# **NYSUT Health and Safety**



A hazard is something that can injure you, kill you, make you sick, or harm your mental health.

### **Kinds of Hazards**

- Safety
- Chemical
- Biological
- Other health

### **SOURCES OF RIGHT**

- Contract
- OSHA / PESH
- Other State / Federal Legislation & Regulation
  - School Policies

# OSHA/PESH

# Who is covered by the OSH Act?

- Employees/employers under Federal
   Government authority
- Either by federal OSHA or through an OSHA-approved state program
- Exclusions

### What is PESH?

- State legislation: New York's Public Employee Safety and Health Act. (passed in 1980)
- Enforcement: New York State Department of Labor's PESH division.
- Enforced by Department of Labor

### **OSHA Standards**

OSHA writes and enforces standards

 Where no specific standards, employers must follow "General Duty Clause"

 States with OSHA-approved programs must set standards <u>at least as effective</u> as federal

### The General Duty Clause states:

- 29 U.S.C. § 654, 5(a)1: **Each employer** shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees."
- 29 U.S.C. § 654, 5(a)2: **Each employer** shall comply with occupational safety and health standards promulgated under this act.
- 29 U.S.C. § 654, 5(b): **Each employee** shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.

### PESH & OSHA

- Includes procedures for enforcement
- No retaliation allowed

# What's Covered in OSHA Standards?

- Toxic substances
- Harmful physical agents
- Electrical hazards
- Fall hazards
- Hazardous waste

- Infectious diseases
- Fire and explosion hazards
- Dangerous atmospheres
- Machine hazards

# New York State Workplace Violence Prevention Law

- Section 27-b of State Labor Law
- Excludes employers as defined under SAVE
- Requires public employers to:
  - Do risk evaluation
  - Develop/implement programs to prevent and minimize workplace violence
  - Regularly evaluate

# **General Duty Clause**

"Each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees..."

# In order to cite an employer under the General Duty Clause, OSHA has to prove that:

- There is a recognized hazard, i.e. the employer or others in the industry were aware of hazard
- Hazard is causing or likely to cause death or serious physical harm,
- Effective methods exist to control or correct the hazard, and
- The control methods are feasible.

# **Workplace Inspections**

- Every establishment covered by the OSH or PESH Act is subject to inspection
- Most inspections must be conducted without advance notice



# **Inspection Process**

- Inspector displays official credentials
- Opening conference
- Walkaround inspection
- Closing conference



## What happens after an OSHA/ PESH inspection?

- May or may not issue citations
- Citations list regulations and standards allegedly violated and proposed time for abatement
- Employer must post a copy of each citation

# Recording and Reporting Occupational Injuries and Illnesses

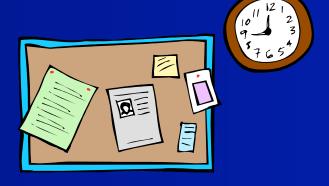
# Recordkeeping and Reporting

- Employers of 11+ employees must keep records of occupational injuries and illnesses
- All employers must report to OSHA or PESH within 8 hours any accident that results in a fatality or in-patient hospitalization of 3 or more



# **Recordkeeping Forms**

- Maintained on a calendar year basis
- Records summary for the previous year must be posted February -April



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### State of New York Department of Labor Log of Work Related Injuries and Illnesses Form SH-900

Political Subdivision (Employer)				
Establishment Name			 Calendar	Year 20
Street Address			 _	_
City	State	 Zip Code	 Page	_01

- and Order to Comply.

  2. You must record information about every work-related death and about every work-related injury or illness that involves loss of consciousness, restricted work.

  3. Use more than one line for a single case if necessary.
- any of the specific recording criteria found in 12 NYCRR 801.7 801.12 and instructions.

Toffin Sn-900

This form is required by the Commissioner of Laborts Rules and Regulations Part

Still Sn-900

This form is required by the Commissioner of Laborts Rules and Regulations Part

Still Sn-900

This form contains information relating to employee health and must be used in a record significant work-related injuries and illnesses that are diagnosed by a physician or licensed beauth for contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while beauth care professional. You must also record work-related injures and illnesses that meet the information is being used for occupational safety and health purposes. Refer to the instructions (SH-901) for types of illness and injuries defined as tprivacy concern cases.f

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			D. Date of		F. Describe injury or illness, parts of body affected,				Remained at Work		net was.	2	Skin Disorde	Respiratory Condition	Poisoning	Hearing Los	All Other
A.Case No.	B. Employee Name	C. Job Tide	Injury or Ouset of Ilness (Mo./day)	E. Where the Event Occurred (e.g., Loading dock, north end)	F. Describe injury or illness, parts of body affected, and object/substance that directly injured or made person ill (e.g., Second degree burns on right forearm from acetylene torch)	G. Death	H. Days Away From Work	L Job Transfer or Restriction	J. Other Recordable Cases	K. Away from Work	L. On Job Transfer or restriction	I. Injury	2. Skin	3. Res	4. Pois	S. Hes	o. All
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SH 900 (11-03)

# Labor Law - Article 28 §875+ (Toxic Substances)

 Material Safety Data Sheets (MSDS) are required

Employers must train employees annually

No retaliation allowed

# Labor Law - Article 29 §884+ (Training)

- The workers of New York state...have the right to a safe and healthy workplace,...the right to training and education about the toxic substances in their workplace."
- "It is the public policy of this state to promote safe and healthy conditions in the workplace."

# LEGAL RIGHTS TO SAFETY AND HEALTH INFORMATION

# PESH/OSHA Right to Information Standards

- Hazard Communication (1910.1200)
- Access to Exposure and Medical Records (1910.1020)
- Injuries and Illnesses Log

# Hazard Communication Standard

- Keep material safety data sheets
   (MSDS) on chemicals used or stored and make available to workers on request
- Label all containers
- Provide **training** to workers who may be exposed
- Establish a comprehensive written program.

### **MSDSs**

- Available for workers in the work area on all shifts
- Provide union requested MSDS within 15 working days from the date of request

# Access Exposure and Medical Records

- provide within 15 working days of a request:
  - To workers and their union (and doctors and lawyers)
  - To workers (and their union representative with permission)
  - To unions

# **NLRA & Taylor Law**

 Employer is required to bargain terms and conditions of employment

 Employer must negotiate in good faith (e.g. Supply information)

# Safety and Health Rights Under Bargaining Law

- Union right to bargain with employer over all aspects of workplace safety and health
- Union right to receive safety and health information from employer
- Worker right to participate in "concerted" safety and health activities
- Worker right (very limited) to refuse to do unsafe work

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# **Game recap**

