

## Town of Clayton

### Workplace Violence Prevention Policy And Incident Reporting

It is the Town of Clayton policy to promote a safe environment for its employees. The Town is committed to working with its employees to maintain a work environment free from violence, threats of violence, harassment, intimidation, and other disruptive behavior. Disruptive behavior at one time or another will affect every agency.

Violence, threats, harassment, intimidation and other disruptive behavior in our workplace will not be tolerated; that is; all reports of incidents will be taken seriously and will be dealt with appropriately. Such behavior can include oral or written statements, gestures, or expressions that communicate a direct or indirect threat of physical harm. Conduct that threatens, intimidates, or coerces another employee or a member of the public will not be tolerated. This prohibition includes all acts of harassment, included that which is based on an individual's sex, race, age, or any characteristic protected by federal, state or local law.

Firearms, weapons, and other dangerous or hazardous devices or substances are prohibited from the premises of the Town without proper authorization.

Individuals who commit such acts may be removed from the premises and may be subject to disciplinary action, criminal penalties, or both.

We need your cooperation to implement this policy effectively and maintain a safe working environment. Do not ignore violent, threatening, harassing, intimidating, or other disruptive behavior. If you observe or experience such behavior by anyone on Town premises, whether he or she is a Town employee or not, report it immediately to your department head or the Town Supervisor. This includes threats by employees, as well as threats by customers, vendors, solicitors, or members of the public. Department heads or the Town Supervisor who receive such reports should advise the Town Board regarding investigating the incident and initiating appropriate action. Threats or assaults that require immediate attention should be reported to the New York State Police, Jefferson County Sheriff's Department, or the Village of Clayton Police Department.

We will support all efforts made by Department Heads or the Town Supervisor in dealing with violent, threatening, harassing, intimidating or other disruptive behavior in our workplace and will monitor whether this policy is being implemented effectively.

Designated contact person for all Highway employees is the Highway Superintendent.

Office – 315-686-5122      Cell – 315-783-9661

Designated contact person for all other Town of Clayton employees is the Town Supervisor.

Office – 315-686-3512, ext. 20      Cell – 315-408-7363

Designated contact person for all Cerow Recreation Park employees is the Park Manager.

Office—315-686-4310      Cell—315-783-1852

This policy is to be distributed to all town employees and a signed confirmation statement collected by each department head. Signed confirmation statements are to be stored in employee's personnel files. A copy of this policy shall be posted in each town workplace and will become a part of the Employee Handbook.

*Policy adopted by the Town Board of the Town of Clayton on 09/26/2012.*

# WORKPLACE VIOLENCE PREVENTION PROGRAM AND POLICY

## A. Introduction

Workplace violence presents a serious occupational safety hazard for workers. On June 7, 2006 New York State enacted legislation that requires public employers other than schools covered under a school safety plan, to perform a risk evaluation of its workplaces and develop and implement programs to prevent and minimize workplace assaults and homicides.

## B. Purpose

The purpose of this Workplace Violence Prevention Program and Policy is to provide information to elected officials, board members, employees and volunteers about preventing and responding to incidents of workplace violence or threats of violence and the New York State Public Employer Workplace Violence Prevention Law.

The goals of the program are:

1. To reduce the probability of threats or acts of violence in the workplace, and
2. To ensure that any incident, complaint or report of violence is taken seriously and dealt with appropriately

This policy outlines the major components of the effort to meet these goals: program, procedures, workplace security risk evaluation, prevention, training and other support services.

The Town of Clayton will not tolerate violence in the workplace. All incidents, complaints and/or reports of violence, threats of violence, harassment, intimidation and other disruptive behavior will be taken seriously because the Town is committed to providing its employees with a reasonably safe and secure work environment.

Violence in the workplace is a leading cause of fatal and non-fatal occupational injury throughout the U.S. that may affect an organization at any time. The purpose of this program is to address the issue of potential workplace violence, prevent workplace violence from occurring to the fullest extent possible and set forth procedures to be followed when such violence has occurred.

