





June 2024

TO: BOCES District Superintendents
School District Superintendents
Superintendents of Special Act School Districts
Public School Administrators
Charter School Leaders
Special Education Directors
Chairpersons of Committees on Special Education
Chairpersons of Committees on Preschool Special Education
Organizations, Parents, and Individuals Interested in Special Education

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SUBJECT: Workplace Violence Prevention Program

Effective January 4, 2024, to help prevent workplace violence in public schools, the Workplace Violence Prevention Law ([Section 27-b of Labor Law](#)) was amended to extend coverage to elementary and secondary public education. Covered public employers now include public school districts, New York City public schools, Boards of Cooperative Education Services (BOCES), and County Vocational Education and Extension Boards.

The law requires public employers to develop and implement programs to prevent and minimize workplace violence and help ensure the safety of public employees. The Frequently Asked Questions are provided as guidance to this amended legislation and will continue to be updated.

Resources for Further Information

General questions regarding these regulations may be emailed to the Office of Student Support Services at StudentSupportServices@nysed.gov.

Questions relating to these regulations specific to students with disabilities may be emailed to the Office of Special Education at SPECED@nysed.gov.

Attachment

Workplace Violence Prevention Program:

Frequently Asked Questions

The University of the State of New York
The State Education Department
Office of Student Support Services
Office of Special Education



Released June 2024

Introduction

Effective January 4, 2024, to help prevent workplace violence in public schools, the Workplace Violence Prevention Law ([Section 27-b of Labor Law](#)) was amended to extend coverage to elementary and secondary public education. Covered public employers now include public school districts, New York City public schools, Boards of Cooperative Education Services (BOCES), and County Vocational Education and Extension Boards.

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Workplace Violence Prevention Program: Frequently Asked Questions

Table of Contents	Page
A) Workplace Violence Prevention Program Requirements	1
B) Board Approval of Policy	1
C) Entities Included	1
D) Employees	3
E) Evaluations	3
F) Training	3
G) Employee Representation	5
H) Risk Evaluation and Determination	5
I) Hazards and Mitigation	6
J) Engineering	7
K) Work Practice	7
L) Personal Protective Equipment	8
M) Workplace Violence Examples	8
N) Classroom Assignments	8
O) Intervention	8
P) Students With Disabilities	10
Q) Enforcement	15
R) Incident Reporting	15
S) Incident Review	17
T) Template or Sample Policy	17
U) Safety Plans	18
V) School Safety and Educational Climate	18
W) Resources	18

Frequently Asked Questions

A) Workplace Violence Prevention Program Requirements

A-1) What is a workplace violence prevention program?

A workplace violence prevention program is a written plan developed by employers with input from employees to identify and address identified risks and hazards in the work environment.

A-2) What must a workplace violence prevention program include?

The program must include training for employees and a review of reported incidents on a routine basis, but at a minimum of annually, to determine the need for updates and revisions to the program.

A-3) Who must develop a workplace violence prevention program?

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(s) 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 below. An additional or separate safety and health program is not required.

B) Board Approval of Policy

B-1) Is a school district board of education (BOE) required to approve a workplace violence prevention policy?

Yes. Education Law grants school boards the power and duty to establish policies concerning the order and discipline of schools.

C) Entities Included

C-1) What schools or districts does the law apply to?

Covered public employers include public school districts (including charter schools and special act school districts), Boards of Cooperative Education Services (BOCES), and County Vocational Education and Extension Boards.

C-2) Does this apply to Charter Schools?

Yes, charter schools are public schools.

C-3) Does the Workplace Violence Prevention Act apply to 853 schools?

No, this law only applies to public employers, including public school districts, New York City public schools, Boards of Cooperative Education Services (BOCES), and County Vocational Education and Extension Boards. However, all schools are encouraged to use the [workplace violence prevention program template](#) provided by the New York State Department of Labor (NYSDOL).

C-4) If a school assigns employees to work in a space leased from another school or district (e.g., school district A leases space from school district B), should the school or district include the space it leases in its workplace violence prevention program (e.g., evaluation of physical environment)?

