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**Department
of Labor**

WORKPLACE VIOLENCE PREVENTION ACT

WORKPLACE VIOLENCE PREVENTION ACT FACT SHEET FOR PUBLIC EMPLOYEES

The Workplace Violence Prevention Act (Article 2, section 27-b of New York State Labor Law) requires public employers to develop and implement programs to prevent and minimize workplace violence and ensure the safety of public employees.

WHO IS COVERED?

A public employer is the state of New York, a political subdivision of the state (i.e. a city, county, town or village), a public authority or public benefit corporation, and any other governmental agency or instrumentality. As of January 4, 2024, covered public employers include all public school districts, New York City public schools, Boards of Cooperative Education Services (BOCES), and County Vocational Education and Extension Boards.

WHAT IS A WORKPLACE?

A workplace includes any location where a public employee performs work-related duties in the course of their employment outside of their home. This can include physical office spaces as well as locations outside the main worksite such as:

- inspection sites
- town-hall meeting locations
- conference locations
- school buses
- field trip locations
- team sport venues

WHAT IS WORKPLACE VIOLENCE?

Workplace violence is any physical assault or act of aggressive behavior occurring in the workplace. Workplace violence includes but is not limited to:

1. Any verbal or physical threat or attempt to inflict physical injury on an employee.

2. Any intentional display of force which gives an employee reason to fear or expect bodily harm.
3. Intentional, wrongful and nonconsensual physical contact with an employee that causes injury.
4. Stalking an employee with the purposed of causing fear of harm for an employee's physical safety and health, when such stalking has arisen in the course of and through employment.

PUBLIC EMPLOYER REQUIREMENTS

The Act and the Department of Labor's regulations require public employers to follow these six steps:

1. **Risk Evaluation:** All employers are required to perform a risk evaluation of their workplace to determine what factors or situations might place employees at risk from workplace assaults and homicides. The risk evaluation must include: an examination of any records of incidents of workplace violence throughout the previous year; any relevant policies, work practices, and work procedures that may impact the risk of workplace violence; and an evaluation of the physical workplace environment to determine if any risk factors are present.
2. **Workplace Violence Policy Statement:** Employers with 20 or more full time permanent must develop and implement a written statement describing the goals and objectives of their workplace violence prevention program and how employees should report incidents of workplace violence. The policy statement must be posted where employee notices are regularly posted.
3. **Workplace Violence Prevention Program:** Employers with 20 or more employees are required to implement and develop a written workplace violence prevention program and make it available during regularly scheduled work hours for employees and authorized employee representatives to review. The workplace violence prevention program must include: the list of workplace violence risk factors identified in the risk

evaluation; the safeguards the employer will use to reduce or eliminate the risk of workplace violence; an outline or lesson plan for employee training on workplace violence; a description of their workplace violence reporting system; and a plan to review workplace violence incidents report annually.

4. **Employee Training and Information:** All employers must provide employees with training and information on the risk of workplace violence when they are first assigned to a workplace and once a year after that. The training must include the following information: the requirements of New York's Workplace Violence Prevention Law; the risk factors the employer identified in the risk evaluation; the ways employees can protect themselves, as well as the specific procedures in place to protect employees. In addition, employers with 20 or more full-time permanent employees must inform employees of the location of the written workplace violence prevention program and how to obtain a copy.
5. **Workplace Violence Reporting System:** All employers must develop and implement a system for employees to report incidents of workplace violence.
6. **Workplace Violence Incidents Report:** All employers must maintain a record of workplace violence incidents in a workplace violence incidents report. The employer, with the participation of an authorized employee representative, must review this report at least once a year. The review should be used to identify possible trends in the types of incidents that have occurred and evaluate the effectiveness of employer attempts to prevent or reduce the risk of workplace violence.

EMPLOYEE PARTICIPATION

Employers must allow employees to participate in the development and implementation of their workplace violence prevention program. An authorized employee representative has the right to be included in the following:

1. the risk evaluation of the physical workplace environment.
2. the development of the policy statement.
3. the development of the workplace violence prevention program. Employers must solicit employee input on situations in the workplace that pose a threat of violence and on the workplace violence prevention program the employer intends to implement.
4. the annual review of the workplace violence incidents report.

RECORDING INCIDENTS WHERE PRIVACY IS A CONCERN

The law provides for employees' names to be removed from incident reports when privacy is a concern. In these cases, the employer must write "Privacy Concern Case" in place of the employee's name before sharing the workplace violence incidents report with anyone other than the Department of Labor unless required by law.

Incidents involving the following injuries or illnesses must 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 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.
- In addition, any employee who was the victim of an incident of workplace violence can request that their name be removed from the workplace violence incident report.

WORKPLACE VIOLENCE INVOLVING CRIMINAL CONDUCT

If a pattern of workplace violence involving criminal conduct or serious injury develops, all employers must engage with local law enforcement (such as the District Attorney or Police) to report violent crimes committed against employees in the workplace so that they may be investigated and appropriately prosecuted. Employers must provide information on engagement with law enforcement as well as contact information for any employee who wishes to file a criminal complaint after a workplace violence incident.

HOW TO REPORT A VIOLATION OF THE WORKPLACE VIOLENCE PREVENTION PROGRAM OR CONCERNS OF IMMINENT DANGER

An employee, or the employee's authorized representative, should inform a supervisor in writing if they believe there is a serious violation of the workplace violence prevention program, or if they believe there is imminent danger of workplace violence. The employee or representative must then allow the employer reasonable opportunity to correct the activity, policy, or workplace practice. If the activity, policy, or practice has not been resolved after a reasonable opportunity and the employee or representative still believes that a serious violation or imminent danger exists, they can file a complaint with the Public Employee Safety and Health (PESH) bureau at the Department of Labor's Division of Safety and Health using the complaint form at: dol.ny.gov/pbsh-complaint or by calling **1-844-SAFE-NYS**.

Employees can also contact the PESH bureau to ask questions about health and safety standards by calling : **1-844-SAFE-NYS** or emailing ask.shnypesh@labor.ny.gov.

An employee is NOT required to provide written notice to an employer if the employee believes themselves, another employee or patient is in imminent danger of workplace violence and reasonably believes, in good faith, that reporting to a supervisor would not result in corrective action. In such an instance, an employee can reach out directly to PESH.

HELPFUL DEFINITIONS

Imminent danger refers to workplace conditions or practices which could reasonably be expected to lead to danger of immediate death or serious physical harm. Imminent danger also refers to workplace conditions or practices which could reasonably be expected to lead to the danger of death or serious physical harm that could be eliminated by the enforcement of procedures described in the workplace violence prevention before the danger becomes immediate.

Serious physical harm refers to physical injury which creates a substantial risk of death or causes death. Serious physical harm also refers to physical injury which causes serious and long-term disfigurement, a long-term health impairment, or a long-term impairment to or loss of function of a bodily organ. Finally, serious physical harm refers to a sexual offense as defined by Article 130 of the Penal Law.

A serious violation of the workplace violence prevention program is when the employer does not develop and implement the workplace violence prevention program or when the employer does not address situations which could result in serious physical harm.

An authorized employee representative could be a union representative or an employee authorized by the employees.