

Board

Workplace Violence Prevention Policy Statement

Overview

ESBOCES is committed to the safety and security of its employees. Workplace violence presents a serious threat to the safety of employees, students, parents/persons in parental relation, and visitors. The goal of this policy is to promote the safety and well-being of all people in the workplace.

Acts of violence against ESBOCES employees where any work-related duty is performed will be thoroughly investigated and appropriate action will be taken. All employees are responsible for creating an environment of mutual respect for each other, as well as students, parents, and visitors; following all applicable documents; and for assisting in maintaining a safe and secure work environment.

This workplace violence prevention policy was developed in consultation with all authorized employee representatives and is designed to meet the requirements of New York State Labor Law and highlights some of the elements that are found within the ESBOCES Workplace Violence Prevention Program (WVPP).

Definitions

For purposes of this policy, the following definitions apply.

Authorized employee representative means 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, the Public Employees' Fair Employment Act.

Imminent danger means 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 the danger can be eliminated through the enforcement procedures.

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.

Serious physical harm means 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 Penal Law.

Serious violation means the failure to develop and implement a workplace violence prevention program and address situations which could result in serious physical harm.

Supervisor means any person within ESBOCES 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.

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 their employment by ESBOCES.

What is Workplace Violence?

Workplace violence is any physical assault or act of aggressive behavior occurring where an employee performs any work-related duty in the course of their employment, including, but not limited to:

1. an attempt or threat, whether verbal or physical, to inflict physical injury upon an employee;
2. any intentional display of force which would give an employee reason to fear or expect bodily harm;
3. intentional and wrongful physical contact with an employee without their consent that entails some injury; or
4. stalking an employee with the intent of causing fear of material harm to the physical safety and health of the employee when the stalking has arisen through and in the course of employment.

Workplace violence may be committed against an ESBOCES employee by anyone, including, but not limited to:

1. other employees;
2. former employees;
3. students;
4. parents/persons in parental relation;
5. visitors;
6. individuals who have no connection to the workplace, but enter to commit a robbery or other crime; or
7. an individual who has a personal relationship with an employee.

Prohibited Conduct

ESBOCES prohibits workplace violence and will not tolerate violence, threats of violence, or intimidating conduct in the workplace.

Workplace Violence Prevention Advisory Committee

ESBOCES will establish a Workplace Violence Prevention Advisory Committee that will meet periodically throughout the year. The purpose of the Workplace Violence Prevention Advisory

Committee is to assist ESBOCES in coordinating its efforts to comply with its responsibilities related to workplace violence prevention, including overseeing the development and maintenance of ESBOCES WVPP.

The Workplace Violence Prevention Advisory Committee will include:

1. the Workplace Violence Prevention Coordinator;
2. all authorized employee representatives;
3. the Chief Emergency Officer/Chief Operating Officer.

It may also include one or more representatives from the following groups:

1. ESBOCES-wide school safety team;
2. building level emergency response team(s);
3. ESBOCES/building administrators;
4. teachers, including at least one Special Education teacher; and
5. other ESBOCES staff.

Workplace Violence Prevention Coordinator

ESBOCES has designated the Program Administrator for Safety and Administrative Support to serve as its Workplace Violence Prevention Coordinator.

The Workplace Violence Prevention Coordinator convenes and coordinates the activities and plans of the Workplace Violence Prevention Advisory Committee. The Workplace Violence Prevention Coordinator is also responsible for answering employee questions about this policy and related materials, as well as receiving workplace violence incident reports.

Authorized Employee Representatives

ESBOCES must provide for employee participation in the WVPP through an authorized employee representative. Authorized employee representatives will participate on the Workplace Violence Prevention Advisory Committee. Authorized employee representatives have a right to, at a minimum, be involved in:

1. participating in the development and implementation of this policy;
2. evaluating the physical workplace environment to determine workplace violence risk factors;
3. developing the WVPP;
4. reviewing workplace violence incident reports at least once a year to identify trends in the types of incidents reported, if any;
5. evaluating the effectiveness of safeguards and actions taken to reduce the risk of workplace violence; and

6. reporting violations of ESBOCES WVPP.

Reporting Workplace Violence

ESBOCES has established and implemented a reporting system for incidents of workplace violence.

Any employee or authorized employee representative who becomes aware of a physical assault, threatening behavior, or verbal abuse in the workplace must immediately provide written notice of the facts and circumstances of the violent incident to a supervisor or the Workplace Violence Prevention Coordinator. If the report was provided to a supervisor, the supervisor must immediately forward to the report the Workplace Violence Prevention Coordinator.

If an employee witnesses or is involved in an incident of violence in which there is an immediate threat to the employee's safety, or the safety of others, or where a serious injury has occurred, the employee should immediately call 911 to obtain law enforcement and/or medical assistance. The employee should also immediately notify their immediate supervisor.

If an employee believes that either they or another employee are in imminent danger of workplace violence and reasonably believes, in good faith, that reporting to a supervisor or the Workplace Prevention Coordinator would not result in corrective action, then the employee may report the violation directly to the Public Employee Safety and Health Bureau (PESH).

