

# NYSUT Health and Safety

**WORK**  
shouldn't  
**HURT**

***A hazard is something that can injure you, kill you, make you sick, or harm your mental health.***

# Kinds of Hazards

- Safety
- Chemical
- Biological
- Other health

# SOURCES OF RIGHT

- Contract
- OSHA / PESH
- Other State / Federal Legislation & Regulation
- School Policies

**OSHA/PESH**

# Who is covered by the OSH Act?

- Employees/employers under Federal Government authority
- Either by federal OSHA or through an OSHA-approved state program
- Exclusions

# What is PESH?

- State legislation: New York's Public Employee Safety and Health Act. (passed in 1980)
- Enforcement: New York State Department of Labor's PESH division.
- Enforced by Department of Labor

# OSHA Standards

- OSHA writes and enforces standards
- Where no specific standards, employers must follow “General Duty Clause”
- States with OSHA-approved programs must set standards at least as effective as federal



# The General Duty Clause states:

- 29 U.S.C. § 654, 5(a)1: **Each employer** shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.“
- 29 U.S.C. § 654, 5(a)2: **Each employer** shall comply with occupational safety and health standards promulgated under this act.
- 29 U.S.C. § 654, 5(b): **Each employee** shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.

# PESH & OSHA

- Includes procedures for enforcement
- No retaliation allowed

# What's Covered in OSHA Standards?

- Toxic substances
- Harmful physical agents
- Electrical hazards
- Fall hazards
- Hazardous waste
- Infectious diseases
- Fire and explosion hazards
- Dangerous atmospheres
- Machine hazards

# New York State Workplace Violence Prevention Law

- Section 27-b of State Labor Law
- *Excludes employers as defined under SAVE*
- Requires public employers to:
  - Do risk evaluation
  - Develop/implement programs to prevent and minimize workplace violence
  - Regularly evaluate

# General Duty Clause

- “Each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees...”

# **In order to cite an employer under the General Duty Clause, OSHA has to prove that:**

- There is a recognized hazard, i.e. the employer or others in the industry were aware of hazard
- Hazard is causing or likely to cause death or serious physical harm,
- Effective methods exist to control or correct the hazard, and
- The control methods are feasible.

# Workplace Inspections

- Every establishment covered by the OSH or PESH Act is subject to inspection
- Most inspections must be conducted without advance notice



# Inspection Process

- Inspector displays official credentials
- Opening conference
- Walkaround inspection
- Closing conference





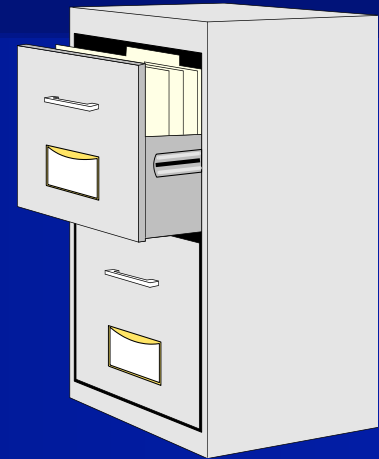
# What happens after an OSHA/ PESH inspection?

- May or may not issue citations
- Citations list regulations and standards allegedly violated and proposed time for abatement
- Employer must post a copy of each citation

# **Recording and Reporting Occupational Injuries and Illnesses**

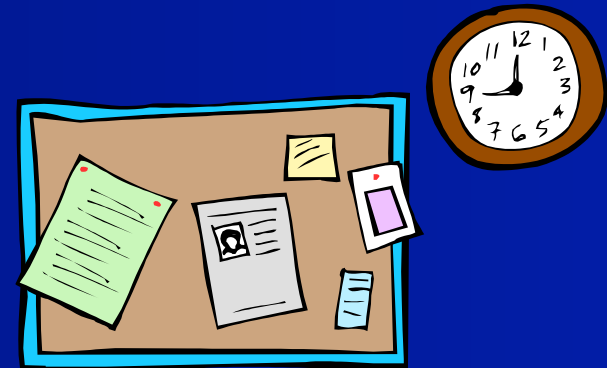
# Recordkeeping and Reporting

- Employers of 11+ employees must keep records of occupational injuries and illnesses
- All employers must report to OSHA or PESH within 8 hours any accident that results in a fatality or in-patient hospitalization of 3 or more



# Recordkeeping Forms

- Maintained on a calendar year basis
- Records summary for the previous year must be posted February - April





# Labor Law - Article 28

## §875+ (Toxic Substances)

- Material Safety Data Sheets (MSDS) are required
- Employers must train employees annually
- No retaliation allowed

# Labor Law - Article 29

## §884+ (Training)

- “The workers of New York state...have the right to a safe and healthy workplace,...the right to training and education about the toxic substances in their workplace.”
- “It is the public policy of this state to promote safe and healthy conditions in the workplace.”

# **LEGAL RIGHTS TO SAFETY AND HEALTH INFORMATION**



# **PESH/OSHA Right to Information Standards**

- Hazard Communication (1910.1200)
- Access to Exposure and Medical Records (1910.1020)
- Injuries and Illnesses Log

# Hazard Communication Standard

- Keep **material safety data sheets** (MSDS) on chemicals used or stored and make available to workers on request
- **Label** all containers
- Provide **training** to workers who may be exposed
- Establish a comprehensive written **program.**

# MSDSs

- Available for workers in the work area on all shifts
- Provide union requested MSDS within 15 working days from the date of request

# **Access Exposure and Medical Records**

- **provide within 15 working days of a request:**
  - **To workers and their union (and doctors and lawyers)**
  - **To workers (and their union representative with permission)**
  - **To unions**

# NLRA & Taylor Law

- Employer is required to bargain terms and conditions of employment
- Employer must negotiate in good faith (e.g. Supply information)

# Safety and Health Rights Under Bargaining Law

- Union right to bargain with employer over all aspects of workplace safety and health
- Union right to receive safety and health information from employer
- Worker right to participate in “concerted” safety and health activities
- Worker right (very limited) to refuse to do unsafe work

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# Game recap

