OSHProterie

June 1, 2026

Department of Industrial Relations
California Division of Occupational Safety and Health
1515 Clay Street, Room 1303
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Submitted: - rs@dir.ca.gov

RE: §3343 Workplace Violence Prevention in General Industry — April 2026 Discussion Draft

To the California Division of Occupational Safety and Health Research and Standards Staff:

Please accept the following written comments from the OSH Proterie[1] on the April 23, 2026, Discussion Draft of §3343, Workplace Violence Prevention in General Industry.

We appreciated the opportunity to participate in the November 12, 2025, Advisory Meeting and thank the Division for its continued engagement throughout this rulemaking. The April draft reflects a genuine response to stakeholder input across multiple rounds of pre-rulemaking engagement, and the improvements are meaningful. We have noted our support for those changes below.

Our comments focus on a targeted set of issues that remain unresolved or have been introduced in ways that create new operational, legal, and confidentiality concerns for the complex, multi-site general industry employers our members are a part of. We continue to support a final rule that is clear, workable, and effective — and we remain committed to continued engagement to get there.

Acknowledgment of Positive Changes

The following revisions reflect positions and concerns raised through written comments and the advisory meeting process. We support each of these changes and appreciate the Division's responsiveness to stakeholder input.

"Authorized Employee Representative" — §3343(b)(1). Aligning with the existing Title 8 §403 definition reduces definitional proliferation and eliminates the ambiguity that came with a regulation-specific definition. This is a straightforward change we supported in comments.

[1] OSH Proterie is a network of occupational safety and health compliance leaders across industries. Our members are directly responsible for workplace environmental safety and health at complex, multi-site operations in utilities, technology, infrastructure, and related industries. We provide their collective experience and voice, as individual safety professionals, to OSH agencies to improve safety, compliance, and operational effectiveness.

Stalking Relocated — §3343(b)(10)(K). Removing stalking from its standalone position in the definition of "workplace violence" — where it previously carried an explicit Penal Code reference — and relocating it to the list of workplace violence hazards is the right structural approach. Moving it out of the definition and away from Penal Code dependency was discussed at the November 2025 Advisory Meeting and supported by employer stakeholders as a cleaner, more workable solution. The accompanying limiting language — tying employer responsibility to incidents brought to the employer's attention — addresses a core concern about open-ended employer liability. We support this change, with one residual concern addressed below.

Periodic Inspections — §3343(c)(9). The revised trigger — inspections when "changes to the place of employment or job duties create new workplace violence hazards" — replaces the prior narrower reference to new substances, processes, procedures, or equipment. We proposed this language and its inclusion is a meaningful improvement that reflects when inspections should be performed.

Trauma Counseling — §3343(c)(11)(C). Converting the prior note to enforceable regulatory text is consistent with OAL guidance, and the clarification that workers' compensation coverage or initial counseling offered by the employer satisfies the obligation is a practical and workable resolution. OSH Proterie raised the administrative and operational confusion created by an open-ended counseling obligation throughout this rulemaking, and this clarification directly addresses those concerns. We continue to note that "affected" remains broad, and have recommendations for added clarity below, but this is a meaningful improvement over prior drafts and we support the change.

Workplace Violence Hazards — §3343(b)(10). Replacing "examples of" with "factors to consider when identifying" addresses a concern we raised consistently — that the list would function as an inspector checklist rather than a contextual guide. The removal of the most subjective prior examples — persons with a history of violence, hostile work environments, required and excessive overtime, and high-crime areas — reflects positions advanced across multiple rounds of engagement and represents a genuine improvement.

Areas of Concern - Following are six areas of concern including recommendations to improve the proposed draft.

1. Scope — Employer-Provided Transportation | §3343(a)

The April draft expands the scope of §3343 to include employer-provided transportation. We are not arguing that workplace violence incidents cannot occur in transportation settings, and we understand the rationale for this addition.

The problem is a missing limiting principle. Without one, the provision can reasonably be read to extend compliance obligations to transportation the employer pays for but does not control — reimbursed commuter rail, ride-share programs, third-party managed vanpools, and commercial air travel. The practical consequence is significant: the full requirements of this regulation — hazard identification, periodic inspection, Plan-specific controls, and incident investigation — cannot be applied to environments the employer has no ability to inspect, staff, or manage. No employer can conduct a hazard assessment of a commercial airline or a public transit system. No employer controls the security procedures of a third-party vanpool operator. Requiring compliance with §3343 in those environments is not a workable standard.