Yes. [12 NYCRR 800.6\(d\)\(10\)](#) defines workplace as “[a]ny 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. [NYSDOL guidance](#) states that a workplace “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 and team sport venues.”

C-5) If a BOCES operates a program at an offsite location (e.g., programs on a SUNY campus), should the BOCES include the offsite location in its workplace violence program?

Yes. [12 NYCRR 800.6\(d\)\(10\)](#) defines workplace as “[a]ny 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. [NYSDOL guidance](#) includes that a workplace “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 and team sport venues.”

C-6) If a school has less than 20 employees, is the school or district required to comply with the Workplace Violence Prevention Act?

No if the school or district that has less than 20 employees is not part of a larger school district or BOCES. However, regardless of size, schools are encouraged to use the [workplace violence prevention program template](#) provided by NYSDOL.

D) Employees

D-1) Are members of a board of education considered employees?

No. [12 NYCRR 800.6\(d\)\(3\)](#) defines employee as “[a] public employee working for an employer.

E) Evaluations

E-1) When a school or district has multiple buildings, must each individual building be evaluated?

Yes. Although a single workplace prevention program can be used across the different work locations managed by an employer, a separate risk evaluation for each workplace location is required. The risk factors for each workplace location and the safeguards implemented to address them must be listed in the workplace violence prevention program. If there are different risk factors for the different work sites, the program must contain specific information on the identified risk factors and safeguards implemented for each site.

E-2) Do the same people (employer and authorized employee representative) evaluate each building?

This is a local decision; however, employers must consider whether employees in each location have the same authorized employee representative(s).

E-3) Can an existing review or walkthrough be used for the physical evaluation?

This would depend on whether the previous walkthrough met the requirements for assessing workplace violence and if the authorized employee representatives were included.

E-4) Are the results of the evaluation reported to the state?

No, the evaluations are for the school to use in the development of their workplace violence program. A NYSDOL inspector may ask for documentation of the evaluation when doing an audit or investigation.

F) Training

F-1) How long do schools or districts have to conduct required training?

Schools are encouraged to incorporate workplace violence required training into their existing school safety professional development cycle.

F-2) What qualifies as the required training?

[12 NYCRR 800.6\(h\)](#) lists required topics that must be addressed during training. At a minimum, training must include the following information:

- Requirements of New York’s Workplace Violence Prevention Law;
- Risk factors the employer identified in the risk evaluation;
- Methods employees can use in response to the risks identified; and
- Employer specific procedures in place to protect employees.

In addition, employers with 20 or more full-time permanent employees must inform their employees of the location of the written workplace violence prevention program and how to obtain a copy.

F-3) What if an employee cannot attend the scheduled training session or if an employee is out the day of the training?

Schools should document reasons employees have not been trained (e.g., absences) and should provide a day/time to make up missed training as soon as possible.

F-4) Are there approved training programs or vendors who provide the required training?

There are no existing lists of approved training programs or vendors. School districts must choose a vendor that is able to provide the training with the specificity to meet the training requirements. See the answer to question 2 above for the training requirements. A model training program is available at the NYSDOL [Workplace Violence Prevention Information webpage](#).

F-5) Must the training be conducted in person?

No. The workplace violence prevention program can be in an entirely digital format as long as every employee has access to it, for instance through a shared network or email distribution. However, it would not be permissible if, for example, the workplace violence prevention program was stored in a computer system for which only some employees were provided the log-in information.

F-6) How often are employees required to complete training required?

Training and information on the risk of workplace violence must be provided annually and when an employee is initially assigned to a workplace. In addition, whenever significant changes are made to the workplace violence prevention program, the employer must inform the employees who are impacted.

G) Employee Representation

G-1) Are schools or districts required to permit employees or their authorized employee representative(s) to participate in workplace violence prevention programs?

For certain elements, yes. Employers must allow employee participation through an employee representative in the development and implementation of a written policy statement on the employer's workplace violence prevention program goals and objectives, and in evaluation of the physical environment. Employers must solicit input from the authorized employee representative about situations in the workplace that pose a threat of workplace violence and on the workplace violence prevention program the employer intends to implement.

G-2) If employees are represented by multiple unions, are schools or districts required to have an authorized employee representative from each?