Violence, threats of violence, harassment, intimidation and other disruptive behavior in the workplace will not be tolerated by the Town. Examples of disruptive behavior can include oral or written statements, gestures or expressions that communicate a direct or indirect threat of harm. Such behavior will be taken seriously and will be dealt with appropriately.

All employees are required to comply with this policy. In addition, since visitors of Town owned properties and facilities are required to conduct themselves in a non-violent manner in conformity with existing law, employees who observe or experience visitors of Town owned property engaging in violent behavior should follow the procedures in this policy and handbook for the reporting of such behavior.

## C. Application of this Program

Violence and other disruptive behavior by or against any employees of the Town or member of the public in a Town designated workplace are unacceptable. A Town designated workplace includes offices, work sites, vehicles, field locations and any other location where Town business is conducted. Individuals who commit such acts may be removed from the premises

and may be subject to appropriate disciplinary action, including where legally appropriate, termination of employment and or criminal penalties.

#### **D. Training**

All Department Heads shall ensure that employees of their particular department are informed of the requirements of the law, the risk factors in their workplace and the location of the written workplace violence prevention program. Training is also required for employees on the measures employees can take to protect themselves from risks and the details of the written workplace violence prevention program. Employee workplace violence training is to be provided at the time of job assignment and annually thereafter. In addition to the training required by law, the Town shall provide additional training on a per request basis to the Town departments and offices to address the potential for violence in the workplace.

#### **E. Risk Evaluation**

Certain factors or situations may place employees at a greater risk of workplace violence. It is the responsibility of the Town to conduct a risk evaluation of town owned, leased and operated facilities, review occupational injuries and review incident reports related to violence related injuries in the workplace. Workplace violence can occur in any workplace setting. However, some settings or factors may pose a greater degree of workplace violence risk. Employment situations or factors that may pose higher risks for Town employees include but are not limited to:

- Working in public settings;
- Working late night or early hours;
- Exchanging money with the public;
- Working alone or in small numbers;
- Working in a setting with uncontrolled access;
- Working in a setting where prior incidents have occurred;
- Working in a setting where previous security problems have occurred;
- Exposure to potentially violent persons; and
- Having a mobile workplace assignment.

#### **F. Preventative Actions**

The methods that the Town of Clayton will use to prevent incidents of occupational assaults and other forms of workplace violence include, but are not limited to the following:

- Making high-risk areas more visible to more people;
- Installing good external lighting;
- Using drop safes or other methods to minimize cash on hand;
- Posting signs stating that limited cash is on hand;
- Providing training in conflict resolution and nonviolent self-defense responses where requested;
- Establishing and implementing reporting systems for incidents of aggressive behavior.

Further, prevention is the responsibility of every employee. Department Heads as well as employees should be familiar with and knowledgeable of the issues listed below before violence occurs. As noted in this handbook, workplace violence is defined to include violence, threats of violence, harassment, intimidation and other disruptive behavior.

Past behavior has generally been the best predictor of future behavior. There is no specific profile of a potentially dangerous individual. Acts of violence also occur in the workplace due to issues of domestic violence. Certain patterns of behavior and events frequently precede episodes of violence. A list of indicators of increased risk of violent behavior may include, but are not limited to:

- Direct or veiled threats of harm;
- Intimidation, belligerence, bullying or other inappropriate behavior directed at others;
- Numerous conflicts with supervisors and employees, verbal comments indicating expressions of hostility directed at co-workers, supervisors or others;
- Bringing an unauthorized weapon to work, brandishing a weapon in the workplace;
- Fascination with incidents of workplace violence, statements indicating approval of the use of violence to resolve a problem or statements indicating identification with perpetrators or workplace homicides;
- Signs of alcohol/drug abuse on or off the job;
- Increased tone of desperation from a person, feelings that normal interventions will not solve a problem. Hopeless feelings about a work/family/financial situation;
- Employees with on-going domestic difficulties; and
- Situations involving orders of protection.

