



March 18, 2025

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**RE: Proposed Regulations for Implementation of Workplace Violence Prevention
Under Senate Bill 553 (Cortese, 2023)**

Dear Deputy Chief Berg,

The California State Association of Counties (CSAC) and Association of California School Administrators (ACSA) appreciates the opportunity to provide input on the draft proposed regulations well before they are considered by the Occupational Safety and Health Standards Board (OSHSB). We sincerely appreciate and thank staff and leadership for your efforts to make the process inclusive and transparent.

Local governments value our workforce and take our responsibilities to protect their health and safety as an imperative duty. Due to several concerns, including the expansion of temporary restraining order (TRO) filing authority and administrative burdens that cannot be recouped through cost recovery, local governments opposed Senate Bill 553 (Cortese, 2023). Our deliberation of SB 553 yielded some changes from the original version, some helpful and others absolutely critical. Regrettably, some of these provisions have returned in the proposed regulations.

Counties, cities, and schools have a duty to provide essential public services and our workforce must conduct their work in a variety of environments, some which have increased risk than others. While local governments already work constantly to mitigate those hazards and take actions necessary to keep our workforce safe, we have concerns about policies that raise legal risks for local governments that are simply trying to provide essential public services. These concerns are heightened by an environment in which we face budget crises at the state and local level, limitations in our ability to raise revenue needed to meet heightened service delivery expectations, and crushing legal liabilities brought by recently enacted legislation.

With those thoughts in mind, we share the following comments on the version of the proposed regulations posted on July 15, 2024. We look forward to future opportunities to share our perspective on these regulations throughout this year and during formal rulemaking.

§3343(b)(6)(C) §3343(d) – Violence Incident Log

We recognize that this section is required by statute and refers to the definition of “threat of violence,” established in statute, which includes threats of violence made on social media. While it is deeply unfortunate that public officials face unrelenting and frequent threats of violence online, we have concerns that local government employees could be required to log any threat made online to local officials representing the city, county, or school for which they are employed.

One solution to this concern could be to add language noting that threats do not include generalized threats to public leaders of a government body.

§3343(b)(7) – Staffing should not be included as a “work practice control”

This section adds an entirely new category to the statutory definition of a “work practice control,” established in Labor Code Section 6401.9(a)(7): staffing. We believe this addition goes well beyond the categories of work practice controls established in statute and creates an unworkable obligation for public agencies. Public agencies are required to provide essential public services and deliver state mandated programs with minimal resources and cannot easily reassign employees due to memorandums of understanding with employees.

Furthermore, there is no definition in the regulations about what may be appropriate staffing, leading public employers to navigate an undefined, unclear, and expensive mandate that would add to the workforce recruitment and retention challenges faced by all levels of government in California.

We believe these concerns are best addressed by removing “and staffing,” from the first sentence in the paragraph and “appropriate staffing levels,” from the following sentence.

§3343(c)(6) – Concerns with addition of authorized employee representatives to those who are informed about investigations

Unlike statute, the proposed regulations would require employers to inform employee representatives, in addition to employees, about the results of workplace violence investigations. We believe this addition goes outside of the scope of the law and have concerns that it could challenge the ability for employers to maintain confidentiality in reporting on workplace violence investigations.

We believe this concern is best addressed by simply striking the addition of “authorized employee representatives,” from the section.

§3343(c)(9) – Changes needed to limit liability to public employers who are not aware of a hazard

Section 6401.9(c)(2)(I) requires employers to include in their workplace violence prevention plan procedures to, among other things, inspect workplace violence hazards whenever the employer is “made aware,” of a new or previously unrecognized hazard. The proposed regulations in §3343(c)(9) lack any similar language that would require an employer to have been aware of a new hazard, and, instead, requires inspections when there are simply changes in the workplace that “represent a new hazard.”

Without the critical language that employers must be “made aware,” of a new hazard, we worry that this section sets public employers up for failure to be aware of unknown hazards.

§3343(c)(9)(A) & §3343(c)(10) – Routine duties of public employees defined as hazardous

Many categories of public employment naturally require employees to conduct their work alone, at night, in the presence of the public, and late at night or early in the morning. This section of the regulations effectively codifies such work as inherently hazardous and compels public employers to “correct,” those hazards by engineering controls to eliminate or minimize those hazards.

Serving the public and delivering essential public services inherently requires public employees to conduct their work in the presence of many of the factors declared by this section to be workplace hazards. Many public employers are required by law to have open access to the public and many public employers go above and beyond those requirements out of a duty to ensure their work is open to public scrutiny.

Without amendments, this section effectively categorizes the work of librarians, waste collection, search and rescue services, child and adult protective services, benefit administration, elections officials and volunteers, and so many other forms of essential public services to be a workplace hazard that requires correction.

To address our concerns, we urge you to amend section (c)(9)(A) in a way that does not declare those factors to be workplace violence hazards, but rather as factors to consider when identifying workplace violence hazards.

§3343(c)(11) – Clarity needed to define “individual trauma counseling”

As written, §3343(c)(11) requires employers with more than 25 employees to make “individual trauma counseling,” available to employees affected by a workplace violence

incident. We would like the next draft of the regulations to clarify if the term “individual,” definition intends to require one-on-one counseling services or bespoke therapy services that require an employer to find services by someone with specific expertise in a type of trauma.

Local governments typically provide their workforce with access to counseling services through what is typically referred to as Employment Assistance Programs (EAP). EAP programs often provide employees access to 24-hour professional support for employees, typically with individual counseling sessions. We believe that those existing benefits should be sufficient to ensure that employees have access to emotional support after a traumatic incident.

While some local governments may choose to seek out therapy services in addition to their EAP programs, we are worried that any requirement to tailor therapeutic services to a specific type of incident or employee could impose an expensive and complicated mandate.

Additionally, we’d like to note that counseling is already provided as part of the workers’ compensation system.

Thank you again for the opportunity to provide comments on the draft proposed regulations. We appreciate the efforts of Cal/OSHA and its staff to solicit the input of impacted employers and hope that our comments help shape regulations that ensure our workers are safe without exposing public agencies to unnecessary administrative burdens or legal risk.

Sincerely,



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