



## INJURY AND ILLNESS REPORTING

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### OSHA Policy Memorandum of Employer Practices that Can Discourage Injury and Illness Reporting

"Reporting a work injury or illness is a core employee right and retaliating against a worker for reporting an injury or illness is illegal discrimination."

In March, 2012, OSHA issued a memorandum "Employer Safety Incentive and Disincentive Policies and Practices." This memorandum outlines OSHA's position regarding employer policies and practices that discourage workers from reporting job injuries and illnesses. It explains workers' legal protections for reporting injuries and illnesses under Section 11(c) of the Occupational Safety and Health Act, other whistleblower programs (such as the Federal Railway Safety Act) and under OSHA's Recordkeeping Rule (29 CFR 1904).

#### Which Employer Policies and Practices Could Be Illegal?

The memorandum gives examples of four types of employer policies and practices that might violate OSHA's Section 11(c) and other whistleblower protections and could also result in violations of OSHA's recordkeeping requirements:

- **Injury Discipline:**  
Where employers have a policy or practice of disciplining workers who report injuries or illnesses, regardless of the circumstances surrounding the injury. This would violate Section 11(c) and might also violate an employer's obligation to establish a way for employees to report injuries as required by OSHA's recordkeeping rule.
- **Discipline for "Untimely" Reporting of Injuries or for Not Reporting Injuries in the Way Required by the Employer:**  
Where employers have rules requiring that all injuries be reported immediately, and workers are disciplined even in cases where they do not immediately realize that an injury or illness has occurred or that an injury or illness was serious enough to be reported; or where the employer's reporting requirements are unreasonable, unduly burdensome or enforced with unjustifiably harsh penalties.
- **Discipline for Violating a Safety Rule:**  
When employers use violating a safety rule as an excuse for disciplining workers who report job injuries or illnesses; or when employers have vague rules like a requirement that employees "maintain situational awareness" or "work carefully" and then only discipline workers for violating those rules when they report injuries or illnesses. Enforcing such rules more harshly against injured/ill employees than non-injured/ill employees may suggest that the rule is a pretext for discrimination against an injured/ill employee in violation of Section 11(c).
- **Safety Incentive Programs:**  
Where employees are disqualified from rewards and prizes because injuries and illnesses are reported. Incentive programs that unintentionally or intentionally provide employees an incentive to not report injuries/illnesses can be a violation of Section 11(c).

In addition, the Agency's memorandum states, "OSHA has also observed that the potential for unlawful discrimination under all of these policies may increase when management or supervisory bonuses are linked to lower reported injury rates." OSHA highlights in the memorandum:

"If employees do not feel free to report injuries or illnesses, the employer's entire workforce is put at risk. Employers do not learn of and correct dangerous conditions that have resulted in injuries, and injured employees may not receive the proper medical attention, or the workers' compensation benefits to which they are entitled. Ensuring that employees can report injuries and illnesses without fear of retaliation is, therefore, crucial to protecting workers' health and safety."

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## What CWA Leaders Can Do

- Currently, we have obtained the injury/illness policies/programs for AT&T and Verizon and are collecting this information for other large represented employers. These materials are available by requesting them from the Union's Occupational Safety and Health Department.  
For many other employers, make a request directly to the employer for its occupational injury/illness policy/program (including the reporting of workplace injuries/illnesses and seeking medical attention). Upon receipt, please send a copy of this policy to the Occupational Safety and Health Department.
- Download a copy of the OSHA memorandum at: <http://www.whistleblowers.gov/> (<http://www.whistleblowers.gov/>) and share it with management, making them aware of OSHA's new guidance on these policies and practices. You can also read Section 11(c) at: [http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=STANDARDS&p\\_id=11333](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=11333) ([http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=STANDARDS&p\\_id=11333](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=11333)).
- Review the employer policy/program, the OSHA memorandum, and Section 11(c) of the OSHAct.
- Then, if you believe the employer is in violation with the OSHA memorandum and/or Section 11(c), contact OSHA's whistleblower program (call 1-800-321-OSHA for the OSHA office nearest you) to discuss filing a formal complaint for violation of OSHA's Section 11(c), other whistleblower protections, and/or OSHA's Recordkeeping Rule.

Please note that an OSHA 11(c) discrimination complaint must be filed within 30 days of the employer's disciplinary or other adverse action.

- Use this fact sheet to inform and educate your members about OSHA's new guidance on employer policies and practices that can discourage workers from reporting occupational injuries and illnesses. Also, let members know the Union will take the necessary action to help protect their rights to report injuries and illnesses without suffering employer retaliation.
- If your employer is covered by the National Labor Relations Act (or another labor law with similar provisions), an employer's unilateral implementation of a new safety incentive or discipline policy could be an unfair labor practice; mid-term bargaining rights should be considered. Contact your Staff Representative for assistance.