These behaviors should be reported to Department Heads and may require certain interventions including police intervention, disciplinary action or other forms of referral. Sometimes small behavioral problems which can precede the above behaviors are dismissed or ignored allowing problems to fester. In these cases the situation can become more intense. Early interventions may be appropriate in these situations. It is important to remember the employee must be treated with dignity, respect and fairness in this process. Some of these types of behavior are:

- Withdrawal from friends and co-workers;
- Reduced productivity;
- Unexplained and abused sick time or marked increase in tardiness; and
- Noticeable deterioration of personal hygiene and appearance.

Listed below are two categories of common issues that may trigger workplace violence.

### 1. Employee Issues

- a. Negative performance review;
- b. Unwelcome change in role due to performance or reorganization;
- c. Criticism of performance;
- d. Personal stress outside the workplace; and
- e. Increased workload or pressure.

### 2. Workplace Issues

- a. No clearly defined rules of conduct;
- b. Lack of training;
- c. Inadequate hiring practices/potential employee screening;
- d. Insufficient supervision;
- e. Lack of discipline/ Inconsistent discipline in the workplace;
- f. Inadequate employee support systems;
- g. Failure to address incidents as they occur; and
- h. Overly authoritarian management style.

Taking these into account, there are three key elements that may help to prevent a violent situation from occurring:

1. Recognize early warning signs;
2. Recognize issues or events that may trigger violence; and
3. Early intervention to prevent violence before it occurs.

## **G. Reporting of Violence**

At the core of the policy is the Town's commitment to work with its employees to maintain a work environment free from violence and other disruptive behavior to the greatest degree possible.

Any Town employee, upon becoming aware of an instance of physical assault, threatening behavior or verbal abuse occurring in the workplace setting must immediately report the facts and circumstances of said incident to their Department Head. In the event that employees observe or experience violent behavior from Town employees or visitors of Town owned property in which there is an immediate threat to their safety or the safety of others or where an injury has occurred, the employee should immediately contact the police for assistance and in addition notify their Department Head.

Thereafter the Department Head will conduct a preliminary inquiry into the facts and circumstances of the incident and make prompt report to the Town Supervisor or designee. It will be determined if there is:

- a. An immediate threat of violence. If so, the police shall be called and they should ensure that emergency medical assistance is provided where necessary. Once there is no immediate threat, follow the procedures as indicated below.
- b. Serious misconduct or criminal behavior by a Town employee. If so, the Department Head is to be notified as well as the Town Supervisor or his designee.
- c. No immediate threat of violence and no serious misconduct or criminal behavior by a Town employee. In that event, the Department Head will continue the investigation, resolve /mediate the matter, initiate disciplinary action where appropriate and make a written report to the Town Supervisor.

*NOTE: In all instances, a written summary report of the incident and all persons involved as well as any action taken will be prepared and submitted to the Town Supervisor.*

Retaliation against any employee who makes a good faith report of violence or other disruptive behavior is strictly prohibited and shall be subject to appropriate corrective or disciplinary measures. AN employee who, in bad faith, makes a false report is also subject to disciplinary action as well as possible criminal penalties.

## **H. Response Procedures**

The following procedures are recommended to be followed whenever an employee files a complaint alleging a violation of this policy has occurred or when a violent incident occurs.

A threatening situation is a situation where one person, through intimidating words or gestures has induced fear and apprehension of physical or other harm in another person but there is no immediate danger of such harm being inflicted. The steps listed under the "Non-Emergency

(threatening) Response Procedure” are recommended to be followed whenever a threatening situation occurs.

A situation is an “emergency” if an injury has occurred or there is an immediate threat of physical harm. Individuals should always consider their personal safety first in all emergency situations. If possible, the “Emergency Response Procedure” should be followed whenever an emergency occurs.

