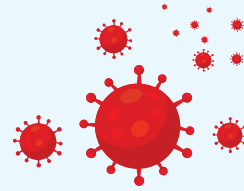


COVID-19 ACTION BULLETIN



Filing COVID-Related OSHA/PESH Complaints

Basic Information

OSHA complaints can be filed online at https://www.osha.gov/workers/file_complaint.html.

Public sector employees, who are covered by the NYS Department of Labor Public Employee Safety & Health Bureau (PESH), can file a complaint at <https://labor.ny.gov/formsdocs/wp/PESH7.pdf>.

The complaint will be sent to your regional OSHA or PESH office. **The complaint cannot be filed anonymously.** However, the complainant **can ask that their name be kept from the employer.** Another alternative is to **have NYSNA file a complaint on the members' behalf.**

Below are some OSHA/PESH standards that can be cited when filing the complaint. If the health and safety problems do not fit into any of these categories,

NYSNA Representatives should check in with the NYSNA Health and Safety Representatives to determine if there is a violation of another standard or the General Duty Clause.

In any case, **complaints should be shared with the NYSNA Health & Safety Representatives prior to filing** in order to build the strongest case possible.

The H&S Reps can also notify the regional OSHA or PESH office that a complaint is about to be filed and ask for notification when the office has received the complaint and is ready to begin an investigation.

The General Duty Clause comes from the Occupational Health and Safety Act of 1970. All other standards are from the Department of Labor Regulations – Chapter 17: Occupational Safety and Health Administration.

Relevant OSHA Standards

General Duty Clause: Section 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.”

The General Duty Clause (GDC) is meant to cover all recognized hazards for which there is no specific standard. However, a higher bar is set to get a GDC citation. A complaint under the GDC must be carefully crafted.

Other OSHA Injury and Illness Recordkeeping Requirements: Part 1904, Subpart D

Under this standard the employer is required to maintain a record of all work-related injuries, illnesses and fatalities. In the private sector the form used to record this information is the OSHA 300 Log of Work-Related Injuries and Illnesses. In the public sector the SH 900 form is used.

If hospital staff become ill with COVID-19 due to a work-related exposure, that information must be added to the Injury and Illness Log. Authorized employee representative have a right to see this log, without redacting of names, by the end of business the day following when the request was received by the employer.

Personal Protective Equipment: Part 1910.132(a)

“Protective equipment, including personal protective equipment for eyes, face, head, and extremities, protective clothing, respiratory devices, and protective shields and barriers, shall be provided, used, and maintained in a sanitary and reliable condition wherever it is necessary by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.”

Get the latest COVID updates: nysna.org/covid

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Personal Protective Equipment (cont'd)

This standard has additional requirements including:

- Hazard assessments with written certification of the assessment
- Selection of types of PPE that will protect the affected employee from hazards identified in the hazard assessment
- Proper fit
- No defective or damaged PPE
- Training

Respiratory Protection: Part 1910.134

"A respirator shall be provided to each employee when such equipment is necessary to protect the health of such employee. The employer shall provide the respirators which are applicable and suitable for the purpose intended. The employer shall be responsible for the establishment and maintenance of a respiratory protection program, which shall include the requirements outlined in paragraph (c) of this section. The program shall cover each employee required by this section to use a respirator."

This standard has additional requirements including:

Development and implementation of a written respiratory protection program that includes:

- Process for selecting respirator(s) including NIOSH approval and multiple sizes and types available
- Fit testing
- Medical Evaluation
- Tight-fitting seal
- Procedures for storing, discarding, repairing, cleaning, maintaining respirators (in compliance with respirator manufacturer instructions)
- Training
- Donning and doffing
- Qualified respiratory protection program administrator

Toxic and Hazardous Substances: Part 1910.1200

"Exposure" or "exposed" means that an employee is subjected to a toxic substance or harmful physical agent in the course of employment through any route of entry (inhalation, ingestion, skin contact or absorption, etc.), and includes past exposure and potential (e.g., accidental or possible) exposure, but does not include situations where the employer can demonstrate that the toxic substance or harmful physical agent is not used, handled, stored, generated, or present in the workplace in any manner different from typical non-occupational situations.

Whenever an employee or designated representative requests access to a record, the employer shall assure that access is provided in a reasonable time, place, and manner. If the employer cannot reasonably provide access to the record within fifteen (15) working days, the employer shall within the fifteen (15) working days apprise the employee or designated representative requesting the record of the reason for the delay and the earliest date when the record can be made available.

Bloodborne Pathogens: Part 1910.1030

This section applies to all occupational exposure to blood or other potentially infectious materials and bodily fluids.