Please keep the CWA Occupational Safety and Health Department informed as you address these issues. Please send updates and questions to David LeGrande at [legrande@cwa-union.org](mailto:legrande@cwa-union.org) (<mailto:legrande@cwa-union.org>).

For further assistance, please contact the:

CWA Occupational Safety and Health Department

Website : [www.cwasafetyandhealth.org](http://www.cwasafetyandhealth.org) (<http://www.cwasafetyandhealth.org>)

Telephone: 202-434-1160

Fax: 202-434-1105

Developed in 2013 and revised in 2017.

View all CWA Health & Safety Fact Sheets (<https://cwa-union.org/national-issues/health-and-safety/health-and-safety-fact-sheets>)

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## INDOOR AIR QUALITY AND THE WORKPLACE

CWA's more than 500,000 members employed in office environments are exposed to many work-related occupational safety and health hazards. In coordination with the Union's Occupational Safety and Health Department, local leaders and members have identified many of these offices as containing hazardous and unhealthful materials. A primary office safety and health problem is indoor air pollution.

### Air Quality

An indoor air pollution problem exists when a limited amount of fresh air is circulated throughout the office work environment (tight building syndrome), air is circulated at too fast a rate within the workplace, toxic substances are present in the office environment, or outside air circulated into the workplace is polluted.

There are several variables that contribute to indoor air pollution. Such factors include the use of chemicals like formaldehyde in carpets and furniture; carbon monoxide given off by cigarette smoke and outside traffic; polychlorinated biphenyls contained in electrical transformers; radiation from building insulation; ozone from copiers; and solvents used in cleaners, glues, copiers; and the ventilation system itself.

Also, there are natural causes for indoor air pollution. For example, humans exhale carbon dioxide, which in small quantities is not toxic, but may become hazardous if high concentrations are allowed to accumulate. Micro-organisms or bacteria may also be present within the ventilation system. If micro-organisms do develop, they may spread throughout the entire workplace or building by means of the ventilation system.

In part, air quality problems are created and compounded by the "sealed buildings" in which many people work. The design of these buildings, intended to reduce energy costs, has been identified as a major source or contributor to worker-reported health symptoms.

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Another reason for poor air quality may be inadequate ventilation. As noted, the amount of fresh air and its cleanliness are important factors in determining air quality. An efficient, well-maintained ventilation system will circulate and substitute fresh air for used/stale air. Although ventilation systems are not designed to remove large amounts of air contaminants, the ventilation system may sufficiently reduce the level of air pollution.

In the case of redesigned "open space" offices, severe ventilation problems may exist. It is not uncommon to see partitions and walls filling previously "open space" offices. Although such spatial divisions may provide needed privacy, CWA members may notice that their work area contains dead or polluted air. This situation is caused because there is inadequate circulation of fresh air. Most often these conditions result from either not having supply and exhaust vents within each separate room or work area or from inadequate maintenance of the ventilation system. To ensure adequate ventilation, the employer should design or redesign the office environment so that each work area has properly operating supply and exhaust vents.

## **Health Effects**

Many health symptoms that office workers experience are promoted or caused by indoor air pollution. Physical symptoms such as headaches, sinus discomfort, upper respiratory congestion, and eye irritation are the result of contaminated air. Also, in some cases, indoor air pollution may cause serious infections like Legionnaires' Disease, a type of pneumonia.

In addition, worker health symptoms such as colds, headaches, drowsiness, irritation, and irregular breathing may be brought on as the result of temperature extremes, improper humidity levels, and too little or too much air circulation. Workplace temperatures should be maintained between 68 degrees- 75 degrees Fahrenheit and humidity levels between 30%-60%. In addition, drafts caused by too much air circulation should be avoided.

Compounding the noted health symptoms may be job stress. In part, due to various aspects of office automation, the most stressful elements of office work are increasing. Health symptoms associated with job stress include psychological and physical strains such as frustration, anxiety, irritability, anger, depression, stomach or gastro-intestinal disturbances, and muscle and psychological tension. These symptoms may be promoted by poor indoor quality.

## **Solving Ventilation Problems**

A primary factor in the prevention of health symptoms is an efficient, properly designed and operating ventilation system. The ventilation system determines the quality of the indoor air by controlling the amount of air that is added to the workplace atmosphere, the cleanliness of such outside air, and the rate at which the office air and its pollutants are either exhausted to the outside or re-circulated throughout the building.