<b>Non-Emergency (Threatening) Response Procedure</b>	<b>Emergency Response Procedure</b>
<p style="text-align: center;"><b>Step 1</b></p> <p>Employee immediately notifies their immediate Supervisor or Department Head.</p>	<p style="text-align: center;"><b>Step 1</b></p> <p>First person on the scene quickly assesses the situation and risk.</p>
<p style="text-align: center;"><b>Step 2</b></p> <p>Department Head conducts preliminary inquiry and makes prompt notification to the Town Supervisor.</p>	<p style="text-align: center;"><b>Step 2</b></p> <p>Immediate contact made with police and if necessary medical assistance and insures needs of injured are met. Employee must also notify Department Head of the situation.</p>
<p style="text-align: center;"><b>Step 3</b></p> <p>If there has been serious misconduct or criminal behavior by a Town employee the Police are to be contacted immediately.</p>	<p style="text-align: center;"><b>Step 3</b></p> <p>The Department Head will notify the Police to immediately assess the situation who will thereafter make a prompt notification to the Town Supervisor.</p>
<p style="text-align: center;"><b>Step 4</b></p> <p>If there is no immediate threat of violence and no serious misconduct or criminal behavior by a Town employee, the Department Head will continue the investigation, resolve/mediate the matter, initiate disciplinary action if appropriate, make a full written report to the Town Supervisor.</p>	<p style="text-align: center;"><b>Step 4</b></p> <p>The Department Head will make a full written and detailed report to the Town Supervisor.</p>

## **I. Safety Committee**

The Town’s Safety Committee will perform annual reviews of the workplace violence programs and policies to determine the need for revisions and updates to the Town’s exiting programs and policies. Safety Committee members are appointed by the Town Board and should include representatives from the Town Board, Department Heads, Insurance Carrier or designee and others.

*Note: A copy of the Town of Clayton Workplace Violence Incident Report is attached as **Appendix A**. The New York State Public Employer Workplace Violence Prevention Law (Labor Law Article 2) is attached as **Appendix B**. 12NYCRR Part 800.6 (PESH Rule) has been attached as **Appendix C**.*

*Adopted by the Town of Clayton Board on 09/29/2012.*

**Appendix A**

**Town of Clayton Workplace Violence Incident Report**

## Workplace Violence Incident Report

Date of Incident: \_\_\_\_\_

Today's Date: \_\_\_\_\_

Time of Incident: \_\_\_\_\_

Location of Incident: \_\_\_\_\_

Employee Name: \_\_\_\_\_ Title: \_\_\_\_\_

Workplace Location: \_\_\_\_\_

What was the employee doing just prior to the incident? \_\_\_\_\_

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Incident Description (At a minimum, include names of involved employees, extent of injuries and names of witnesses): \_\_\_\_\_

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Provide information on preventative actions that the Town of Clayton has taken or is considering as a result of the incident to prevent against further like occurrences: \_\_\_\_\_

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After the occurrence of a workplace violence incident, the Town of Clayton shall consider global (all town work sites) prevention enhancements, which may be necessary to properly protect employees.

The employer is responsible for maintaining copies of all reports, which shall be used when the program is reviewed and updated.

## **Appendix B**

### **New York State Public Employer Workplace Violence Prevention Law (Labor Law Article 2)**

## Labor Law Article 2

\* § 27-b. Duty of public employers to develop and implement programs to prevent workplace violence. 1. Purpose. The purpose of this section is to ensure that the risk of workplace assaults and homicides is evaluated by affected public employers and their employees and that such employers design and implement workplace violence protection programs to prevent and minimize the hazard of workplace violence to public employees.

2. Definitions. For the purposes of this section:

a. "Employer" means: (1) the state; (2) a political subdivision of the state, provided, however that this subdivision shall not mean any employer as defined in section twenty-eight hundred one-a of the education law; and (3) a public authority, a public benefit corporation, or any other governmental agency or instrumentality thereof.

b. "Employee" means a public employee working for an employer.

c. "Workplace" means any location away from an employee's domicile, permanent or temporary, where an employee performs any work-related duty in the course of his or her employment by an employer.

d. "Supervisor" means any person within an employer's organization who has the authority to direct and control the work performance of an employee, or who has the authority to take corrective action regarding the violation of a law, rule or regulation to which an employee submits written notice.

e. "Retaliatory action" means the 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.