The fix is straightforward: adding "under the employer's control" to the scope provision resolves the concern. This is precisely the limiting principle used in the COVID-19 prevention regulations — §3205.2 and §3205.3 — where employer-provided transportation and housing obligations were expressly tied to locations under the employer's operational control. That approach preserved the intent of the requirement while drawing a workable boundary. The same principle applies here.

Proposed language: *"This section applies to all employers, employees, places of employment, employer-provided housing, and employer-provided transportation* ***under the employer's control****."*

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2. "Designated Representative" and Records Access | §3343(b)(2) and §3343(f)(7)

This is our most significant concern with the April draft. The addition of a "designated representative" definition and its application to records under §3343(f)(4) represents a meaningful expansion that was not part of any prior draft and has not received the deliberate analysis it warrants. We address our concerns in order of importance.

The concern that drove this addition is already addressed by the regulation.
The change to §3343(f)(7) stems directly from personal experience shared at the very end of the November 2025 Advisory Meeting — an employee who described being unable to access information about her own assault. That experience is understandable, and the frustration it reflects is legitimate.

But the April draft has already addressed it through a different mechanism. Section §3343(c)(6)(B) expressly requires the employer to inform employees and authorized employee representatives of the results of an investigation and the corrective actions to be taken. An employee who experiences an incident will be informed of what was found and what was done in response. That is the feedback loop she lacked — and it is already in the proposed regulation.

The concern was and should be about communication, not document production. §3343(c)(6)(B) provides that communication. Adding broad access to all reports of workplace violence threats, incidents, and concerns — through any person an employee designates in writing — is not necessary to solve the problem it was introduced to address. Under this regulation as revised, she would have been informed. The fact is, the regulation did not exist when she was a victim.

This is a significant departure from every prior draft.
Multiple prior versions of §3343 did not include this provision and neither does Labor Code §6401.9. The importance of maintaining privacy and confidentiality of workplace violence records has been discussed in detail throughout the pre-rulemaking process, and previous drafts have consistently supported that intent. This is a substantive change introduced in direct response to one stakeholder's personal experience. A records access framework of this scope — applying to all employees, through any designated representative, for a broad category of sensitive investigative documents — warrants deliberate analysis, not a late-stage addition.

The Division's claimed alignment with §3204 does not hold — and the framework actually produced is broader than the model it invokes.
Section 3204 governs access to employee exposure and medical records — biological monitoring results, environmental sampling data, and health surveillance records generated in occupational disease prevention. Workplace violence records are categorically different. They are security and investigative records — closer in nature to HR, disciplinary, and legal files than to medical surveillance data.

The Division does not analogize to §3204 — it claims to align with it. That claim does not hold. Section 3204 is not a general-purpose records access framework. It is narrowly scoped to occupational exposures to toxic substances and harmful physical agents. More critically, the access framework the Division claims to have modeled includes guardrails that §3343(f)(7) entirely omits — guardrails that are not peripheral to §3204's structure but central to it.

Those guardrails include:

- Access to exposure records is expressly limited to records **relevant to the requesting employee** — not an open right to any record associated with a workplace event. §3204(e)(2)(A)(1).
- A designated representative seeking access to exposure records **without employee consent** must submit a written request specifying, with reasonable particularity, the records requested and the **occupational health need** for gaining access (§3204(e)(2)(A)(2)(b)). Purpose is required — even for non-medical records.
- A designated representative seeking access to employee **medical records** must obtain the employee's **specific written consent** — a defined term under §3204(c)(12) requiring, among other elements, a description of the medical information to be released and a description of

the **purpose of the release** (§3204(c)(12)(A)(5)-(6)). This is not an exception or workaround. There is no mechanism under §3204 for a designated representative to access medical records without it.

- A recognized or certified collective bargaining agent is **automatically** treated as a designated representative for exposure records — but that automatic designation **does not extend to medical records**. For medical records, union access requires the employee's specific written consent, including a stated purpose (§3204(c)(3)). The distinction is explicit and intentional.
- Confidentiality of employee records is an explicit purpose of the regulation (§3204(a)).

None of these limitations appear in §3343(f)(7).

The comparison to §3203 — the foundational IIPP regulation this standard is incorporated into — is equally instructive. Even for access to the basic written safety program, §3203(a)(8) requires that an employee's written authorization to a designated representative specify the name of the representative, the date of the request, and the date the authorization expires. §3343(f)(7) requires only "written authorization" — with no defined elements, no stated purpose, no expiration, and no relevance limitation.

