



SUNY Westchester Community College

Westchester Community College Workplace Violence Prevention Program

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Westchester Community College Workplace Violence Prevention Program

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I. Workplace Violence Prevention Manual

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 the school safety plan requirements of the education law) to perform a risk evaluation of its workplaces and develop and implement programs to prevent and minimize workplace assaults and homicides. In 2009, the State expounded upon the requirements of the program, as outlined in Section 800.6 of Title 12 of the New York Code, Rules and Regulations.

Purpose

The purpose of this *Workplace Violence Prevention Program and Procedures Manual* is to provide information to managers, supervisors, and employees 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 and manual 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 manual outlines the major components of the effort to meet these goals: program, procedures, workplace security risk evaluation, prevention, training, and other support services.

Access to this manual

The *Workplace Violence Prevention Program and Procedures Manual* can be downloaded from the College Portal in the HR section.

Westchester Community College Workplace Violence Prevention Program

Westchester Community College 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 Westchester Community College is committed to providing its employees with a reasonably safe and secure work environment.

Purpose of Program

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.

Statement of Program

Violence, threats of violence, harassment, intimidation, and other disruptive behavior in the workplace will not be tolerated by Westchester Community College. 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.

Scope of Program

All Westchester Community College employees are required to comply with this Program. In addition, since visitors of Westchester County-owned property and facilities are required to conduct themselves in a non-violent manner in conformity with existing law, employees who observe or experience visitors of County-owned property engaging in violent behavior should follow the procedures in this Executive Order for the reporting such behavior.

Application of Program

Violence and other disruptive behavior by or against any employee of Westchester Community College or member of the public in a County/College-designated workplace are unacceptable. A County/College-designated workplace includes offices, work sites, vehicles, field locations, and any other location where County/College 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.

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 through use of a computer based training module. In-person training will also be available upon request, or when necessary due to a lack of computer access.

In addition to the training required by law, the College Security Office shall provide additional training on a per request basis to college departments and offices to address the potential for violence in the workplace.

Reporting of Violence

At the core of this Workplace Violence Prevention Program is the College's commitment to work with its employees to maintain a work environment free from violence and other disruptive behavior to the greatest degree possible. The College has an assigned primary and alternate Designated Workplace Violence Contact. The attached notice (Appendix A) with the contacts' names has been completed and should currently be posted at each or college building.

- Any County employee, upon becoming aware of an instance of physical assault, threatening behavior or verbal abuse occurring in the work setting, must immediately report the facts and circumstances of said incident to the Designated Workplace Violence Contact or supervisor. In the event that employees observe or experience violent behavior from County employees or visitors of County-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 obtain police and medical assistance and in addition notify the Designated Workplace Violence Contact or supervisor. If the initial report is made to a supervisor, that supervisor will notify the Designated Workplace Violence Contact immediately and inform them of the report.
- The Designated Workplace Violence Contact will immediately conduct a preliminary inquiry into the facts and circumstances of the incident and make a prompt report to the President (or designee).
- The President (or designee) will determine if there is:
 - a) An immediate threat of violence. If so, the President or a designee will ensure that local or County police and emergency medical personnel have been notified and thereafter follow the procedures outlined in subparagraph (b) or (c) below.
 - b) Serious misconduct or criminal behavior by an employee. If so, the President or designee shall immediately notify the Department of Public Safety's Office of Professional Responsibility Hotline at 864-7850 and Law Department at 995-2660 and take no further action.
 - c) No immediate threat of violence and no serious misconduct or criminal behavior by an employee. In that event, the President or designee will:
 - continue the investigation;
 - resolve/mediate matter;
 - initiate disciplinary action, if appropriate;
 - and make referrals to the EAP and/or Department of Human Resources, as appropriate.

Retaliation against an 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.

II. New York State Workplace Violence Prevention Law

Introduction

The “New York State Public Employer Workplace Violence Prevention Law” was enacted on June 7, 2006 to ensure that public employers evaluate their workplaces and develop and implement effective response and prevention strategies to prevent and minimize workplace violence.