3. Risk evaluation and determination. Every employer shall evaluate its workplace or workplaces to determine the presence of factors or situations in such workplace or workplaces that might place employees at risk of occupational assaults and homicides. Examples of such factors shall include, but not limited to:

a. working in public settings (e.g., social services or other governmental workers, police officers, firefighters, teachers, public transportation drivers, health care workers, and service workers);

b. working late night or early morning hours;

c. exchanging money with the public;

d. working alone or in small numbers;

e. uncontrolled access to the workplace; and

f. areas of previous security problems.

4. Written workplace violence prevention program. Every employer with at least twenty full time permanent employees shall develop and implement a written workplace violence prevention program for its workplace or workplaces that includes the following:

a. a list of the risk factors identified in subdivision three of this section that are present in such workplace or workplaces;

b. the methods the employer will use to prevent incidents of occupational assaults and homicides at such workplace or workplaces, including but not limited to the following:

(1) making high-risk areas more visible to more people;

(2) installing good external lighting;

(3) using drop safes or other methods to minimize cash on hand;

(4) posting signs stating that limited cash is on hand;

(5) providing training in conflict resolution and nonviolent self-defense responses; and

(6) establishing and implementing reporting systems for incidents of aggressive behavior.

5. Employee information and training. a. Every employer with at least

twenty permanent full time employees shall make the written workplace violence prevention program available, upon request, to its employees, their designated representatives and the department.

b. Every employer shall provide its employees with the following information and training on the risks of occupational assaults and homicides in their workplace or workplaces at the time of their initial assignment and annually thereafter:

(1) employees shall be informed of the requirements of this section, the risk factors in their workplace or workplaces, and the location and availability of the written workplace violence prevention program required by this section; and

(2) employee training shall include at least: (a) the measures employees can take to protect themselves from such risks, including specific procedures the employer has implemented to protect employees, such as appropriate work practices, emergency procedures, use of security alarms and other devices, and (b) the details of the written workplace violence prevention program developed by the employer.

6. Application. a. Any employee or representative of employees who believes that a serious violation of a workplace violence protection program exists or that an imminent danger exists shall bring such matter to the attention of a supervisor in the form of a written notice and shall afford the employer a reasonable opportunity to correct such activity, policy or practice. This referral shall not apply where imminent danger or threat 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.

b. If following a referral of such matter to the employee's supervisor's attention and after a reasonable opportunity to correct such activity, policy or practice the matter has not been resolved and the employee or representative of employees still believes that a violation of a workplace violence prevention program remains, or that an imminent danger exists, such employee or representative of employees may request an inspection by giving notice to the commissioner of such violation or danger. Such notice and request shall be in writing, shall set forth with reasonable particularity the grounds for the notice, shall be signed by such employee or representative of employees, and a copy shall be provided by the commissioner to the employer or the person in charge no later than the time of inspection, except that on the request of the person giving such notice, such person's name and the names of individual employees or representatives of employees shall be withheld. Such inspection shall be made forthwith.

c. A representative of the employer and an authorized employee representative shall be given the opportunity to accompany the commissioner during an inspection for the purpose of aiding such inspection. Where there is no authorized employee representative, the commissioner shall consult with a reasonable number of employees concerning matters of safety in the workplace.

d. The authority of the commissioner to inspect a premises pursuant to such an employee complaint shall not be limited to the alleged violation contained in such complaint. The commissioner may inspect any other area of the premises in which he or she has reason to believe that a serious violation of this section exists.

e. No employer shall take retaliatory action against any employee because the employee does any of the following:

- (1) makes an application pursuant to paragraph a of this subdivision;
- (2) requests an inspection as authorized in paragraph b of this subdivision;
- (3) accompanies the commissioner as authorized in paragraph c of this

subdivision;

f. The commissioner may, upon his or her own initiative, conduct an inspection of any premises occupied by an employer if he or she has reason to believe that a violation of this section has occurred or if he or she has a general administrative plan for the enforcement of this section, including a general schedule of inspections, which provide a rational administrative basis for such inspecting. Within one hundred twenty days of the effective date of this paragraph the commissioner shall adopt rules and regulations implementing the provisions of this section.

g. Any information obtained by the commissioner pursuant to this subdivision shall be obtained with a minimum burden upon the employers.

h. When a request for an inspection has been made in a situation where there is an allegation of an imminent danger such that an employee would be subjecting himself or herself to serious injury or death because of the hazardous condition in the workplace, the inspection shall be given the highest priority by the department and shall be carried out immediately.

