June 1, 2026

Eric Berg
Deputy Chief, Health and Research and Standards
Cal/OSHA / Division of Occupational Safety and Health
1515 Clay Street
Suite 1901
Oakland, CA 94612

Submitted electronically: rs@dir.ca.gov

RE: REVISED DRAFT | PROPOSED WORKPLACE VIOLENCE PREVENTION STANDARD FOR GENERAL INDUSTRY

Dear Deputy Chief Berg:

The California Chamber of Commerce and the undersigned organizations submit this letter to comment on the April 23, 2026, proposed revision (the "April 23 Draft" or "Proposed Standard") to the workplace violence prevention standard for general industry, Section 6401.9 (generally, the "Standard"). This letter is intended to comment only on the new changes contained in the April 23 Draft, and not to reiterate our prior outstanding comments submitted in our three prior comment letters, dated November 10, 2025, September 3, 2024, and July 14th, 2025 (collectively the "Prior Letters").

Briefly, a selection of those concerns that remain outstanding include:

- Clarity and feasibility for compliance of covered businesses, including small businesses.
- Inclusion of "staffing" as a workplace violence hazard and as a control strategy.
- Clarifying trauma counseling obligations
- Ensuring that interactive training obligations are feasible for covered businesses, including small businesses.

We continue to advocate for the outstanding concerns raised in the Prior Letters, but recognize the focus of this 45-day change notice is limited to the April 23 Draft.

Notably, the California Chamber of Commerce and other coalition groups were heavily involved in the negotiations and discussions around Senate Bill 553 (Cortese) ("SB 553"), passed in 2023, codified into Labor Code Section 3343, and appreciate the opportunity to share our comments on this important issue as that legislation is carried forward into a potentially revised Proposed Standard.

Comments Regarding the April 23, 2026 Proposed Revision

1) The Proposed Standard should not apply to employer-provided transportation when the employer <u>has no control of the environment or employee decisions</u>. (3343(a))

Based on the vagueness of "employer-provided transportation" and the present risk factors in the Proposed Standard, we are concerned that employers would be implicitly required to ensure the safety of freeways and roads across California.

While we understand the intention of adding "… and employer-provided transportation" to the Proposed Standard's scope to be covering employer-operated vehicles – where an employer might pick up a group of employees in a single vehicle and transport them to or across its property – we are concerned that it is overbroad as drafted.

For example, an employee may be provided with a company vehicle that they utilize to drive from their home to their office in the morning, and potentially stop for coffee and breakfast on the way to the office. That transit – from home to the worksite – is likely not on company time, and the employer has no control over the choices made by the employee in that transit. If an employee driving to work were to drive on a busy freeway in a company vehicle, and be subject to verbal threats or even a threat of violence by another driver (commonly known as a "road rage" incident), would such an incident be considered a workplace violence incident under this new expanded scope? Certainly, a freeway would qualify as having "frequent or regular contact with the public," and a worker driving to a construction site might be driving in the "early morning" – so two risk factors for workplace violence would be present under the Proposed Standard.

Assuming the Proposed Standard is triggered, then the employer's obligation under section 3343(c), (d), and (f) would appear to be triggered – despite the employer having no control of the employee's conduct at that time, or the area that they are driving through.
To address this issue, we would suggest drawing distinctions between (1) events occurring outside of the vehicle (where the employer has no control) and inside the vehicle; and (2) events occurring when the employee is not using the vehicle as part of their paid duties.

As draft language, we would offer the following adjustment:

> (a) Scope and Application. This section applies to all employers, employees, places of employment, and employer-provided housing, and employer-provided transportation to the extent that the transportation is under the control of the employer or on the premises of the employer.

2) **Changes to "authorized representative" and creation of a new "designated representative" term. (3343(b)(1),(2))**

We appreciate the clarity intended by the creation of the new term "designated representative", as opposed to simply relying on the union-oriented term "authorized representative" and attempting to shoe-horn other representatives into it.

However, we are concerned that the term "authorized representative" still needs some clarification.

Specifically, we would request the following:

> "Authorized employee representative" means a labor organization which has a collective bargaining relationship with an employer and ~~which represents affected employees~~ has been certified as the representative of the employees at the covered worksite or an employee organization which has been formally acknowledged by a public agency as an employee organization that represents employees of the public agency.

3) **The Proposed Standard properly removes "stalking" from the definition of workplace violence (3343(b)(8)) and properly includes it as a potential workplace violence hazard, but only where the employer has some awareness of the stalking (3343(b)(10)(K)).**

As noted in our Prior Letters, we were very concerned with the inclusion of "stalking" as a form of workplace violence for multiple reasons, including: (1) the criminal definition of "stalking" was *much* broader than the definition of workplace violence; (2) Cal/OSHA regulations have different standards of proof and different jurisprudence than criminal law, making reliance on criminal law a sub-optimal mechanism for creating a clear regulation with clear obligations for employers.