Requirements of the law

Employers must evaluate their workplace or workplaces for factors or situations that may increase the risk of occupational violence. Examples of such factors include working in public settings, working alone or in small numbers, and working late night or early morning hours. The next section of this manual, “Workplace Risk Evaluation,” identifies the general risk factors for various Westchester Community College worksites.

In addition, employers with at least 20 full time permanent employees must develop and implement a written workplace violence prevention program. The written program must identify the risk factors identified in the workplace risk evaluation and the methods the employer will use to prevent incidents of violence in the workplace.

Finally, the law requires employers to inform employees 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 must be provided at the time of job assignment and annually thereafter. At Westchester Community College, we will provide this training through a *WeComply* computer based training module that will be delivered to employees in an email. All Department Heads shall ensure that this required training is completed in accordance with the law.

Application of the law

“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.” (NYS Labor Law Section 27-b(6)(a))

“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 labor of the state of New York] 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.” (NYS Labor Law Section 27-b(6)(b))

Further information

See Appendix C for the full text of the “NYS Public Employer Workplace Violence Prevention Law”, NYS Labor Law Section 27-b. See also Appendix D for the full text of the New York State Workplace Violence Prevention Regulations, Section 800.6 of Title 12 of the New York Code, Rules and Regulations.

III. Westchester Community College Workplace Risk Evaluation

Overview:

Workplace violence can occur in any setting. However, some settings or factors may pose a greater degree of workplace violence risk. As an academic institution, our campus includes a broad range of unique workplace environments including classrooms, laboratories, studios, business offices, personal offices, community areas, athletic facilities, and more. Additionally, our employees may find themselves transitioning through a number of these different environments each day, as they perform their duties. It is important for all Westchester Community College employees to be aware of their environment at all times and to consider those situations and/or factors that may present an increased risk of workplace violence.

Risk Evaluation:

The employment situations or factors that may pose higher risks for Westchester Community College employees include, but are not limited to:

- **Working in public settings or settings with uncontrolled access-** As a public access facility, we cannot guarantee who is on the campus and for what purpose. You must be alert for your own safety and security at all times and report any concerns immediately.
- **Working late night or early morning hours-** Because we open early in the morning and close late at night, many of our employees work during non-traditional hours of the day. This means you may be coming/going when it is dark outside, or during times when there are less people around. You should be mindful during such times and take common sense steps to be safe (stay in well-lighted areas, walk in groups, know where emergency phones are, etc.).
- **Exchanging money with the public-** There are a number of areas of the college where money is exchanged with the public including the cafeteria/café(s), bursar’s office, continuing education, bookstore, extension centers, and theater. Any employee who exchanges money with the public should be aware of their surroundings and the people around them at all times. Any concerns should be reported immediately.
- **Working alone or in small numbers-** There are occasions when employees of the college may be working alone or in small numbers. You should always make sure someone (Security Department) is aware when/where you are working alone so they may check on you periodically.

- **Working in a setting where previous security problems have occurred-** It is important for you to make sure the Security Department is aware of any security problems that occur in your area. This information helps them to allocate their resources where they are most needed.
- **Having a mobile workplace assignment-** Although college employees generally do not have truly mobile workplace assignments, there are occasions when employees may travel in the fulfillment of their duties for the college. You should always practice common sense safety habits when traveling.
- **Working with a population which might expose one to potentially violent persons -** As a public community college, we serve all segments of our local population including some that may be more prone to violence than others. You should always be mindful of the potential for violence when dealing with others and report any inappropriate behavior immediately.

IV. Prevention

Introduction

Prevention is the responsibility of every employee. This section focuses on some measures to reduce the risk of violent behavior. Supervisors and managers, as well as employees, should be familiar with and knowledgeable of the issues below before violence occurs.

Definitions and prevalence of violence

The New York State Department of Labor defines workplace violence as 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. Workplace violence includes violence, threats of violence, harassment, intimidation, and other disruptive behavior.