\* NB Effective March 4, 2007

**Appendix C**

**12NYCRR Part 800.6 (PESH Rule)**

**Part  
800.6**

**Public Employer Workplace Violence Prevention Programs**

Part 800.6 of Title 12 of the Official Compilation of Codes, Rules, and Regulations of  
the State of New York (Cited as NYCRR 800.6)

Effective April 29, 2009



## 12 NYCRR 800.6

### Public Employer Workplace Violence Prevention Programs

**(a) Title and citation.** Within and for the purposes of the Department of Labor, this part may be known as Code Rule 800.6, Public Employer Workplace Violence Prevention Programs, relating to requirements of public employers to develop and implement programs to prevent and minimize the hazards of workplace violence to public employees; allowing any employee or authorized employee representative of employees who believes that a serious violation of this safety or health standard exists, or an imminent danger exists, to request an inspection by the department of labor; and providing for the enforcement of such requirement by the Commissioner of Labor. It may be cited as Code Rule 800.6“Public Employer Workplace Violence Prevention Programs” as an alternative and without prejudice to its designation and citation established by the Secretary of State.

**(b) Purpose and intent.** It is the purpose of this part to ensure that the risk of workplace assaults and homicides is evaluated by affected public employers and their employees and that such public employers design and implement protection programs to minimize the hazard of workplace violence to employees.

**(c) Application.** This part shall apply throughout the State of New York to the State, any political subdivision of the state, any public authority, public benefit corporation or any other governmental agency or instrumentality thereof.

This part shall not apply to any employer as defined in Section twenty-eight hundred one-a of the Education Law.

**(d) Terms.** As used in or in connection with this part, the following terms mean:

- (1) Authorized Employee Representative. An employee authorized by the employees or the designated representative of an employee organization recognized or certified to represent the employees pursuant to Article 14 of the Civil Service Law.
- (2) Commissioner. The Commissioner of Labor of the State of New York or his or her duly authorized representative for the purposes of implementing this Part.
- (3) Employee. A public employee working for an employer.
- (4) Employer. The State, any political subdivision of the State, any public authority public benefit corporation, and any other governmental agency or instrumentality thereof, except that an employer shall not include, for purposes of this part, any employer defined as such in Section twenty-eight hundred one-a (2801a) of the Education Law.
- (5) Imminent Danger. 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 imminence of such danger can be eliminated through the enforcement procedures otherwise provided for by this Part.
- (6) Retaliatory Action. The 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.

- (7) Serious physical harm. Physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ or a sexual offense as defined in Article 130 of the Penal Law.
- (8) Serious Violation. A serious violation of the public employer workplace violence prevention program (WVPP) is the failure to:
  - (a) Develop and implement a program.
  - (b) Address situations which could result in serious physical harm.
- (9) Supervisor. Any person within the employer's organization who has the authority to direct and control the work performance of an employee, or who has the authority to take corrective action regarding the violation of a law, rule or regulation to which an employee submits written notice.
- (10) Workplace. Any location away from an employee's domicile, permanent or temporary, where an employee performs any work-related duty in the course of his or her employment by an employer.
- (11) 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.
- (12) Workplace Violence Prevention Program. An employer program designed to prevent, minimize and respond to any workplace violence, the development and implementation of which is required by Article 2, Section 27-b of the New York State Labor Law.

**(e) Management commitment and employee involvement.**

- (1) Workplace Violence Policy Statement. The employer shall develop and implement a written policy statement on the employer's workplace violence prevention program goals and objectives and provide for full employee participation through an authorized employee representative.
  - (i) The workplace violence policy statement shall be posted where notices to employees are normally posted.
  - (ii) The policy statement shall briefly indicate the employer's workplace violence prevention policy and incident alert and notification policies for employees to follow in the event of a workplace violence incident.
- (2) The responsibility and authority for preparing, determining the content of and implementing the requirements of this part remains with the employer. Local

governments and all other public employers may elect to share resources in the development and implementation of their workplace violence prevention programs.

