NYSUT Health and Safety

WORK shouldn't HURT
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?

- 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 at least as effective 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
This form is required by the Commissioner of Labor's Rules and Regulations Part 801 (12 NYCRR Part 801) and must be kept in the establishment for five years. Failure to maintain this form can result in the issuance of a Notice of Violation and Order to Comply.

1. This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes. Refer to the instructions (SH-901) for types of illnesses and injuries defined as privacy concern cases.

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 activity or job transfer, days away from work, or medical treatment beyond first aid. You must also record significant work-related injuries and illnesses that are diagnosed by a physician or licensed health care professional. You must also record work-related injuries and illnesses that meet any of the specific recording criteria found in 12 NYCRR 801.7 - 801.12 and instructions.

3. Use more than one line for a single case if necessary.

### Log of Work Related Injuries and Illnesses

<table>
<thead>
<tr>
<th>A. Case No.</th>
<th>B. Employee Name</th>
<th>C. Job Title</th>
<th>D. Date of Injury or Illness Occurred (Mo./Day)</th>
<th>E. Where the Event Occurred (e.g., Loading dock, north end)</th>
<th>F. Describe injury or illness, part of body affected, and object/substance that directly injured or made person ill (e.g., Second degree burn on right forearm from moved cable)</th>
<th>Using these categories, check ONLY the most serious result for each case.</th>
<th>Enter No. of Days Injured or Ill Worker Was</th>
<th>M. Check the Injury Column or Check One Type of Illness</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Remained at Work</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>IL. Injury</td>
<td>IR. Skin Disorder</td>
<td>IS. Respiratory Condition</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1. Job Transfer or Restriction</td>
<td>2. Other Injuries</td>
<td>3.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>G. Death</td>
<td>K. Away from Work</td>
<td>L. Other Injuries Transfer or Restriction</td>
</tr>
</tbody>
</table>

**ADDITIONAL FORMS AND INFORMATION:** If you require additional form or information concerning the completion of this form, contact:
New York State Department of Labor, Division of Research and Statistics, P.O. Box 669, New York, NY 10014-0669. Telephone (212) 682-6600.

TOTALS
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