Having identified office air pollution and ventilation problems, we must consider ways of resolving them. Following are some suggestions:

**First**, worker health symptoms and their causes need to be identified. Discussions with workers, review of employer-maintained records of worker injuries and illnesses, and development, distribution, and analysis of a brief health questionnaire should accomplish this need.

Talking with co-workers is one of the easiest ways to identify the occurrence and, sometimes, causes of employee health symptoms. Requested information might include the use of contaminants within the workplace, the occurrence and type of health symptoms, and the time of the day, week, and year when health symptoms occur most frequently.

Employer-maintained records of workplace injuries and illnesses should be requested and reviewed. Quite often, such information will indicate the occurrence of patterns of similar health symptoms caused or promoted by air pollution and improper ventilation.

A health questionnaire should be developed and distributed to all concerned workers. Such a tool should identify the number of people affected; specify ages and job descriptions of involved workers; determine where they are located within the office; indicate when the symptoms occur (time of day, day of week, and time of year); provide a list of specific health symptoms or illnesses; identify all machines operated in the workplace; indicate the type of outside air pollution; and identify potential sources of job stress.

**Second**, identification of contaminant sources is often crucial to determining the cause(s) of worker health symptoms. Such information can sometimes be obtained by requesting copies of air monitoring data from the employer. If monitoring data is not available, yet a high number of health symptoms have been reported, the Union representative should request that the employer have air monitoring tests conducted. Review of this data may identify potentially hazardous sources of contamination and resultant worker health symptoms. However, when contaminant concentrations are very low, monitoring data may not explain the observed or reported health symptoms.

If no contaminant sources are found, it is still possible that an indoor air pollution problem exists. Excessive re-circulation of air leads to "stale air" conditions. Stale air has higher levels of carbon dioxide and carbon monoxide (produced from human breathing and cigarette smoke, respectively) than outside air. Stale air may also be a problem when ventilation is not sufficient to account for an increase in the number of workers in the area.

As noted, improper temperature and humidity levels, and too little or too much air circulation may also contribute to worker health complaints. Temperature levels should range from 68 degrees - 75 degrees Fahrenheit and humidity levels between 30% and 60%. In addition, drafts caused by too much air circulation should be avoided. Maintenance of proper temperatures and humidity levels and proper air circulation will help to reduce the occurrence of upper respiratory symptoms, and, possibly, skin rashes.

**Third**, the condition of the ventilation system should be documented. Copies of maintenance records should be requested. Analysis of this information will indicate whether equipment is routinely serviced and operating properly.

In addition, ventilation system design operating standards, as well as minimum fresh outside air requirements, are provided by the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE). The ASHRAE standard endorses the importance of worker complaints in judging indoor air quality. ASHRAE defines acceptable air quality as:

"Air in which there are no known contaminants at harmful concentrations and with which a substantial majority (80% or more) of the people exposed do not express dissatisfaction."

ASHRAE calls for office environments to be provided with 20 cubic feet of fresh outside air per minute per person (cfm/person).

Also, ASHRAE states that 1/10 the OSHA air contaminant levels should be used when evaluating air sampling or monitoring results. This reduction is based on the fact that OSHA standards apply to healthy workers, whereas office buildings allow access to the general population, including the very young, the sick, and the old. Employers should ensure that ventilation systems meet ASHRAE guidelines.

After gathering materials to identify worker health symptoms and their causes, this information should be organized and presented to management for resolution. Remedies for health symptoms might include the adjustment of air handling equipment and variation in the amount of re-circulation. Also, the rate of air turnover can be adjusted. Ventilation ducts can be added to provide better distribution of the air. The number of workers in an area can also be varied to allow adherence to the ASHRAE 20 cfm/person requirements.

## **What Can You Do?**

All CWA members should make sure that their employer is maintaining a safe and healthful workplace, i.e., one that is free of hazardous contaminants and supplied with clean, fresh air. The key to making the workplace safe for CWA members is strong, active local safety and health committees. The committee can identify dangerous conditions at the workplace and discuss them with management. If the employer refuses to cooperate, the committee can request an OSHA inspection. The committee should always coordinate its activities through local officers, the CWA Representative, and negotiated safety and health committees.

In addition, CWA members may obtain information and assistance by contacting the:  
CWA Occupational Safety and Health Department  
501 Third Street, N.W.  
Washington, D.C. 20001-2797  
Webpage: [www.cwasafetyandhealth.org](http://www.cwasafetyandhealth.org) (<http://www.cwasafetyandhealth.org/>)  
Telephone: (202) 434-1160.

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