**(f) Risk evaluation and determination.**

- (1) Record Examination: The employer shall examine any records relevant to the purposes of this Part in its possession, including records compiled in the previous year under Labor Law Section 27a, that concern workplace violence incidents to identify patterns in the type and cause of injuries. The examination shall look to identify patterns of injuries in particular areas of the workplace or incidents which involve specific operations or specific individuals.
- (2) Administrative Risk Factors. The employer shall assess relevant policies, work practices, and work procedures that may impact the risk of workplace violence.
- (3) Evaluation of Physical Environment. The employer, with the participation of the authorized employee representatives, shall evaluate the workplace to determine the presence of factors which may place employees at risk of workplace violence. The Department of Labor has tools to aid employers in performing this evaluation which will be posted on the Department's web-site. Factors which might place an employee at risk include but are not limited to:
  - (i) Working in public settings (e.g. Social Service Workers, Police Officers, Firefighters, Teachers, Public Transportation Drivers, Health Care Workers, other Governmental Workers or Service Workers);
  - (ii) Working late night or early morning hours;
  - (iii) Exchanging money with the public;
  - (iv) Working alone or in small numbers;
  - (v) Working in a location with uncontrolled public access to the workplace; or
  - (vi) Areas of previous security problems.

**(g) The Workplace Violence Prevention Program.**

- (1) Employers with 20 or more full time permanent employees, with the participation of the authorized employee representative, shall develop a written workplace violence prevention program. Such participation shall include soliciting input from the authorized employee representative as to those situations in the workplace that pose a threat of workplace violence, and on the workplace violence prevention program the employer intends to implement under these regulations. Safety and health programs developed and implemented to meet other federal, state or local regulations, laws or ordinances are considered acceptable in meeting this requirement if those programs cover or are modified to cover the topics required in this paragraph. An additional or separate safety and health program is not required by this paragraph.
- (2) The workplace violence prevention program shall include the following:
  - (i) A list of the risk factors identified in the workplace examination;
  - (ii) The methods the employer will use to prevent the incidence of workplace violence incidents;

- (iii) A hierarchy of controls to which the program shall adhere as follows: engineering controls, work practice controls, and finally personal protective equipment;
- (iv) The methods and means by which the employer shall address each specific hazard identified in the workplace evaluation;
- (v) A system designed and implemented by the employer to report any workplace violence incidents that occur in the workplace. The reports must be in writing and maintained for the annual program review;
- (vi) A written outline or lesson plan for employee program training;
- (vii) A plan for program review and update on at least an annual basis. Such review and update shall set forth any mitigating steps taken in response to any incident of workplace violence;
- (viii) Nothing in this part shall require the disclosure of information otherwise kept confidential for security reasons. Such information may include information which, if disclosed:
  - (a) Would interfere with law enforcement investigations or judicial proceedings;
  - (b) Would deprive a person of a right to a fair trial or impartial adjudication;
  - (c) Would identify a confidential source or disclose confidential information relating to a criminal investigation;
  - (d) Would reveal criminal investigative techniques or procedures, except routine techniques and procedures; or
  - (e) Would endanger the life or safety of any person.

**(h) Employee information and training.**

- (1) Upon completion of 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. Such information as necessary shall be provided to affected employees whenever significant changes are made to the workplace violence program. At a minimum training shall address the following:
  - (i) Employers shall inform employees of the requirements of this Part and the risk factors in their workplace that were identified in the risk evaluation and determination, except that nothing in this part shall require the disclosure of the information otherwise kept confidential for security reasons as identified in paragraph (g)(2)(viii);
  - (ii) Employers shall inform employees of the measures that employees can take to protect themselves from the identified risks including specific procedures that the employer has implemented to protect employees such as incident alert and notification procedures, appropriate work practices, emergency procedures, and use of security alarms and other devices;
  - (iii) Employers with 20 or more full-time permanent employees shall inform employees of the location of the written workplace violence program and how to obtain a copy, and shall make it available for reference to

employees, authorized employee representatives and the Commissioner in the work area during the regularly scheduled shift.

