

**New York State Department of Labor
Division of Safety and Health**

**Workplace Violence Prevention Requirements
For
New York State Public Employers**

What is the New York State Workplace Violence Prevention Regulation?

On April 29, 2009 12 NYCRR Part 800.6 was promulgated and published in the State Register as a final rule. This Part requires public employers (other than schools covered under the school safety plan requirements of the education law) to perform a workplace evaluation or risk evaluation at each worksite and to develop and implement programs to prevent and minimize workplace violence caused by assaults and homicides. The rule is designed to ensure that the risk of workplace assaults and homicides are regularly evaluated by public employers and that workplace violence protection programs are implemented to prevent and minimize the hazard to public employees.

What is the effective date of the Regulation?

At the time of publishing the rule included a stepped compliance period. As of August 27, 2009 employers are required to be in compliance with the entire Part.

What public employers are covered?

According to the regulation, the term public employer includes the state, a political subdivision of the state, a public authority, a public benefit corporation and any other governmental agency or instrumentality. Employers defined in Section 2801-A of New York State Education laws are exempt from the provisions of the Workplace Violence Prevention Regulation since there is existing law requiring them to develop and maintain "school safety plans".

What is Workplace Violence?

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

- (i) An attempt or threat, whether verbal or physical, to inflict physical injury upon an employee;
- (ii) Any intentional display of force which would give an employee reason to fear or expect bodily harm;
- (iii) Intentional and wrongful physical contact with a person without his or her consent that entails some injury;
- (iv) Stalking an employee with the intent of causing fear of material harm to the physical safety and health of such employee when such stalking has arisen through and in the course of employment.

Workplace violence presents serious occupational safety hazards for workers and unique challenges for employers who must prevent violence from occurring. During the last decade homicide was the third leading cause of death for all workers and the leading cause of occupational death for female workers. A large number of these reported homicides were related to robberies and police and public security functions. The majority of violent type incidents affecting workplaces are cases of assaults, threats, domestic violence, forms of harassment and physical and/or emotional abuse.

An employer conducted risk evaluation will help determine the possible dangers that employees may face from workplace violence risks and assist the employer in the development of a suitable workplace violence prevention program.

While workplace violence can occur in any workplace setting, typical examples of employment situations that may pose higher risks include:

- Duties that involve the exchange of money
- Delivery of passengers, goods, or services
- Duties that involve mobile workplace assignments
- Working with unstable or volatile persons in health care, social service or criminal justice settings
- Working alone or in small numbers
- Working late at night or during early morning hours
- Working in high-crime areas
- Duties that involve the guarding valuable property or possessions
- Working in community-based settings

What are public employers required to do to comply with this Regulation?

The rule requires every public employer to perform a risk evaluation of their workplace to determine the presence of factors or situations that might place employees at risk from occupational assaults and homicides.

Develop and implement a written policy statement, prepare a workplace violence prevention program and inform and train employees on the requirements of the Regulation and the workplace risk factors that were identified. Additionally, public employers with a combined total of 20 or more full-time permanent employees shall develop and implement a written workplace violence prevention program and provide employee training on workplace violence prevention measures and other information contained within the employers written program. Such employers shall also inform employees of the location and availability of the written workplace violence prevention program. Employee workplace violence training must be provided at the time of job assignment and annually thereafter. The written workplace violence prevention program should be pro-active, capable of assessing potential threats before they occur, and capable of responding to actual incidents immediately.

What is a Workplace Violence Prevention “Risk Evaluation”?

A risk evaluation is an employer’s inspection or examination of their workplace to determine if existing or potential hazards exist that might place employees at risk of occupational assaults or homicides. The regulation requires all public employers to perform a risk evaluation of their workplace. Risk evaluation techniques should include, for example:

- An examination of the history of past incidents to identify patterns or trends which occurred in your workplace;
- A review of your occupational injury and illness logs (SH 900) and incident reports to identify injuries that may have resulted from workplace violence incidents;
- Surveying employees regarding details associated with the occurrence of workplace violence incidents;
- Conducting physical workplace security building surveys.

