June 1, 2026

Re: Workplace Violence Prevention Standard - General Industry

Dear Eric Berg,

We appreciate the opportunity for comment on the June 2026 discussion draft of the proposed Workplace Violence Prevention in General Industry standard. These comments supplement our prior submissions dated July 14, 2025, and November 12, 2025. We commend the Division for incorporating several recommendations from those submissions, including the deletion of "upon request" from the trauma counseling provision, the addition of employer-provided transportation to the standard's scope, the introduction of a "designated representative" definition, and the removal of the exceptions to post-incident response procedures under §(c)(11). These revisions reflect meaningful progress. However, significant concerns remain regarding the definition of workplace violence, the scope of employee representation in hazard identification, the adequacy of workers' compensation as a substitute for trauma counseling, and training requirements. The comments below address each concern in turn for the Division's consideration.

I. Definitions.

A. "Designated Representative."

The addition of a "designated representative" definition in §3343(b)(2) is a meaningful step forward. By recognizing any individual or organization to whom an employee gives written authorization, while automatically treating collective agents as designated representatives, the Division has acknowledged that representation should flow from employee choice rather than employer acknowledgment. We commend this revision. However, as discussed in Section II.B below, the definition of "authorized employee representative" in §3343(b)(1) continues to create coverage gaps that this addition alone does not resolve.

B. "Threat of Violence."

The current definition of “threat of violence” requires conduct that “conveys an intent, or that is reasonably perceived to convey an intent, to cause physical harm.” The same concerns in our July 2025 comments regarding the removal of the Penal Code stalking definition apply here. “Intent” is a mental state concept whose assessment properly belongs in criminal legal proceedings, not in workplace safety determinations. Employers are not equipped to assess whether a statement or act was made with intent to harm, whether the intent was malicious, or whether intent can be inferred from ambiguous conduct. Requiring employers and supervisors to make these determinations places them in the position of conducting legal analysis that in other contexts require evidence, witnesses, and testimony.

Therefore, we recommend that §(b)(6) be amended to remove “intent” as the operative element.

C. “Workplace Violence.”

The Division’s decision to remove the reference to Penal Code § 646.9 from the definition of workplace violence is correct, and we support it. However, we do not support relocating stalking entirely to the list of workplace violence hazards in §3343(b)(9). The draft defines workplace violence hazards as “conditions that may increase the risk of a workplace violence incident.” Stalking is not a background condition that elevates risk; it is itself an act of violence. Classifying stalking as a hazard rather than an example of workplace violence diminishes its severity, creates analytical confusion, and may lead employers to treat it as a soft risk factor rather than a reportable incident requiring immediate response.

Moreover, the Division should expressly name sexual assault, domestic violence, and sexual harassment as examples of workplace violence in §3343(b)(7). Sexual assault and domestic violence involve physical force or its imminent threat and fall squarely within the standard’s existing framework.

Therefore, we recommend that §(b)(7) retain its current definition with the addition of a subsection:

(A) The threat or use of physical force against an employee that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury.

1. ***This includes, but is not limited to: stalking of an employee that results in, or has a likelihood of resulting in material harm to the physical safety and health of such employee when such stalking has arisen through and in the course of employment or that occurs at a place of employment, or in connection with a place of employment that are brought to the attention of the employer or that the employer could otherwise be reasonably be aware of; sexual assault; and domestic violence***

D. “Workplace Violence Hazards.”

Section 3343(b)(10)(F) as revised combines "frequent or regular contact with the public" and "uncontrolled public access" into a single factor. These are distinct conditions that do not always coexist. A worker may have frequent public contact in a controlled, staffed environment while an entirely separate worksite may have uncontrolled public access with minimal employee interaction. Collapsing them obscures both and may cause employers to underidentify one or the other.

The Division also deleted §3343(b)(10)(I), which identified "working with persons with a history of violence" as a workplace violence hazard, without explanation. This deletion is difficult to justify. Workers in social services, mental health, and analogous fields regularly interact with individuals with a history of violence that is documented and known to the employer. That history is precisely the kind of information that informs risk assessment and preventative planning. Removing it from the hazards list signals to employers in these settings that they need not account for it.