Yes, districts and schools should provide the opportunity for participation from an authorized employee representative from each union representing impacted employees. An authorized employee representative could be a union representative, or an employee authorized by the employees to represent them in activities authorized under the law or regulations, including the development and implementation of the program, the evaluation of physical environments, the annual review of workplace violence incidents, the filing of complaints. If all representatives do not respond or do not participate, the employer may proceed with those that do. An employer is encouraged to document these kinds of invitations/declinations.

G-3) Is an authorized employee representative required to have certain qualifications?

No. [12 NYCRR 800.6\(d\)\(1\)](#) defines Authorized Employee Representative as [a]n 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 or the Public Employees' Fair Employment Act.

H) Risk Evaluation and Determination

H-1). What factors should a school or district consider when evaluating the physical environment (a.k.a., risk evaluation)?

- Working in public settings;
- Working late night or early morning hours;
- Working alone or in small numbers;
- Working in a setting with uncontrolled access to the workplace;
- Working in a setting where previous security problems have occurred;
- Having a mobile workplace assignment;

- Working with a population which might expose one to potentially violent persons (e.g., in health care, social service, public service or criminal justice settings); and
- Having duties that include the delivery of passengers, goods, or services.

Individual behavior or situations that may indicate an increased risk of violence include, but are not limited to the following:

- Direct or veiled threats of harm;
- Intimidation, belligerence, bullying, or other inappropriate behavior directed at others;
- Numerous conflicts with supervisors and employees and/or verbal comments expressing hostility directed at coworkers, supervisors, or others;
- Bringing an unauthorized weapon to work, brandishing a weapon in the workplace, making inappropriate reference to guns, or expressing fascination with weapons;
- Fascination with incidents of workplace violence, statements in person or online indicating approval of the use of violence to resolve a problem, or statements indicating identification with perpetrators of workplace homicides;
- Statements in person or online indicating an increased tone of desperation, feeling that normal interventions to solve a problem will not work, feeling hopeless about a situation at work, with family, with finances, and other personal problems;
- Signs of abuse of drugs or alcohol;
- Extreme or uncharacteristic changes in behavior or displays of emotion;
- Employees with ongoing domestic difficulties; and
- Employees with a temporary order of protection against someone.

H-2) What factors are considered when assessing administrative risk factors?

The employer must assess relevant policies, work practices, and work procedures that may impact the risk of workplace violence. Examples of this include:

- Policies regarding sexual harassment;
- Firearms policies; and
- Work practices requiring work in public settings, including exchanging money with the public, working alone or in small numbers, and working with potentially violent clients.

I) Hazards and Mitigation

I-1) What hazards or mitigation measures should a school consider in its workplace prevention program?

The safeguards implemented by an employer will depend on the type of risks present in your workplace. An employer could implement physical changes to the workplace to reduce or eliminate the risk of workplace violence. An employer could also change work practices to reduce the likelihood of violent incidents and to better protect staff and others should a violent incident occur. An employer could supply employees with personal protective equipment as well.

When there are situations where the risk or hazard cannot be completely eliminated, the employer must use control measures to reduce the risk to employees. The employer must address each specific risk or hazard identified and assign control measures for each one identified.

The workplace prevention program must include a hierarchy of controls.

J) Engineering

- Engineering controls - reduce the hazard through substitution or design. An example of an engineering control would be the installation of a physical barrier to protect employees from a member of the public (e.g., windows, deep counters).
- Engineering controls are not always feasible. If engineering controls are not feasible, the employer must then consider work practice controls. The Department of Labor provides a list of steps and engineering controls employers may consider on page of 6 of the [NYS DOL Public Bureau of Safety and Health Complaint Form](#).
- Other examples include:
 - Improving lighting in outdoor areas for better visibility;
 - Controlling access to certain areas with locked doors; or
 - Installing security technologies such as metal detectors, surveillance cameras, or panic buttons.

K) Work Practice

- Work practice controls - reduce the hazard by changing organizational policies and procedures. Examples of work practice controls could include:
 - Increased staffing;
 - Employment of security personnel;
 - Instituting communication procedures across shifts or classes to share information regarding agitated clients or students;
 - Implementing procedures and/or itineraries to account for employees who work alone;
 - Training staff in de-escalation techniques; or
 - Employing methods to communicate like cell phones or panic buttons.