Because of these previously-raised concerns, we appreciate the removal of stalking from the definition of Workplace Violence in the Proposed Standard. We also appreciate the specific language added in Section 3343(b)(10)(K) to address the limitations of an employer's awareness of stalking.

4) **The term "adequate staffing" continues to lack clarity as a work practice control, and should be stricken from the Proposed Standard (various provisions).**

As noted in our September 2024 Letter and November 10, 2025 Letter, we do not believe staffing should be listed as a "work practice control" or as a "workplace violence hazard," for the same two reasons we noted there: clarity and expertise. The Division should not interfere with an employer's operations by attempting to mandate staffing levels, particularly when the Division has no expertise in this area, and the Proposed Standard's prior versions have not provided any clarity as to what levels would be acceptable. For those reasons, we have asked – and continue to ask – that this language be stricken.

As to this draft's particular changes: we do not see the addition of the words "to maintain order in the facility and respond to workplace violence incidents in a timely manner" as helpful to these issues.

In order to explain why the new language is not helpful, we must briefly revisit our previously-stated concerns. Under the Proposed Standard, Cal/OSHA inspectors will be compelled to reach a determination far outside their expertise: what is "appropriate" staffing for *every different workplace in California*. In other words – with the broad scope of the Proposed Standard – businesses ranging from manufacturing plants to corner grocery stores will be forced to guess what staffing is "adequate" in the mind of a Cal/OSHA inspector. As Cal/OSHA inspectors are not experts in staffing levels or in literature surrounding how effective additional personnel are at deterring violence, we fail to see how "adequate staffing" will be something an inspector in the field will be able to clearly and consistently apply. Moreover, the vast majority of employers' staff *are not supposed to intervene in the event of a criminal or violent scenario*, and so adding more staff to spaces, when they are *not supposed to intervene*, would seem to only introduce more vulnerable parties with no actual workplace violence benefit, but potentially considerable cost to the business. Furthermore, we are not aware of any parallel enforced staffing where the newly-required staff do not have obligations related to the underlying hazard. This is in sharp contrast with, for example, medical staffing ratios, where more nurses means that the patients have more consistently-available help. In the Proposed Standard, the newly-required "adequate staff" are not suited or intended to intervene in violent activities.

Turning to why the new language does not address these concerns: the new language adds no clarity to help employers predict what their compliance obligations will be, or for inspectors to utilize when determining the staffing obligations of a given business. Stating that staffing levels must "maintain order in the facility" does not provide any metric for what that means. "Maintain order" suggests that one additional staffer would turn the presently-chaotic workplace into a new, orderly space. This is pure fantasy and provide no guidance to employers. Workplaces across California *are already orderly* and, for the most part, free of any workplace violence. When it occurs, it is usually a rare incident and is often a result of events or relationships *outside the workplace*, as implicitly acknowledged by the inclusion of Type 1, 2, and 4 violence in the Proposed Standard.

As with the prior language, inspectors with no staffing knowledge will be asked to make essentially gut-check decisions like the following:

- Is eleven people on staff sufficient for a small grocery store in a rural area at 7pm? For that same grocery store, what if two are in the front at the register, while three are stocking the aisles, and the remainder are working to re-stock in back?
- What about a jewelry store with more expensive goods, located in a suburban area, which has better entrance controls, but only four people on staff at 6pm on a slow night? To add more context: what if only two persons are in the front of the store and the others are behind a locked door in back, which is slow to open?[1]
- What about a manufacturing facility with fifty employees on the premises, but with ten delivery trucks out front – and one guard at the entrance to the property? If a group of thieves enter the premises, threaten the guard, and steal multiple vehicles – what staff *would* have been appropriate?

If the reader of this letter cannot answer the above questions with clarity, we would ask how businesses across California are expected to do so under the Proposed Standard.

In essence, inspectors will be invited to speculate on what staffing they *feel* should have been present, with no clear metric in the Proposed Standard to guide this "adequate staffing" element – which is included as both a work practice control and workplace violence hazard in the Proposed Standard. Functionally, we expect this to act as a hindsight-based, "gotcha" citation wherein, if a workplace violence event occurred, an inspector will determine that the employer failed to adequately staff (because they failed to "maintain order") regardless of whether that incident was foreseeable.

[1] Given the scope of the Proposed Standard includes any business who had more than 10 employees on site at any point in the prior year, we think these examples of lower staff during off hours are fair representations of the covered businesses.

Because we believe the Proposed Standard fails to provide the required clarity to the regulated stakeholders regarding what would qualify as "adequate staffing," as required by the Administrative Procedures Act, we believe this factor should be removed from the Proposed Standard.