Two million American workers are victims of workplace violence annually.¹ Workplace violence is the fourth leading cause of fatality in the workplace for all workers. According to the Bureau of Labor Statistics Census of Fatal Occupational Injuries (CFOI), of the 4,547 fatal workplace injuries that occurred in the United States in 2010, 506 were workplace homicides. Homicide is the leading cause of death for women in the workplace. However, it manifests itself, workplace violence is a major concern for employers and employees nationwide. Finally, a survey in 2005 found approximately 54% of local government employers with more than 1,000 employees reported an incident of workplace violence within the past 12 months.²

In reviewing this data, it appears clear that violence is a potential problem in the workplace, and one that requires a multifaceted approach by the employer, employees, and employee assistance programs or other agencies providing support to mitigate the occurrences and effects of violence in the workplace.

Early warning signs of potential violence

Past behavior has generally been the best predictor of future behavior. There is no specific “profile” of a potentially dangerous individual. Acts of violence may also occur in the workplace due to issues of domestic violence. Sometimes victims and witnesses recount acts of violence that occurred without warning. However, certain patterns of behavior and events frequently precede episodes of violence.

¹ Occupational Safety and Health Administration. (2002) “OSHA Fact Sheet: Workplace Violence.”

² Bureau of Labor Statistics. (2005) “Census of Fatal Occupational Injuries” and “Survey of Workplace Violence Prevention.”

A list of indicators of increased risk of violent behavior may include:

- 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 coworkers, supervisors, or others
- Bringing an unauthorized weapon to work, brandishing a weapon in the workplace, making inappropriate reference to guns or fascination with weapons
- Fascination with incidents of workplace violence, statements indicating approval of the use of violence to resolve a problem, or statements indicating identification with perpetrators of workplace homicides
- Statements indicating an increased tone of desperation from the person, feeling that normal interventions to solve the problem will not work, feeling hopeless about a situation at work, with family, financial, and other personal problems
- Signs of abuse of drugs/alcohol on or off the job
- Extreme or uncharacteristic changes in behavior or displays of emotion
- Employees with on-going domestic difficulties
- Employees with a temporary order of protection against any respondent

These behaviors should be reported to an employee's supervisor, manager, Human Resources, the Workplace Violence Designated Contact Person, or the President. The Director of Human Resources is available to assist supervisors and managers in dealing with such behavior. Some behaviors may require immediate Security Office intervention, others may require disciplinary action, and others may indicate an immediate need for an Employee Assistance Program (EAP) referral.

Sometimes, small behavior problems, which can precede the above behaviors, are dismissed or ignored, allowing problems to fester. In the employee's mind, the situation can become more intense. Early involvement by the EAP may be the appropriate intervention. It is important to remember the employee must be treated with dignity, mutual respect and fairness in this process. Some of these types of behavior are listed below.

- Withdrawal from friends, coworkers, and/or one's social circle
- Reduced productivity
- Unexplained absence from work area or marked increase in tardiness and/or absenteeism
- Noticeable deterioration of personal hygiene and appearance

Common issues that may trigger workplace violence

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

1. Employee issues

- Negative performance review
- Unwelcome change in role due to performance or reorganization issue
- Criticism of performance
- Conflict with coworker or supervisor
- Personal stress outside the workplace
- Increased workload or pressure, e.g. deadlines, projects, etc.

2. Workplace issues (any of the following may be an employee's perception of issues)
 - No clearly defined rules of conduct
 - Lack of training
 - Inadequate hiring practices/screening of potential employees
 - Insufficient supervision
 - Lack of discipline or inconsistent discipline in workplace
 - Lack of or inadequate employee support systems
 - Failure to address incidents as they occur
 - Overly authoritarian management style

Additionally, in an academic setting, it is important to note that student related issues may also trigger workplace violence that can affect employees. Examples might include students receiving a poor grade, failing a class, financial aid/tuition issues, conflict with other students, or even domestic issues.

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

1. Recognizing the early warning signs (such as a change in a person's behavior preceding an episode of violence)
2. Recognizing issues or events that may trigger violence
3. Early intervention to prevent a violent incident from occurring

Please note

It is important to be careful when drawing assumptions or relying solely on any of the above behaviors as indicators of violence.