L) Personal Protective Equipment

- Personal protective equipment- For the most part, this type of intervention is not relevant to workplace violence prevention. An example of personal protective equipment would be ballistic body armor for law enforcement personnel.

Examples of personal protective equipment include:

- Supplying law enforcement personnel with body armor; or
- Supplying healthcare workers with bite-resistant sleeve

M) Workplace Violence Examples

M-1) What is considered workplace violence?

Workplace violence examples include physical assaults or threats of physical harm, verbal abuse, bullying and harassment, sexual harassment, ideological violence to employees where they perform any work-related duty in the course of their employment.

M-2) If an incident occurs that qualifies as workplace violence, what procedures should an employee follow?

The employee should notify their supervisor or other designated contact person. Each school or district is responsible for developing and implementing a workplace violence prevention program that includes a system for reporting incidents of workplace violence in writing.

N) Classroom Assignments

N-1) Can a faculty member refuse a classroom assignment for a student they claim is not safe to be in the room with, due to physical aggression/violence?

School assignments are a local administrative decision. The requirements of the amended Workplace Violence Prevention Law require public employers (i.e., school districts, charter schools, and BOCES) to develop policies, practices and procedures designed to prevent and minimize potential hazards of workplace violence.

O) Intervention

O-1) What proactive steps can a school take to reduce the likelihood of an incident of workplace violence?

Schools and districts can consider a combination of the following:

- Implementing school climate surveys for students, staff, and community to identify areas of need;
- Working within a multi-tiered system of supports (MTSS);
- Encouraging a systemic social emotional learning (SEL) strategy that incorporates competency building and practice in subject area classrooms as well as in less structured environments like cafeterias, playgrounds, and school busses;
- Implementing a restorative practices framework that emphasizes community-building;
- Incorporating trauma-informed practices; building strong support systems for staff;
- Offering resources and strategies to encourage well-being; and
- Integrating the Culturally Responsive and Sustaining Education Framework across all aspects of the district and school community.

O-2) Are there any resources that specifically tie into best practices for violence prevention in schools?

Multi-tiered system of supports (MTSS):

- [Positive Behavior Intervention and Supports](#) – Center on PBIS

Social Emotional Learning (SEL):

- [New York State SEL Benchmarks](#)
- [District Resource Center](#) - Collaborative for Academic, Social, and Emotional Learning (CASEL)

Restorative Practices:

- [Restorative Justice in Schools: A Whole-School Implementation Process](#) – Center for Court Innovation
- [Restorative Practices Guide and Toolkit](#) - Chicago Public Schools

Trauma-Informed Practices:

- [Trauma-Sensitive Schools Training Package](#) – National Center for Safe and Supportive Schools
- [Promoting Mental Health and Well-Being in Schools: An Action Guide for School and District Leaders](#) – Center for Disease Control and Prevention

Culturally Responsive-Sustaining Education:

- [Culturally Responsive-Sustaining Education Framework](#)

O-3) What controls or methods should schools use when intervening in student altercations (direct violence, or breaking up a fight)?

Staff who are expected to intervene in student altercations should be trained, which should include de-escalation techniques, how to identify precursors to violence and restraint training. In a school setting, de-escalation techniques, the use of behavior

management techniques that help a student increase control over their emotions and behavior and results in a reduction of a present or potential level of danger to the student or others, should be used to attempt to calm and/or redirect students' behavior.

P) Students With Disabilities

P-1) How does this law take into consideration students with disabilities who may be physically aggressive towards staff due to their disability?

Nothing in the [Workplace Violence Prevention Law \(Section 27-b of Labor Law\)](#) takes away from the requirements and protections for students with disabilities under the provisions of the Individuals with Disabilities Education Act (IDEA), New York State Education Law and Parts 200 and 201 of the Regulations of the Commissioner of Education.