5) Identification of listed "workplace violence hazards" as factors in workplace violence (3343(b)(10)).

We appreciate the change to the definition of "workplace violence hazards" to emphasize that the listed conditions are <u>factors that could create a workplace violence hazard</u>, and are not necessarily, by themselves, <u>a qualifying hazard.</u> The prior language led to the absurd result that certain unavoidable parts of doing business in some industries were immediately workplace violence hazards, triggering the need for employers to remove or remediate these inherent and unavoidable conditions.

6) Adjustments of listed workplace violence hazard factors (3343(b)(10)).

We appreciate the removal and adjustment of various listed workplace violence hazard factors, many of which we had requested to be removed in our Prior Letters. We believe this improved list removes a number of factors which would have led to confusion and uncertainty for regulated stakeholders, as noted in our Prior Letters.

7) Adjustment to reporting procedures related to supervisors (3343(c)(6)(A)(2)).

We appreciate the chance to clarify that reporting to a non-supervisor is only permissible <u>*where the supervisor is involved*</u>, such that reporting to the supervisor would be problematic. Under the prior language, an employee was implicitly permitted to report to a non-supervisor regardless of who was involved in the Type 3 violence.

8) Absence of feasibility limitation on engineering and work practice controls (3343(c)(10)(A)).

This provision, which states, "Engineering and work practice controls appropriate for the workplace shall be implemented to eliminate or minimize employee exposure to identified workplace violence hazards" is similar to the Violence Prevention in Health Care standard (8 CCR 3342(c)(11)), except that the health care standard requires use of engineering and work practice controls "to the extent feasible." The general industry standard should likewise be revised to expressly incorporate a feasibility limitation—consistent with the health care standard—as follows:

> Engineering and work practice controls appropriate for the workplace shall be implemented to eliminate or minimize employee exposure to identified workplace violence hazards <u>to the extent feasible</u>.

Otherwise, the standard could be misinterpreted to insist on specific controls regardless of cost or business disruption, putting smaller employers at particular risk of compliance obligations they cannot afford.

9) Clarification that employers "may enforce policies designed to avoid physical confrontation and prevent injuries" (3343(c)(10(B).

This change appears to also have been in response to our Prior Letters, and is appreciated. We believe it will help ensure that an employee remains able to take action if an employee who broke policy by physically confronting an armed assailant or thief – and thereby increased the chance of injury for themselves and bystanders.

10) Deleted exception re "repetitive" and inconsequential incidents" (3343(c)(11)).

We are surprised by the removal of the exception for repetitive but inconsequential incidents from the Proposed Standard. Though we had concerns with the drafting and have urged improvements to its language, we continue to see it as a potentially helpful and timesaving improvement for workplaces which are prone to low-level, relatively inconsequential events that would nevertheless require logging under the Proposed Standard.

Notably, the explanation for its deletion was so that the Proposed Standard would "be consistent with" the workplace violence regulation applicable to healthcare. We do not see this justification as well-reasoned, given that the resources of healthcare employers are *far beyond most other workplaces in California*. In a hospital setting, down-to-the-minute records are kept of patients and procedures on a regular basis. It is common for virtually *every room* to have a terminal for new notes to be added on a patient or procedure. Furthermore, the level of staffing at healthcare facilities far exceeds most businesses, with a typical hospital being staffed by hundreds if not thousands of employees. Where hospitals may find such recordkeeping routine, the added task of repeatedly logging incidents with no actual injury will consume considerable time from the on-site manager for a small brewery or special education teacher.

For that reason, we would urge the exception be re-added, and modified as requested in our Prior Letters, so that it is broad enough to be actually used, but limited such that records are kept of any real injuries that occur. Specifically, we would suggest the following re-addition to the Proposed Standard:

> EXCEPTION: Employers are exempt from subsections (c)(11)(D) through (G) for type 2 workplace violent incidents that are repetitive if all of the following conditions apply:
>
> 1. The employer has complied with subsections (c)(11)(D) through (G) for the initial incident;
> 2. The incident did not cause or result in an injury or death;
> 3. The incident did not involve the use of a firearm or other weapon; and
> 4. All incidents are recorded on the violent incident log.

11) Trauma Counseling no longer "upon request", and related notes (3343(c)(11)).

The Proposed Standard deletes the language "upon request" from the sentence obligating employers to "offer[] or mak[e] available ...trauma counseling..." as part of the post-incident response. Though we believe this language ("upon request") was helpful to clarify that the employer need not compel attendance to such counseling, we believe the present verbiage of "offer" should similarly make this point clear.

Notably, the related new text (moved from a "note") also state that "workers compensation *or initial counseling* offered by the employer satisfies this requirement." We appreciate this being made substantive text, and appreciate the clarification that it only covers "initial" counseling.

