



NYS Workplace Violence Prevention Law Key Elements of a Workplace Violence Prevention Program



What is the New York State Workplace Violence Prevention Law?

New York State (NYS) has enacted legislation that requires public employers to develop and implement workplace violence prevention programs that cover all employees at each of their worksites. The Law is the most comprehensive standard in the country. It is intended to reduce workplace violence, making all NYS public workplaces safer for the workers and the public they serve.

Contained in this factsheet is an outline of key elements of a violence prevention program to assist health and safety committees and other labor/management groups in developing site specific programs. The goal should be to implement practical improvements to prevent the negative consequences of violence in the workplace, in addition to complying with the new requirements. The key elements are based on requirements of the new law, OSHA guidelines, and the experience of the PEF Health and Safety Program.

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

As of this writing, DOL has not yet developed the regulations mandated by this Law. Those regulations will stipulate all that is required of affected employers. However, the Law, which will be the basis for the regulations, requires that “every employer ... shall develop and implement ... a workplace violence prevention program.” According to the Law, that program must include a “risk evaluation”, “the methods the employer will use to prevent incidents of occupational assaults and homicides”, “employee information and training”, and “establishing and implementing reporting systems for incidents of aggressive behavior.”

For public employers with a combined total of 20 or more full-time permanent employees, the program must be written.

Key elements of a Workplace Violence Prevention Program

Though no federal workplace violence prevention standard exists, the Federal Occupational Safety and Health Administration (OSHA) has published guidelines for preventing workplace violence. In it, OSHA identifies the key elements of any workplace violence prevention program. Management Commitment and Employee Involvement

Management Commitment and Employee Involvement

The first step is to establish a process such as a task force, subcommittee, or use of an existing forum where managers, union officials, frontline workers, and other stakeholders can work together to plan, implement, and evaluate a worksite-specific workplace violence prevention program.

According to OSHA, “Management commitment, including the endorsement and visible involvement of top management, provides the motivation and resources to deal effectively with workplace violence.” “Employee involvement and feedback enable workers to develop and express their own commitment to safety and health and provide useful information to design, implement, and evaluate the program.”

Thus, management is advised to:

- exhibit equal commitment to the safety and health of workers and patients/clients
- assign responsibility for the various aspects of the workplace violence prevention program to ensure that all managers, supervisors, and employees understand their obligations
- allocate appropriate authority and resources to all responsible parties
- maintain a system of accountability
- establish a comprehensive program of medical and psychological counseling and debriefing for employees experiencing or witnessing assaults and other violent incidents
- support and implement appropriate recommendations

Risk Assessment / Worksite Analysis

To again quote OSHA, “a worksite analysis involves a step-by-step, common-sense look at the workplace to find existing or potential hazards for workplace violence.” Involvement of frontline workers and union representatives in this process is critical, both because of the insight that they bring and as a means for ensuring their commitment to the program.

The worksite analysis should be site-specific and include multiple components:

- an in-depth review of incidents that have occurred, identifying characteristics of the assailant, victim, and all other relevant factors such as time of day, location, activity being performed, possible warning signs, etc.
- active solicitation of input from staff and union representatives, including focus groups, written surveys, and group discussions
- a walk-through of the workplace, looking for potentially dangerous elements, such as unsecured doors, isolated and/or dark areas, the presence of objects which could be used as weapons, etc.
- an examination of work activities, identifying those which may be high-risk, including
 - 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 guarding valuable property or possessions
 - working in community-based settings
- a review of relevant existing policies and procedures

Workplace violence can take many forms; many researchers use a four-part typology as a way to evaluate and prevent workplace violence. This typology is based upon the relationship of the perpetrator to the victim.

- Type 1 – Criminal intent (stranger) – the perpetrator is not legitimately at the workplace, but is there to commit robbery or assault
- Type 2 – Client/patient/inmate – the person has a legitimate reason to be at the workplace, but perpetrates workplace violence, nonetheless
- Type 3 – Co-worker – the violence is perpetrated by a fellow employee, be it a peer, supervisor, or supervisee
- Type 4 – Personal – the perpetrator is a partner, family member or friend. This includes domestic violence which occurs in the workplace.

Each employer should consider which types of violence pose the greatest risk for their workplace and workers. Risk factors and prevention strategies will vary, depending on the source(s) of the potential violence. There may be a significant risk of multiple violence types in the same workplace. Appropriate prevention strategies will need to be developed for each.

Hazard Prevention and Control

After hazards are identified through the comprehensive worksite analysis, the next step is to design site-specific measures to prevent or control those hazards. These measures can include: engineering strategies such as securing doors, installing mirrors, or other modifications to the physical environment; and administrative and work practice controls such as staffing, program changes, policies and training.

Again, it is critical to involve affected staff, as they will have insight as to the practicality and potential unintended consequences of proposed changes.

Warning: worksite interventions should include both workplace improvements as described above and methods individual workers can take to protect themselves from violence. Programs that focus exclusively on changing worker behavior fail to recognize that agencies, as well as individuals, have a responsibility for health and safety.

Training and Education

Under the new law, training is required upon initial assignment and annually thereafter. While violence prevention training for employees should be specific to the type of facility and duties performed, there are certain essential topics that should be addressed. These may include:

- Overview and definition of workplace violence
- The organization’s commitment to providing a safe workplace
- How to obtain a copy of the agency’s written program
- The contents of the risk assessment, including all significant identified risk factors, such as high-risk activities and tasks, dangerous locations, and times of day when the risk of violence is increased.
- Techniques on how to recognize and avoid potentially violent situations, including de-escalation techniques and other specific agency policies and procedures
- The importance of reporting all incidents, including threats and verbal assaults and how to report such incidents
- Where employees can go for assistance during a dangerous situation

- Resources, such as workers' compensation and trauma counseling that are available to employees after an incident has occurred. Depending on the severity of the incident, these resources should be made available to the victim's co-workers, as well.

Recordkeeping and Evaluation

Currently, public employers are required to record and report workplace violence incidents on the same basis as other work-related illnesses and injuries. Specifically, an employer must record on the SH 900 Log of Occupational Injuries and Illnesses an incident if it results in death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness. Employers are also required to orally report to the DOL's Division of Safety and Health any incident that results in a work-related employee fatality or two or more employee hospitalizations. That report must be filed within 8 hours. The workplace violence regulations that are developed by DOL may require enhanced reporting of violence-related incidents.

Employers should use accident and illness recordkeeping data to ensure that their written workplace violence prevention plan is as effective as possible. This includes looking at trends over time and identifying risk factors that require the implementation of additional prevention measures.

How can employees protect themselves from workplace violence?

PEF is encouraging its members to let union representatives and agency officials know if there are gaps in violence prevention programs, such as inadequate training, short-staffing, or lack of information on client histories. Knowledge is powerful! Learn everything there is about agency programs to prevent violence. On a personal level be sure you understand the warning signs of potentially violent individuals or situations. Take advantage of the training that is provided. Report any workplace violence incident to supervision or management, the union, and to the police, as appropriate.

If cooperative efforts fail, the new law outlines that you must first file a written complaint to your supervisor and give an appropriate amount of time for corrections to be made, before you file a complaint with the NYS Department of Labor. We strongly encourage PEF members to work through their PEF Division if they are considering this course of action. It is important to note that the Workplace Violence Prevention Law states that "No employer shall take retaliatory action against any employee" for bringing a workplace violence-related complaint to management or requesting a DOL inspection.

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<http://www.pef.org/stopworkplaceviolence/index.htm>