Promoting healthy and safe learning environments where students can receive the instruction and other supports they need to learn and achieve at high levels is one of the primary responsibilities of each school and is a priority of the New York State Education Department (NYSED). NYSED encourages schools to use a multi-tiered system of supports (MTSS) to address and promote appropriate student behaviors. MTSS is defined as a proactive and preventative framework that utilizes data to inform instruction and the allocation of services to maximize achievement for all students and support students' social, emotional, and behavioral needs from a culturally responsive and strength-based perspective. This framework should be embedded in school-wide systems with interventions, practices, and policies used on a daily basis to proactively support all students.

Pursuant to [8 NYCRR 19.5](#), all staff in schools should receive annual training on a school's policies and procedures related to the use of timeout and physical restraint, evidence-based positive, proactive strategies, crisis intervention, prevention procedures, and de-escalation techniques [\[8 NYCRR 19.5\(d\)\(7\)\(i\)\]](#). In addition to the training requirements for all staff, any staff who may be called upon to implement timeout or physical restraint, shall receive annual, evidence-based training in safe and effective, developmentally appropriate timeout and physical restraint procedures [\[8 NYCRR 19.5\(d\)\(7\)\(ii\)\]](#). Training programs and specific personnel training requirements are determined at the local school level.

The Workplace Violence Prevention Law was amended to extend its coverage to public school districts, charter schools, and boards of cooperative educational services (BOCES). These changes became effective January 4, 2024 (120 days after becoming law). The changes require that school districts, charter schools, and BOCES:

- Develop and post a written policy statement about the employer's workplace violence prevention program goals and objectives;

- Conduct a risk evaluation by examining the workplace for potential hazards related to workplace violence with an authorized employee representative.
- Develop a written workplace violence prevention program that must be made available, upon request to employees, their designated representatives, and the Department of Labor;
- Provide training and information for employees regarding the workplace violence prevention program, including any risk factors identified and what employees can do to protect themselves;
- Document workplace violence incidents and maintain those records; and
- Annually review all workplace violence incidents with an authorized employee representative to determine what, if any, changes need to be made to the program or identified risk factors.

The purpose of this legislation is to ensure that public employers evaluate the risk of workplace assaults and homicides and design and implement workplace violence protection programs to prevent and minimize the hazard of workplace violence to public employees. Workplace violence protection policies must address risks associated with potential aggression or violence.

P-2) How do you anticipate these regulations working in conjunction with the federal and state requirements for students with disabilities?

Nothing in the Workplace Violence Prevention law changes the requirements and protections for students with disabilities under the provisions of the IDEA, New York State Education Law, and Parts 200 and 201 of the Regulations of the Commissioner of Education.

P-3) What options are available when a school district believes that maintaining a student in their current placement is substantially likely to cause injury to the student or others?

As stated above, promoting healthy and safe learning environments where students can receive the instruction and other supports, they need to learn and achieve at high levels is one of the primary responsibilities of each school and is a priority of the New York State Education Department (NYSED). NYSED encourages schools to use a multi-tiered system of supports (MTSS) to address and promote appropriate student behaviors. MTSS is defined as a proactive and preventative framework that utilizes data to inform instruction and the allocation of services to maximize achievement for all students and support students' social, emotional, and behavioral needs from a culturally responsive and strength-based perspective. This framework should be embedded in school-wide systems with interventions, practices, and policies used on a daily basis to proactively support all students.

A functional behavioral assessment (FBA) must be conducted when a student with a disability is exhibiting persistent behaviors that impede his or her learning or that of others, despite consistently implemented school-wide or classroom-wide interventions. This includes when the student's behavior places the student or others at risk of harm or injury; the Committee on Special Education (CSE) or Committee on

Preschool Special Education (CPSE) is considering more restrictive programs or placements as a result of the student's behavior; and/or, the student is subject to disciplinary actions and a determination has been made that the behavior is related to the student's disability. The FBA shall form the basis for a Behavioral Intervention Plans (BIP) that addresses student antecedent behaviors, reinforcing consequences of the behavior, recommendations for teaching alternative skills and an assessment of student preferences for reinforcement [\[8 NYCRR 200.22\(a\)\(3\)\]](#).