Violence prevention policies, procedures, and programs

Westchester Community College has a number of workplace violence prevention policies, procedures, and programs in place. Among these are:

- **Workplace Violence Prevention Program.** The *Westchester Community College Workplace Violence Prevention Program* prohibits violence, threats of violence, harassment, intimidation, and other disruptive behavior in the workplace.
- **Domestic Violence in the Workplace Policy.** Executive Order No. 2-2003 is composed of a number of provisions relating to domestic violence, such as awareness of and training about domestic violence, development of workplace safety plans and non-discriminatory personnel policies and procedures for victims of domestic violence, and prohibition against the use of County resources, time, authority, etc. to commit or aid the commitment of domestic violence.
- **Anti-Harassment and Discrimination Policy.** Executive Order Nos. 2-2009 and 3-2009 are zero tolerance policies against harassment and discrimination of employees based upon race, color, religion, age, national origin, lineage, citizenship status, ethnicity, marital status, familial status, creed, gender, sexual orientation, disability, military membership, predisposing genetic characteristics, or any other basis prohibited by law.

- **Pre-employment screening.** All new employees of Westchester Community College are subjected to a pre-employment screening process that includes criminal and other background reports.
- **Employee Assistance Program (EAP).** EAP is a free, confidential service offered by Westchester Community College to all County employees and their immediate families. It provides assessment and referral to professional providers for behavioral/medical problems which may affect the individual's job, health, family life, or other relationships.
- **Training.** The Department of Human Resources and Employee Assistance Program refer and/or offer training in a variety of areas such as stress management, conflict in the workplace, dealing with difficult customers/clients, grief and loss, and collaboration in the workplace. In order to facilitate employee referrals to EAP, new managers and supervisors are trained to identify signs and symptoms of poor performance, know when and how to refer employees to EAP, and maintain confidentiality.
- **Workplace security enhancements.** The Department of Public Safety recommends and implements minimum security standards for County facilities based upon security assessments of County facilities. For example, as appropriate, security personnel are stationed at worksites, video surveillance equipment is used, and external lighting is maintained.
- **County (and College) Work Badge Policy.** Executive Order No. 4-2002 requires all County employees and visitors to display their employee or visitor identification card at all times while inside County buildings, facilities, or worksites. College employees must likewise display their college identification when in public spaces on college property.
- **Drug-free Workplace Policy.** Executive Order No. 6-1998 prohibits the manufacture, distribution, dispensation, possession, or use of a controlled substance or illegal drug in the workplace. In addition, EAP provides confidential assistance to employees with substance abuse problems.
- **Firearm Prohibition Policy.** Executive Order No. 4-2000 states, "all employees of the County of Westchester not required to possess a firearm for the performance of their official duties... shall not possess a firearm while performing their duties or while present upon any real property of the County of Westchester unless such an employee has secured the prior written consent of the Commissioner of Public Safety."
- **Department of Public Safety- Office of Professional Responsibility. (DPS-OPR).** This Office, in consultation with the Law Department, investigates instances of serious employee misconduct or criminal conduct.

Note: Information from the *Violence in the Workplace Policy and Procedures Manual for Human Resources Professionals* (State of Connecticut, 2006) was used extensively throughout the "Early warning signs of potential violence" and the "Common issues that may trigger workplace violence" portions of the "Prevention" section of this document.

V. Response Procedures

Introduction

The following procedures are recommended to be followed whenever an employee files a complaint alleging a violation of the *Westchester Community College Workplace Violence Program* has occurred or when a violent incident occurs.

Emergency and non-emergency (threatening) situations

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.

Workplace Violence Committee

The Workplace Violence Committee will perform reviews at least annually of the County’s workplace violence program and procedures to determine the need for revisions and updates to the County’s program and procedures. The Committee – with participation of Authorized Employee Representatives – will review and address any concerns found in Incident Report Forms and/or Workplace Security Surveys. The Committee is comprised of:

Aurora Workman, Director of Human Resources
Scott Sullivan, Director of Campus Security
Christopher Cristiano, Associate Director of Campus Security
Richard J. Deliberto, Environmental Health and Safety Manager and CSEA member
Henry Samoyedny, President CSEA Unit #9202
James Werner, President WCCFT
Janice Gilroy, WCC Fire and Safety Chairperson