**(i) Recordkeeping and recording of workplace violence incidents.**

- (1) Employers shall establish and implement reporting systems for incidents of workplace violence. Reporting systems developed and implemented to meet other federal state or local regulations, laws or ordinances are considered acceptable in meeting this requirement if they cover or are modified to cover the information required in this paragraph. An additional or separate reporting system is not required by this paragraph.
- (2) Employers at sites where there is a developing pattern of workplace violence incidents which may involve criminal conduct or a serious injury shall 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 provide information on such protocols and contact information to employees who wish to file a criminal complaint after a workplace violence incident.
- (3) Systems for reporting instances of workplace violence.
  - (i) The employer shall develop and maintain a Workplace Violence Incident Report that can be in any format but, at a minimum, shall contain the following relating to the incident being reported:
    - (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.
  - (ii)
    - (a) If the case is a "privacy concern case" as defined below, the employer shall still be liable for developing a Workplace Violence Incident Report as set forth above. However, before sharing a copy of such Report with any party other than the Commissioner, the employer shall remove the name of the employee who was the victim of the workplace violence and shall instead enter "PRIVACY CONCERN CASE" in the space normally used for the employee's name.
    - (b) The employer shall treat incidents involving the following injuries or illnesses as privacy concern cases:
      - (1) An injury or illness to an intimate body part or the reproductive system;
      - (2) An injury or illness resulting from a sexual assault;

- (3) Mental illness;
  - (4) HIV infection;
  - (5) Needle stick injuries and cuts from sharp objects that are or may be contaminated with another person's blood or other potentially infectious material; and
  - (6) Other injuries or illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the Report.
- (4) The Workplace Violence Incident Report must be maintained for use in annual program review and updates. This requirement does not relieve an employer of the recordkeeping requirements of 12NYCRR Part 801.
  - (5) The employer, with the participation 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 review of the effectiveness of the mitigating actions taken.

**(j) Employee reporting of workplace violence prevention concerns or incidents.**

- (1) Any employee or his or her authorized employee representative who believes that a serious violation of the employer's workplace violence protection program exists, or that a workplace violence imminent danger exists, shall bring such matter to the attention of a supervisor in the form of a written notice and shall afford the employer a reasonable opportunity to correct such activity, policy or practice.
- (2) Written notice to an employer shall not be required where workplace violence 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.
- (3) If, following a referral of such matter to the employee's supervisor and after a reasonable opportunity to correct such activity, policy or practice, the matter has not been resolved and the employee or the authorized employee representative still believes that a 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. Such notice and request shall be in writing, shall set forth with reasonable particularity the ground(s) for the notice and shall be signed by such employee or their authorized employee representative. A copy of the written notice shall be provided by the Commissioner to the employer or the person in charge no later than the time of inspection, except that at the request of the person giving such notice, such person's name and the names of individual employees or authorized employee representatives of employees shall be withheld. Such inspection shall be made forthwith by the Commissioner.
- 4) The authority of the Commissioner to inspect premises pursuant to such employee complaint shall not be limited to the alleged violation contained in such complaint. The Commissioner may inspect any other area of the premises in which he or she has reason to believe that a serious violation of this section exists.
- (5) The Commissioner may, upon his or her own initiative, conduct an inspection of any premises occupied by an employer if he or she has reason to believe that a violation of this section has occurred.

The current PESH administrative plan will be used for the enforcement of this section, including a general schedule of inspections, which provides a rational administrative basis for such inspection.

- (6) No employer shall take retaliatory action against any employee because the employee exercises any right accorded him or her by this Part.

**(k) Effective dates.**

- (1) The Employer's Policy Statement required by section (e) of this Part shall be completed within 30 days after the effective date of this Part.
- (2) The workplace risk evaluation and determination required by section (f) of this Part shall be completed within 60 days of the effective date of this Part.
- (3) The workplace violence prevention program required by section (g) of this Part shall be complete within 75 days of the effective date of this Part.
- (4) Employers shall be in compliance with the entire Part within 120 days of the effective date of this Part.