Pursuant to 8 NYCRR 19.5, all staff in schools should receive annual training on a school's policies and procedures related to the use of timeout and physical restraint, evidence-based positive, proactive strategies, crisis intervention, prevention procedures, and de-escalation techniques [8 NYCRR 19.5(d)(7)(i)]. In addition to the training requirements for all staff, any staff who may be called upon to implement timeout or physical restraint, shall receive annual, evidence-based training in safe and effective, developmentally appropriate timeout and physical restraint procedures [8 NYCRR 19.5(d)(7)(ii)]. Training programs and specific personnel training requirements are determined at the local school level.

In addition to staff training, employers should be looking at their role in risk evaluation and prevention. This could be providing additional staffing in classrooms where there may be a risk of potential violence or ensuring that students are placed in appropriate settings and programs, while maintaining that they are in the least restrictive environment (LRE).

In situations where the above positive behavioral supports and interventions were not successful, pursuant to [8 NYCRR 201.7](#), schools districts have the authority to suspend and remove students with disabilities. When administrators of BOCES programs are considering long-term suspensions, the district of residence has the authority to impose the suspension. School districts who place students in BOCES programs, should be working closely with BOCES administrators when behavioral situations arise to decide what actions should occur to ensure workplace safety.

Under certain conditions, school districts have the authority to place students in an Interim Alternative Educational Setting (IAES) ([20 USC §1415\[K\]\[1\]](#); [Education Law 3214\[g\]\[3\]](#); [34 CFR 300.530](#); 8 NYCRR 201.7). With respect to the initiation of an expedited hearing, the Individuals with Disabilities Education Act states that "*a local educational agency that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others, may request a hearing*" (20 USC §1415[k][3]). Where such an expedited hearing request is made, the law requires that the student remain in an IAES pending the decision of the hearing officer (20 USC §1415[k][4];) [34 CFR §300.533](#). [8 NYCRR §201.11\[d\]](#) – largely reiterates this language, stating that "[w]hen an expedited due process hearing has been requested because of a disciplinary change in placement, the manifestation determination *or because the school district believes that maintaining the student in the current placement is likely to result in injury to the student or others, the student shall remain in the IAES pending the decision of the impartial hearing officer or until the expiration of the period of removal, whichever occurs first, unless the parent and the school district agree otherwise.*"

A school district may determine that it is necessary to place a student in an IAES subsequent to initiating the expedited hearing but prior to the impartial hearing officer (IHO) issuing a decision at that hearing. As indicated [in the United States Department of Education letter to Heufner dated March 8, 2007](#), “in most cases . . . the child would be placed in an [IAES] pursuant to the [district’s] authority provided under [34 CFR 300.530](#) and [300.531](#) prior to the [district’s] request for an expedited due process hearing, and the [district] would be requesting that the hearing officer *extend* the child’s placement in the [IAES] for an additional 45 school days.” There is no basis in federal or State law suggesting that placement in an IAES could not also occur immediately following initiation of the expedited hearing so long as such placement is consistent with a school district’s authority to place a student in an IAES identified above.

P-4) What will be the NYSDOL’s role in investigation and ultimately assigning consequences to a school or district, if a teacher makes a complaint about the conduct of a student with a disability or a student suspected of having a disability, but the school or district has followed all the correct procedures under Individuals with Disabilities Education Act?

An employee must **first** notify a supervisor, in written format, of a serious violation of the workplace violence prevention program and allow a reasonable period of time for correction. For cases involving imminent danger, the local authorities should be contacted immediately. If the matter has not been resolved, a complaint may be filed with the NYSDOL’s Division of Safety and Health Public Employee Safety and Health (PESH) bureau. Valid complaints may result in a worksite inspection to determine if the employer has implemented the requirements of the Workplace Violence Prevention regulation. Employers found to be out of compliance with the requirements noted above will receive notices of violation. Note: it is important to address any violations within the agreed upon abatement period so that the employer does not risk incurring fines for failing to comply.

A NYSDOL inspector will investigate a public employer’s compliance with the Workplace Violence Prevention law, including its policy statement, risk evaluation and determination, written program, training, and recording of incidents. The inspector will also check that employee representatives had the opportunity to participate in the evaluation of the workplace, development of the written program (for employers with 20 or more full time permanent employees), and review of workplace violence incident reports at least annually. If violations of the regulation are found, PESH will issue citations to the public employer.

