence reports.



# Workplace Violence Prevention Resources

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



# Use and Copyright Statement

This curriculum was developed with New York State funding and is intended exclusively for training New York State employees. Any other use of these materials is prohibited without the express permission of the Governor's Office of Employee Relations.

For those agencies using this template as a base for their Workplace Violence Prevention training, add agency-specific information in the designated places.

Copyright © 2014 Governor's Office of Employee Relations



# Prevention of Workplace Violence

**Thank You**