Moreover, the Division should expand §3343(b)(10) to include gender-based violence. Gender-based violence can be "defined as harmful acts committed against a person because of their gender."[1] Gender based violence could include various forms, but include workplace violence such as: physical abuse, sexual harassment, sexual assault and more. In addition, nearly 7 million women and 3 million men have reported experiencing sexual violence by a workplace-related perpetrator.[2]

Therefore, we recommend that §3343(b)(10)(F) be separated into two distinct factors, that §3343(b)(10)(I) be reinstated in full, and that §3343(b)(10) be expanded to include the four structural and cultural hazard categories identified above as subsections (L) through (O).

II. Workplace Violence Prevention Plan.

A. Supervisor Reporting.

Section 3343(c)(6)(A)(2) currently requires that employees be able to report to a designated person who is not their direct supervisor only "where the supervisor is involved or associated with the incident." This limitation is too narrow. A supervisor who is neither involved nor associated with an incident may nonetheless fail to adequately address a reported hazard, whether through inaction, minimization, or indifference. In those circumstances, an employee faces the same practical barrier to effective reporting as when the supervisor is directly implicated. The protection the provision intends to provide is undermined if it applies only to supervisory involvement and not to supervisory inaction.

---

[1] Lo, et. al, *A systematic review of the literature: Gender-based violence in the construction and natural resources industry*, AIMS Public Health (May 8, 2024) https://pmc.ncbi.nlm.nih.gov/articles/PMC11252573.

[2] Stalking and the Workplace: Fact Sheet, Stalking Prevention Awareness and Resource Center, Workplaces respond to Domestic & Sexual Violence: A National Resource Center available at https://workplacesrespond.org/wp-content/uploads/2024/03/SPARC-FUTURES-Workplace-Stalking-Fact-Sheet_1.28.25.pdf.

Therefore, we recommend adding the following language to §3343(c)(6)(A)(2):

> To a designated person who is not a direct supervisor for type 3 violence, where the supervisor is involved or associated with the incident, ***or where the direct supervisor has not adequately addressed the hazard***.

B. Hazard Identification.

Section 3343(c)(9) requires employers to maintain effective procedures for hazard identification and evaluation, including through "employee and authorized employee representative reports and concerns." Notably, the Division added a "designated representative" definition in §3343(b)(2) specifically to broaden employee representation in the access context. However, that definition does not appear in §3343(c)(9). Including designated representatives in the records process but excluding them from the most consequential process of hazard identification is an inconsistency. Workers cannot meaningfully participate in preventing workplace violence if their chosen representatives are excluded from the process of identifying the hazards that put them at risk.

Therefore, we recommend that §3343(c)(9) be amended to include designated representatives alongside authorized employee representatives. If the Division declines, we renew our request from our July and November 2025 comments that the definition of "authorized employee representative" in §3343(b)(1) be expanded consistent with the broader representation standard established under the Injury and Illness Prevention Program regulation to ensure that all workers have meaningful representation in the hazard identification process.

C. Post-Incident Response.

1. Trauma Counseling.

Section 3343(c)(11)(C) provides that trauma counseling offered through workers' compensation, or through "initial counseling" offered by the employer, satisfies the trauma counseling requirement. Despite our comments in July and November 2025 urging the Division to remove workers' compensation as a satisfying avenue, the draft retains it. We renew the request and offer three independent grounds for its removal.

First, the workers' compensation system does not require providers to have trauma-informed training or expertise. An employee directed to workers' compensation for post-incident counseling may receive insufficient care from a provider with no specialized knowledge of trauma responses to workplace violence. The standard's protective intent demands more.

Second, workers' compensation involves eligibility determinations, potential disputes, and claim adjudication processes that introduce significant delays. Trauma care is most effective when provided immediately following an incident. A system that may take weeks or months to authorize treatment is structurally incompatible with the clinical reality. Moreover, workers' compensation claims can be denied for reasons entirely unrelated to whether an employee experienced trauma, such as coverage disputes, causation questions, procedural technicalities, and timing.

Third, the term “initial counseling” is undefined. The Division provides no guidance on what “initial” means (whether it refers to a single session, a first appointment pending further authorization, or something else entirely). This ambiguity leaves both employers and employees without a clear standard and invites inconsistent application.

The healthcare violence prevention standard requires healthcare employers to make “available individual trauma counseling to all employees affected by the incident.”[3] That requirement has been implemented across diverse healthcare settings, demonstrating that employer-provided trauma counseling is both operationally feasible and administratively manageable. There is no principled basis for holding general industry employers to a lesser standard.