The [NYSDOL](#) considers it a serious violation of the Workplace Violence Prevention law when the employer does not develop and implement the employer’s workplace violence prevention program or when the employer does not address situations which could result in serious physical harm. The response a school has to any individual instance of workplace violence would be evaluated as part of this overall NYSDOL investigation.

Whether the school or district has followed the correct procedures under IDEA regarding potential discipline or review of a student's Individualized Education Program (IEP) following an instance of student conduct is wholly separate and apart from the NYSDOL's investigation of a potential workplace violence prevention complaint.

The PESH bureau is available for questions about safety and health standards by calling 1-844-SAFE-NYS or emailing ask.shnypesh@labor.ny.gov.

Violations of the Workplace Violence Prevention law can be reported to the PESH bureau at the Department of Labor's Division of Safety and Health directly using the [complaint form](#) or by calling 1-844-SAFE-NYS.

P-5) How does this law address when “violence” or aggression is a manifestation of a student’s disability?

Nothing in the Workplace Violence Prevention law changes the requirements and protections for students with disabilities under the provisions of the IDEA, New York State Education Law, and Parts 200 and 201 of the Regulations of the Commissioner of Education.

[Section 201.4](#) of the Regulations of the Commissioner of Education, requires that a manifestation determination review must occur to determine the relationship between a student's disability and behaviors subject to disciplinary action. A manifestation determination needs to be conducted immediately, if possible, but in no case later than 10 school days after:

- a decision is made by a superintendent of schools to change the placement of a student to an interim alternative educational setting (IAES) for behavior involving serious bodily injury, weapons, illegal drugs, or controlled substances; or
- a decision is made by an impartial hearing officer (IHO) to change the placement of a student to an IAES in a dangerous situation (i.e., upon a determination that maintaining the current placement is substantially likely to result in injury to the student or others); or
- a decision is made by a board of education, district superintendent of schools, building principal or superintendent to impose a suspension that constitutes a disciplinary change in placement.

The outcome of the manifestation determination determines how the student with a disability may be disciplined, and this is not affected by the new Workplace Violence Protection legislation. The right to report a violation of the Workplace Violence Prevention law is still retained, and can be reported to the PESH bureau at the NYSDOL's Division of Safety and Health directly using the [complaint form](#) or by calling 1-844-SAFE-NYS.

Q) Enforcement

Q-1) Are schools or districts subject to enforcement action by NYSDOL?

NYSDOL's Division of Safety and Health Public Employee Safety and Health (PESH) bureau has the authority to investigate complaints, conduct worksite inspections, issue citations and impose fines. Employers are given a "reasonable opportunity to fix violations. According to NYSDOL, a reasonable opportunity is the amount of time it should reasonably take for an employer to investigate and fix the violation once they have been alerted to it and determined that a serious violation exists.

Whether the school or district has followed the correct procedures under IDEA regarding potential discipline or review of a student's Individualized Education Program (IEP) following an instance of student conduct is wholly separate and apart from the NYSDOL's investigation of a potential workplace violence prevention compliance. NYSED remains responsible for oversight and monitoring of school and school district's compliance with special education requirements.

The PESH bureau is available for questions about safety and health standards by calling 1-844-SAFE-NYS or emailing ask.shnypesh@labor.ny.gov.

Violations of the Workplace Violence Prevention law can be reported to the PESH bureau at the Department of Labor's Division of Safety and Health directly using the [complaint form](#) or by calling 1-844-SAFE-NYS.

Q-2) What recourse do employees have if an employer does not respond to reported incidents?

Violations of the workplace violence prevention law can be reported to the Public Employee Safety and Health (PESH) bureau at the Department of Labor's Division of Safety and Health directly using the [complaint form](#) or by calling 1-844-SAFE-NYS. You can also contact the PESH bureau to ask questions about safety and health standards by calling 1-844-SAFE-NYS or emailing ask.shnypesh@labor.ny.gov

R) Incident Reporting

R-1) Can an incident be reported orally?