Response Procedures

<p>Non-Emergency (threatening) Response Procedure</p> <p><i>A threatening situation is defined as a situation where:</i></p> <p>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.</p>	<p>Emergency Response Procedure</p> <p><i>A situation is an emergency if:</i></p> <p>1)an injury has occurred OR 2)there is an immediate threat of physical harm.</p> <p><i>You should consider your personal safety first in all emergency situations. If possible, you should use the following response procedure.</i></p>
<p>Step 1</p> <p>Employee immediately notifies Workplace Violence Designated Contact Person or supervisor.</p>	<p>Step 1</p> <p>First person on the scene quickly assesses the situation and risk.</p>
<p>Step 2</p> <p>Workplace Violence Designated Contact Person conducts preliminary inquiry and makes prompt report to the College President.</p>	<p>Step 2</p> <p>First person on the scene calls for security and/or police /medical assistance and ensures needs of injured are met. Employee must also immediately notify Workplace Violence Designated Contact Person or supervisor of the situation.</p>
<p>Step 3</p> <p>If there has been serious misconduct or criminal behavior by a College employee, the College President will cause an immediate report to be made with the Westchester County DPS-OPR and Law Department and take no further action.</p>	<p>Step 3</p> <p>Workplace Violence Designated Contact Person will immediately assess whether there is an emergency situation and make prompt report to the College President.</p>

<p style="text-align: center;">OR Step 3-a</p> <p>If there is no immediate threat of violence and no serious misconduct or criminal behavior by a College employee, the College President's designee will continue investigation, resolve/mediate matter, initiate disciplinary action, if appropriate and make referrals to Westchester County EAP and/or HR, as appropriate.</p>	<p style="text-align: center;">Step 4</p> <p>The College President, in an emergency situation where there is an immediate threat of violence, will ensure that local or County police and medical personnel have been notified.</p>
<p style="text-align: center;">Step 4</p> <p>College President ensures that an investigative report is prepared and submitted within three business days to the College President and Human Resources.</p>	<p style="text-align: center;">Step 5</p> <p>Proceed with Non-Emergency Response Procedures, Steps 3-5.</p>
<p style="text-align: center;">Step 5</p> <p>If an emergency situation develops, follow steps for emergency response procedure.</p>	

**APPENDIX A
NOTICE TO EMPLOYEES**

**WESTCHESTER COMMUNITY COLLEGE
WORKPLACE VIOLENCE PREVENTION POLICY &
INCIDENT REPORTING**

Westchester Community College is committed to the safety and security of our employees. Workplace violence presents a serious occupational safety hazard to our department, staff and all persons who use our services. Threats, threatening behavior, or acts of violence against employees, visitors, guests or other individuals by anyone on County property will be thoroughly investigated and appropriate action will be taken, including summoning public safety personnel when warranted. All employees are responsible for helping to create an environment of mutual respect for each other as well as constituents; for following all policies, procedures and program requirements; and for assisting in maintaining a safe and secure work environment.

This policy meets the requirements of New York State Labor Law Section 27-b. The goal of this policy is to promote the safety and well-being of all people in our workplace. All incidents of violence or threatening behavior will be responded to immediately upon notification. This department has identified the persons listed below as the Designated Contact Persons for Workplace Violence reporting. You may also contact your department head and/or department personnel staff. If appropriate, the County will provide counseling services or referrals for employees.

All department personnel are responsible for notifying a contact person listed below of any violent incidents, threatening behavior, including threats they have witnessed, received, or have been told that another person has witnessed or received.

PRIMARY CONTACT PERSON

Name: **Scott Sullivan**

Title: **Director of Campus Security**

Phone: **914-606-6284**

E-mail: **Scott.Sullivan@sunywcc.edu**

Location: **WCC Student Center – Security Office**

ALTERNATE CONTACT PERSON

Name: **Christopher Cristiano**

Title: **Associate Director of Campus Security**

Phone: **914-606-6101**

E-mail: **Christopher.Cristiano@sunywcc.edu**

Location: **WCC Student Center – Security Office**

Appendix B:
“New York State Public Employer
Workplace Violence Prevention Law”

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 the 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:

New York State Workplace Violence Regulations

12 NYCRR Section 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.

END OF POLICY