The result is a records access provision that requires less procedural protection for sensitive workplace violence records than §3203 requires for access to the written IIPP. That outcome is difficult to justify on safety or policy grounds.

The practical consequences are significant — including for the employees the provision is meant to protect.

The April draft defines "designated representative" as any individual or organization to whom an employee gives written authorization. A recognized or certified collective bargaining agent is automatically treated as a designated representative with no consent required.

The practical consequence deserves direct attention. Workplace violence records — particularly records involving Type 4 violence, which the regulation defines as violence by a person with a personal relationship to an employee — will routinely contain disclosures of domestic violence, stalking, and other deeply personal circumstances. An employee who disclosed a domestic violence situation to their employer in confidence — to enable protective measures at the worksite — could find that disclosure produced, without their knowledge or consent, to a union or other designated representative.

Under §3204(c)(3) — the regulation the Division cites as its model — a union's automatic designated representative status explicitly does not extend to medical records. Employee consent, including a stated purpose, is required. Under §3343(b)(2), no equivalent protection exists. An employee's most

sensitive records may be accessed by their union automatically, without their authorization, and without any stated reason.

This is not an anti-union argument. It is a consequence of the drafting gap. Employees have a reasonable expectation that records they generated – particularly records reflecting personal safety situations – are subject to a meaningful consent and purpose process before disclosure. The Division's model regulation, §3204, reflects that expectation. The proposed §3343(b)(2) does not.

Access to incomplete records creates specific and serious risks.
The draft does not limit access to finalized records. Threat reports that were investigated and closed as unsubstantiated, preliminary assessments, and open investigations fall within §3343(f)(4)'s scope. Releasing a report that was found to be unsubstantiated – particularly one that identifies, or effectively identifies through facility location and job function, the person who was the subject of the report – can damage reputations, create embarrassment, generate hostile work conditions, and expose the targeted employee and employer to civil liability. Once that record is released to a designated representative with no confidentiality obligation, neither the employer nor the subject of the report has any recourse.

Our Recommendation.

- Remove the §3343(b)(2) "Designated representative" definition completely and maintain "authorized employee representative"
- Remove §3343(f)(4) from the list of records subject to §3343(f)(7).

Section §3343(c)(6)(B) already addresses the concern that motivated this addition and these changes maintain the requirements in Labor Code §6401.9.

If the Division believes additional access is warranted beyond what §3343(c)(6)(B) provides, any access framework must at minimum:

- Limit access to the **employee directly involved** in the incident – not any employee, through any designated representative
- Limit access to **finalized** workplace violence incident records only – not open investigations, preliminary assessments, or unsubstantiated reports
- Require **written authorization** that specifies the records requested, the purpose of the release, and an expiration date – consistent with how §3204 operates for medical records and how §3203 operates for IIPP access
- Require redaction of all personal identifying information and sensitive personally identifiable information (SPII) for any third party referenced in the record, **with examples** including job title, facility location, shift, and **any information that in combination could identify an individual and be considered SPII**

On the definition of "designated representative": if retained, it must incorporate the same written consent and purpose-specification requirements that §3204 applies to medical record access — at minimum. Automatic union access should be limited to non-investigative records, consistent with how §3204 treats the boundary between exposure records and medical records. As currently drafted, it does not meet that standard.

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3. Trauma Counseling | §3343(c)(11)(C) — Supported with Recommended Clarifications

We offer two clarifying recommendations to strengthen the trauma counseling provision and reduce ambiguity in application.

Add "directly" to limit the scope of "affected employees."
As currently drafted, the provision requires employers to offer or make available trauma counseling to employees "affected by the incident." That term is undefined and, given the regulation's broad definition of workplace violence, could be interpreted to extend well beyond employees who were directly involved in or witnessed an incident. We recommend the text read: *"employees directly affected by the incident."* This small addition provides a meaningful limiting principle, reduces the potential for open-ended obligations, and aligns the provision with its evident purpose — supporting employees who experienced or witnessed workplace violence, not every employee in a building where a covered event occurred.

Explicitly include Employee Assistance Programs in the regulatory text.
The Division's explanatory notes to the April draft state that EAP coverage satisfies the trauma counseling requirement. That intent should be in the enforceable text, not the notes — particularly given the Office of Administrative Law's direction that notes are no longer supported in Title 8 regulations. As currently written, the enforceable provision references workers' compensation only. Employers who provide EAP coverage — which is the primary mechanism through which many large employers deliver mental health and counseling resources — may face uncertainty about whether that coverage satisfies the requirement in an enforcement context.