No. 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, sometimes referred to as a workplace violence incident report**, and shall afford the employer a reasonable opportunity to correct such activity, policy, or practice. However, supervisors who receive oral reports of workplace violence should instruct employees about how to report. Written notice to an employer shall not be required when workplace violence

imminent danger exists to the safety of a specific employee and the employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action.

R-2) What must be included in a workplace violence incident report?

The report can be in any format but, at a minimum, shall contain the following relating to the incident being reported:

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

R-3) Is there a process to ensure anonymity if requested by the reporting employee?

Any employee who was the victim of an incident of workplace violence can request that their name be removed from the workplace violence incidents report. 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.

Pursuant to 8 NYCRR 800.(3)(ii)(b), the employer shall treat incidents involving the following injuries or illnesses as privacy concern cases:

- An injury or illness to an intimate body part or the reproductive system;
- An injury or illness resulting from a 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 or other potentially infectious material; and
- Other injuries or illnesses if the employee independently and voluntarily requests that their name is not entered on the report.

R-4) Does the law require the disclosure of confidential information in a report?

No, the law does not require the disclosure of information otherwise kept confidential for security reasons. Such information may include information which, if disclosed:

- Would interfere with law enforcement investigations or judicial proceedings;

- Would deprive a person of a right to a fair trial or impartial adjudication;
- Would identify a confidential source or disclose confidential information relating to a criminal investigation;
- Would reveal criminal investigative techniques or procedures, except routine techniques and procedures; or
- Would endanger the life or safety of any person.

S) Incident Review

S-1) What if the employee does not agree with the employer's determination that a reported incident is not workplace violence?

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 of Labor 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. [[12 NYCRR 800.6\(j\)](#)]

S-2) How often are incident reports reviewed?

The employer, with participation of an authorized representative, must review the workplace violence incidents report at least once a year to identify trends in the types of workplace incidents that have occurred and evaluate how effective any actions the employer has taken have been at preventing or reducing the risk of workplace violence. The results of this review should be incorporated into the workplace violence prevention program and employee training for the upcoming school year.

T) Template or Sample Policy

T-1) Is there a model or sample policy statement?

The NYSDOL has created a Workplace Violence Program General Template Attachment, which includes a sample policy statement, available at [NYSDOL Workplace Violence Prevention Information](#).

U) Safety Plans

U-1) How is the Workplace Violence Prevention Plan different from a school's required Building-Level Emergency Response Plan or District-Wide School Safety Plan?

There is a lot of overlap between the Workplace Violence Prevention Plan, the Building-Level Emergency Response Plan, and the District-Wide School Safety Plan. Every public school must develop a Building-Level Emergency Response Plan that includes specific details about the emergency procedures in place. An example of information in this plan would be procedures to for how staff and students would "hold-in-place" and remain in their current location, for example, during a medical emergency or a fight in the hallway between students. Additionally, each district, BOCES, and charter school is required to develop a District-Wide School Safety Plan that includes an overview of the policies and procedures that are in place related to safety, for example, how the school will update parent emergency contact information.

A school or district may want to include information in their District-Wide School Safety Plan about the Workplace Violence Prevention Plan and training for staff. The district, BOCES or charter school developing the Workplace Violence Prevention Plan may wish to reference policies and procedures that are in place and documented in the Building-Level Emergency Response Plan and/or the District-Wide School Safety Plan. For example, this may include reference to de-escalation training that staff participate in, or the presence of a school resource officer in the building, or security measures that are in place in the school.

V) School Safety and Educational Climate

V-1) Do NYSED definitions for "Violent and Disruptive Incident Related Terms" from School Safety and Educational Climate (SSEC) Glossary of terms have any bearing on determining when workplace violence incident reporting should occur if a student is involved?

No. SSEC terms and definitions are not related to reporting workplace violence.

W) Resources

- New York State Department of Labor's (NYSDOL)-[How to Comply Guide](#)
- [NYSDOL 12 NYCRR Part 800.6 Regulations](#)
- [NYSDOL Workplace Violence Prevention: Frequently Asked Questions](#)
- NYSDOL - NYSED Joint Memo: [Recent Amendments to Workplace Violence Prevention Law Regarding Schools/ Informational Statewide Webinar on January 18, 2024](#)