However, we continue to be concerned about the obligation to provide counseling after workers comp determines that no counseling is appropriate. In that situation, the Proposed Regulation could be read to require ongoing counseling at significant expense.

To ensure that the Proposed Standard's terms are consistent, and that this ambiguous obligation is interpreted in light of the limited obligation to "offer ... initial counseling", we would request the following change:

(C) Offering or making available individual trauma counseling to employees affected by the incident. upon request; Trauma counseling offered to an employee through workers' compensation or initial counseling offered by the employer satisfies this requirement. **The employer's obligation does not exceed the limits of worker's comp or the employer providing initial counselling.**

12) Question response time for online/remote trainings should parallel other similar laws (3343(e)(1)(F)).

Ensuring that regulations allow online and remote training is a key part of keeping training feasible for smaller businesses to provide to their employees in California. We appreciate that the Proposed Standard now expressly allows such training – but are concerned that the new language provides a different timeline for response than other areas of law, and would ask for consistency.

Specifically, if state-mandated harassment training is provided remotely, responses must be provided no more than two business days after the question is asked.[2] We would ask for a parallel timeline here, to keep such standards consistent across state law.

13) Public release of non-requesting employee information (3343(f)(7).)

We are concerned that the Proposed Standard was changed to implicitly <u>prohibit</u> employers from redacting non-requesting employee's information when one employee requests training records. To illustrate the concern, consider this example: Employee A designates a law firm as their representative after an accident, and requests records related to a prior workplace violence incident that the employee was involved in, pursuant to (f)(7). In addition to Employee A, the names of <u>*thousands*</u> of other employees will be included in training records. We do not understand why the Proposed Standard now appears to entitle Employee A to information about <u>*every other employee at the workplace*</u>.

While we certainly believe the injured employee should be entitled to their own information and records related to their experience (as they would in a civil case), we are concerned that the present language appears to go far beyond that.

If this were a traditional civil suit for damages, and an injured employee sought discovery in their claim against their employer, they would presumably <u>*not*</u> be entitled to a list of every other employee's training records, as those employees' information would <u>*not*</u> be relevant to their claim/the incident at issue.

To address this potentially unintended overbreadth, we would suggest the following language:

> All records required by subsections (f)(1), (f)(2), (f)(3), and (f)(4) shall be made available to employees and their designated representatives, upon request and without cost, for examination and copying within 15 calendar days of a request. The employer may redact information that may reveal personal identifying information for employees other than the requesting employee~~, except for training records~~.

<u>Conclusion:</u>

We appreciate the opportunity to provide comment and look forward to participating in the advisory committee process on this important regulation.

Sincerely,

Robert Moutrie
Vice President for Advocacy
California Chamber of Commerce
on behalf of

Associated General Contractors of California, Tresten T. Keys
Associated Equipment Distributors, Jacob Asare
Associated Roofing Contractors of the Bay Area Counties, Steve Johnson
California Alliance of Family-Owned Businesses, Bret Gladfelty
California Association of Sheet Metal and Air Conditioning Contractors National Association, Emily Mills
California Association of Winegrape Growers, Michael Miller
California Attractions and Parks Association, Sabrina Demayo Lockhart
California Chamber of Commerce, Robert Moutrie
California Construction and Industrial Materials Association (CALCIMA), Charley Rea
California Craft Brewers Association, Kelsey McQuaid-Craig

---

[2] *See* 2 CCR 11024 (a)(2)(B). "An e-learning training shall provide a link or directions on how to contact a trainer who shall be available to answer questions and to provide guidance and assistance about the training within a reasonable period of time after the employee asks the question, <u>but no more than two business days after the question is asked</u>." (emphasis added)

California Farm Bureau, Bryan Little
California Framing Contractors Association, Kevin Bland
California Grocers Association, Rachael O'Brien
California League of Food Producers, Benjamin Ebbink
California Retailers Association, Ryan Allain
California Trucking Association, Nick Chiappe
Dairy Institute, Katie Davey
Family Business Association of California, Robert Rivinius
Housing Contractors of California, Bruce Wick
National Electrical Contractors Association – California Chapters, Eddie Bernacchi
Northern California Allied Trades (NCAT), Michael Donlon
PCI West – a chapter of the Precast/Prestressed Concrete Institute, Dan Leacox
Residential Contractors Association, Kevin Bland
Southern California Contractors Association, Todd Bloomstine
United Contractors, Gus Flores
Western Electrical Contractors Association (WECA), Rex Hime
Western Steel Council, Kevin Bland
Wine Institute, Anna Ferrera

Copy: Millicent Barajas MBarajas@dir.ca.gov
Ed Lowry ELowry@dir.ca.gov
Kevin Graulich KGraulich@dir.ca.gov