

**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 Law?

On June 7, 2006, New York State enacted legislation creating a new Section 27-b of State Labor Law that 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 Law 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 Law?

This Law was signed on June 7, 2006. An amendment to the Law was enacted on August 16, 2006, extending the effective date of the Law 270 days from June 7th. As a result of this extender, the new effective date of the Law is March 4, 2007, which is the date public employers must comply with its provisions. The Department of Labor is required to promulgate rules and regulations to implement the provision of this Law by July 2007. The Department will follow the New York State Administrative Procedure Act (SAPA) in developing and promulgating such regulations which will ensure that interested parties have ample opportunity to provide comments. That process is currently underway.

What public employers are covered by this Law?

According to the law, 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 Law are exempt from the provisions of the Workplace Violence Prevention Law since there is existing law requiring them to develop and maintain "school safety plans".

What is Workplace Violence?

The National Institute for Occupational Safety and Health (NIOSH) defines workplace violence as "violent acts (including physical assaults and threats of assaults) directed toward persons at work or on duty."

Workplace violence is any physical assault, threatening behavior or verbal abuse occurring in the work setting.

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 guarding valuable property or possessions
Working in community-based settings

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

The Law 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, prepare a workplace violence prevention program and inform and train employees on the requirements of the Law 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 Law 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?

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:

- What is Workplace Violence
- Managements' commitment to Zero Tolerance of Workplace Violence
- Techniques on how to recognize and avoid Workplace Violence situations
- What are the high risk occupations
- How to report a Workplace Violence incident
- The importance of reporting all incidents
- 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?

Currently, public employers are required to record and report workplace violence incidents in accordance with New York State Labor Law, Section 27-a (Public Employer Safety and Health Act). NYCRR Part 801 of that Law, Recording and Reporting Public Employees' Occupational Injuries and Illnesses, specifies conditions for employer recordkeeping and reporting requirements. Specifically, an employer is required to record an employee workplace violence injury if it results in death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid and loss of consciousness. Additionally, employers should utilize accident and illness recordkeeping information to ensure that their written workplace violence prevention plan is as effective as possible.

Employers are also required to report employee workplace violence related fatalities and multiple hospitalizations to the Department's Public Employee Safety and Health (PESH) Bureau within 8 hours of the incident. (Refer to NYCRR Part 801 for complete information pertaining to employee recordkeeping and PESH reporting requirements).

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

Workplace violence complaints received by the Department will be evaluated by the Division of Safety and Health using the same criteria as that utilized by the PESH Program. Valid complaints may result in a worksite inspection to determine if the employer has implemented the requirements of the Workplace Violence Prevention Act (conduct of a risk evaluation, workplace violence prevention program and required employee training and for public employers with 20 or more employees, the preparation of a written workplace violence prevention program and conduct of employee training, etc.). In the event of an employee fatality or multiple employee hospitalizations resulting from a workplace violence incident, the Department will conduct a worksite inspection using the same criteria as that of the PESH Program.

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

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 Law. Contact the nearest DOSH District Office or visit our website:

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

Albany (518) 457-5508
 Binghamton (607) 721-8211
 Buffalo (716) 847-7133
 Garden City (516) 228-3970
 New York City (212) 621-0773

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