How can employees protect themselves from workplace violence?

The employee’s best protection is knowledge and an understanding of the warning signs of potentially violent individuals or situations. Employer training and education programs, as well as the implementation of clear zero tolerance workplace violence policies, are effective methods of reducing the possibility that violence will affect your workplace. Also, immediate reporting of any workplace violence incident to supervision or management and the police will help ensure that prompt action is

taken.

What should be included in the Workplace Violence Prevention Training Program?

After completing the workplace violence prevention program, every employer shall provide each employee with information and training on the risks of workplace violence in their workplace or workplaces at the time of the employee's initial assignment and at least annually thereafter. While workplace violence prevention training for employees may be specific to the type of facility and duties performed, there are certain essential topics that employers should address when conducting such training. These may include:

- The requirements of Part 800.6
- The specific Risk Factors found during the risk evaluation and determination
- What is Workplace Violence and what employees can do to protect themselves
- Specific procedures that the employer has implemented to protect the employees
- If 20 or more employees, the location of the written workplace violence program and how employees can obtain a copy
- How to report a Workplace Violence incident
- How and when incidents will be investigated by the employer
- Where employees can go for assistance

What are the recordkeeping and reporting requirements for workplace violence incidents?

Employers are required to establish and implement a reporting system for workplace violence incidents.

Reporting systems that meet the requirements of other federal, state or local regulations are acceptable if they address the information required by Part 800.6. An additional or separate reporting system is not required.

When there is a pattern of workplace violence incidents within your facility the employer will attempt to develop a protocol with the District Attorney or Police to insure that violent crimes committed against employees in the workplace are promptly investigated and appropriately prosecuted.

The employer shall utilize a Workplace Violence Incident Report that minimally contains the following information:

- a) Workplace location where incident occurred;
- b) Time of day/ shift when incident occurred;
- c) A detailed description of the incident, including events leading up to the incident and how the incident ended;
- d) Names and job titles of involved employees;
- e) Name or other identifier of other individual(s) involved;
- f) Nature and extent of injuries arising from the incident; and
- g) Names of witnesses.

The employer with the cooperation of the Authorized Employee Representative shall conduct a review of the Workplace Violence Incident Reports at least annually to identify trends in the types of incidents in the workplace and a review of the effectiveness of the mitigating actions taken.

How will the Department of Labor respond to complaints of workplace violence hazards?

Employees must provide a written notice to a supervisor and then allow a reasonable period of time for correction if they wish to file a complaint with the Commissioner of Labor. The condition that the employee brings to the supervisors attention must be a serious violation of the program (failure to develop and implement a Workplace Violence Prevention Program) or a situation that could result in serious physical harm. If after a reasonable period in time, the employee or the Authorized Employee Representative believes that serious violation of a workplace violence prevention program remains or that an imminent danger exists, such employee may request an inspection by notifying the Commissioner of Labor of the alleged violation. Written notice to an employer is not required where imminent danger exists to the safety of a specific employee or to the general health of a specific patient and the employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action.

Valid complaints may result in a worksite inspection to determine if the employer has implemented the requirements of the Workplace Violence Prevention.

How can I contact the Department of Labor for compliance assistance help in meeting the provisions of the Workplace Violence Prevention Regulation?

The Department's Division of Safety and Health's (DOSH) Compliance Assistance resources are available to assist you in complying with the provisions of this Regulation. Contact the nearest DOSH District Office or visit our website:

http://www.labor.state.ny.us/workerprotection/safetyhealth/DOSH_PESH.shtm

Albany (518) 457-5508
Binghamton (607) 721-8211
Buffalo (716) 847-7133
Garden City (516) 228-3970
New York City (212) 775-3548

Rochester (585) 258-4570
Syracuse (315) 479-3212
Utica (315) 793-2258
White Plains (914) 997-9514