Therefore, we recommend that the Division remove workers’ compensation and “initial counseling offered by the employer” as satisfying avenues under §3343(c)(11)(C), and instead require that employers make individual trauma counseling available to all affected employees, consistent with the healthcare violence prevention standard.

2. Gender Responsive Support.

The post-incident response requirements in §3343(c)(11) do not address the distinct needs of employees who have experienced gender-based workplace violence. Workers who experience sexual assault, domestic violence, or gender-based harassment face specific psychological, physical, and practical challenges that standard post-incident protocols may not adequately address.

Further, the inadequacy of workers’ compensation as a substitute for trauma counseling is particularly acute for survivors of gender-based workplace violence. Workers’ compensation providers are not required to have trauma-informed training and are even less likely to have specialized in gender-based violence response.

Therefore, we recommend that §3343(c)(11) be amended to require employers to provide gender-responsive support to employees reporting gender-based workplace violence incidents, including trauma-victim centered counseling.

III. Violent Incident Log.

Section 3343(d)(3)(4) requires the violent incident log to record whether an incident involved sexual assault or threat. However, this classification does not capture other forms of gender-based violence including sexual harassment, domestic violence, and stalking. As argued above, these are examples of workplace violence that the standard should expressly recognize.

[3] 8 Cal. Code Regs. § 3342(c)(12)(C).

Therefore, consistent with our recommendation above, we recommend that §3343(d)(3)(4) be amended to add “or other form of gender-based violence including, but not limited to, sexual harassment, domestic violence, and stalking.”

IV. Training.

A. Reporting Rights.

Section 3343(e)(1)(C) requires employers to train employees on how to report workplace violence incidents or concerns “to the employer or law enforcement without fear of reprisal.” This language omits Cal/OSHA as a reporting avenue. California workers have an independent right to report workplace safety concerns directly to Cal/OSHA, and the anti-retaliation protections that accompany that right are meaningless if workers are unaware of them. Limiting the training requirement to employer and law enforcement reporting channels leaves workers without critical knowledge of their regulatory rights.

Therefore, we recommend that §3343(e)(1)(C) be amended to read:

> “How to report workplace violence incidents or concerns to the employer, ***<u>Cal/OSHA</u>***, or law enforcement without fear of reprisal.”

B. Interactive Training.

Section 3343(e)(1)(F) permits training to be conducted remotely, provided that interactive questions are answered within one business day by a person knowledgeable about the employer’s workplace violence prevention plan. We believe this approach is insufficient on two grounds.

First, workplace violence prevention training requires site-specific, contextual discussion that remote formats cannot adequately replicate. Understanding evacuation routes and recognizing site specific hazards are not abstract exercises; they require physical familiarity with the workplace. Allowing remote delivery undermines the interactive purpose the provision is designed to serve.

Second, familiarity with the plan is not the same as familiarity with the worksite. A trainer who knows the plan but has never visited the workplace cannot meaningfully answer questions about site-specific conditions, local hazards, or the application of emergency protocols. The value of interactive training depends on the trainer’s ability to connect written procedures to the physical realities employees encounter daily.

Therefore, we recommend that §3343(e)(1)(F) be amended to require in-person training as the default, and that the “knowledgeable person” requirement be expanded to include demonstrated familiarity with the specific worksite.

V. Conclusion.

In closing, we appreciate the Division's efforts in establishing a strong and comprehensive workplace violence prevention standard for general industry and the opportunity to participate in the process. While the draft reflects meaningful progress, the revisions proposed above address critical gaps that remain such as in the definition of workplace violence, the reach of employee representation in hazard identification, the adequacy of post-incident care, the treatment of gender-based violence across definitions, and the quality of required training. We believe these revisions would create a more effective and equitable standard that protects all California workers from workplace violence. We urge the Division to adopt these proposed changes and ensure the final standard delivers protection without the ambiguities that would undermine its effectiveness. Thank you for your consideration.

Respectfully submitted,

Jordan Uter, Worksafe

Anne Katten, California Rural Legal Assistance Foundation

Janice O'Malley, American Federation of State, County, and Municipal Employees, AFL-CIO

Amber Parrish, UFCW Western States Council

Suzanne Teran, Labor Occupational Health Program

Jane Thomason, California Nurses Association/National Nurses United

Maria Maldonado, California Fast Food Workers Union