ESBOCES will immediately respond to all incidents of violence or threatening behavior upon notification. After ESBOCES receives notice, ESBOCES will be afforded a reasonable opportunity to correct the activity, policy, or practice.

If there is a developing pattern of workplace violence incidents which may involve criminal conduct or serious injury, ESBOCES will attempt to develop a protocol with ESBOCES legal counsel or law enforcement to ensure that violent crimes committed against employees in the workplace are promptly investigated and appropriately prosecuted. ESBOCES will provide information on these protocols and contact information to employees who choose to file a criminal complaint after a workplace violence incident.

In addition to complying with the reporting requirements in this policy, ESBOCES employees must comply with all other applicable reporting requirements contained in any ESBOCES policy, regulation, procedure, collective bargaining agreement, or other document such as the ESBOCES Code of Conduct.

Inspections by the Commissioner of Labor

At the Request of an Employee or Authorized Employee Representative

If, after being given notice and a reasonable opportunity to resolve the activity, policy, or practice, the matter has not been resolved and the employee or authorized employee representative still believes that a serious violation of the WVPP remains, or that an imminent danger exists, the employee or authorized employee representative may request an inspection by notifying the Commissioner of Labor of the alleged violation or danger. The notice and request will be in writing, describing with reasonable particularity the grounds for the notice, and be signed by the employee or authorized employee representative. A copy of the written notice will be provided by the Commissioner of Labor to ESBOCES or the person in charge no later than the time of inspection,

except that on the request of the person giving the notice, the person's name and the names of individual employees or authorized employee representative will be withheld.

An ESBOCES representative and an authorized employee representative will be given the opportunity to accompany the Commissioner of Labor during an inspection for the purpose of aiding the inspection. Where there is no authorized employee representative, the Commissioner of Labor will consult with a reasonable number of employees concerning matters of safety in the workplace.

The authority of the Commissioner of Labor to inspect a premises pursuant to an employee complaint will not be limited to the alleged violation contained in the complaint. The Commissioner of Labor may inspect any other area of the premises in which they have reason to believe that a serious violation of the workplace violence prevention law exists.

Initiated by the Commissioner of Labor

The Commissioner of Labor may inspect any premises occupied by ESBOCES if they have reason to believe that a violation of the workplace violence prevention law has occurred. The current PESH administrative plan will be used for the enforcement of the workplace violence prevention law, including a general schedule of inspection, which provides a rational administrative basis for the inspection.

Workplace Risk Evaluation and Developing a Workplace Violence Prevention Program (WVPP)

ESBOCES will engage in a process of workplace risk evaluation designed to identify the risks of workplace violence to which employees could be exposed.

ESBOCES will then develop and implement a written WVPP to prevent, minimize, and respond to any workplace violence. The Workplace Violence Advisory Committee, which includes all authorized employee representatives, will oversee the development and maintenance of the WVPP. During the development process, the authorized employee representative(s) will provide input on those situations in the workplace that pose a threat of workplace violence.

The WVPP will include the following:

1. a list of the risk factors identified in the workplace risk evaluation;
2. the methods ESBOCES will use to prevent incidents of workplace violence; examples include, but are not limited to:
 - a. making high-risk areas more visible to more people;
 - b. installing good external lighting;
 - c. using drop safes or other methods to minimize cash on hand;
 - d. posting signs stating that limited cash is on hand;
 - e. providing training in conflict resolution and nonviolent self-defense responses; and
 - f. establishing and implementing reporting systems for incidents of aggressive behavior;

3. a hierarchy of controls to which the program will adhere as follows: engineering controls, work practice controls, and personal protective equipment (PPE);
4. the methods and means by which ESBOCES will address each specific hazard identified in the workplace risk evaluation;
5. a system designed and implemented by ESBOCES to report any workplace violence incidents that occur in the workplace; the reports must be in writing and maintained for the annual program review;
6. a written outline or lesson plan for employee program training; and
7. a plan for program review and update on at least an annual basis; this review and update will detail any mitigating steps taken in response to any incident of workplace violence.

Prohibition of Retaliatory Behavior (Commonly Known as "Whistle-Blower" Protection)

ESBOCES will not take retaliatory action against any employee because the employee exercises any right accorded to them under this policy.

Training

At the time of hire and annually thereafter, all employees will participate in the ESBOCES workplace violence prevention training program. Additionally, retraining is required for all employees any time there is a significant change to the WVPP, a newly identified risk factor, or a control measure addition.

Notification

This policy will be posted where notices to employees are typically posted. A copy of the ESBOCES WVPP may be obtained by contacting the ESBOCES Workplace Violence Prevention Coordinator. ESBOCES will also make the WVPP available for reference to employees, authorized employee representatives, and the Commissioner of Labor in the work area.

References:

- Administrative Regulation 5320R.1 - Employee Accident Report
- Procedure 5320P.1 & Form 5320F.1 - Employee Injury/Incident Report
- Board Policy 2430 Threats of Violence in ESBOCES Facilities
- Workplace Violence Prevention Program – NYS Labor Law Article 2, Section 27-b
- Administrative Regulation 2410R.1 – Code of Conduct
- Policy 4534 Safety Plans

First Adopted: 1/24/2024
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