Proposed language: *"Offering or making available individual trauma counseling to employees* ***directly*** *affected by the incident. Trauma counseling offered through workers' compensation, initial counseling offered by the employer,* ***or made available through an employee assistance program (EAP)*** *satisfies this requirement."*

This language reflects the Division's stated intent, incorporates the EAP pathway that is already referenced in the explanatory notes, and provides employers with a clear compliance path.

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4. Work Practice Controls – "Appropriate Staffing Levels" | §3343(b)(8)(A)

We have raised concerns about staffing being included in the definition of work practice controls through multiple rounds of this rulemaking. The April draft expands this element drawing from the Healthcare Workplace Violence Prevention standard: staffing sufficient "to maintain order in the facility and respond to workplace violence incidents in a timely manner."

This new language makes it worse, for two reasons.

First, "maintain order in the facility" introduces a new security function that directly conflicts with the Division's own position in this regulation – specifically, that employees cannot be required to intervene in a workplace violence incident. If workers cannot be required to intervene, it is difficult to explain how requiring staffing sufficient to "maintain order" is reconcilable with that principle. The regulation appears to place a response responsibility on staffing decisions that it simultaneously prohibits placing on individual workers. If that is not the intent, it indirectly requires security staffing for all facilities.

Second, the phrase cannot be applied objectively. Order is maintained until it is not. Every workplace violence incident, by definition, disrupts order. Using the maintenance of order as the standard for evaluating staffing adequacy creates circular enforcement logic – an inspector can only evaluate whether staffing was adequate by looking backward at an incident that already occurred. That is the "hindsight is 20/20" enforcement problem we have flagged in every prior round of comments on this provision, and the clarifying language does not solve it.

This language was appropriate for the Healthcare standard because it was designed for a fixed-facility, defined patient census model with clinical staffing ratios and a predictable physical footprint. It was written for that context. General industry is not that context. The range of workplaces covered by §3343 spans technology campuses, utility operations, field and remote crews, manufacturing facilities, and dozens of other configurations. What constitutes "appropriate" staffing for one environment is operationally meaningless in another. It is simply not applicable to the diverse workplaces subject to §3343.

We also note that staffing appears in three places: in the definition of work practice controls in §3343(b)(9), as an example of a work practice control in §3343(b)(9)(A), and as a factor in the list of workplace violence hazards in §3343(b)(10). Whatever the intent, the practical effect of this redundancy is that staffing functions as a default enforcement metric in three separate places in the regulation. That is not an accurate or appropriate characterization of how staffing decisions are actually made and managed across large, complex general industry operations – and it will produce exactly the kind of inconsistent, hindsight-based citation outcomes we have flagged throughout this rulemaking.

Our Recommendation. Remove "staffing" from the definition of work practice controls in §3343(b)(9) and delete §3343(b)(9)(A) and §3343(b)(10)(H) entirely. Staffing decisions are context-dependent operational judgments, not fixed procedural controls. They are not equivalent to procedures or rules and should not be regulated as such.

If the Division is not prepared to remove the staffing reference entirely, we recommend at minimum replacing "maintain order in the facility and respond to workplace violence incidents in a timely manner" with an objective, general industry-appropriate provision — and adding explicit regulatory text confirming that staffing adequacy will not be evaluated in isolation from the full set of hazard controls implemented under the Plan.

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5. Training — Interactive Q&A Response Time | §3343(e)(1)(F)

The April draft adds a new provision specifying that training not given in person must provide for interactive questions to be answered within one business day by a person knowledgeable about the employer's workplace violence prevention plan. The Division notes this change was made based on written comments and to align with §3342, Violence Prevention in Healthcare.

We understand the intent. Employees completing non-in-person training should have a meaningful opportunity to get questions answered, and the existing requirement — interactive questions and answers with a knowledgeable person — already reflects that goal. Our concern is not with the purpose of this provision but with whether a one-business-day response window translates appropriately from healthcare to general industry.

In the healthcare context, the one-business-day standard is operationally reasonable. Healthcare workers report to a fixed facility on a defined schedule, and a question about workplace violence procedure is most relevant before or during a shift. The employer has a defined workforce, a fixed location, and a staffing structure that makes a timely human response feasible.

General industry does not share those conditions. A meaningful and growing portion of the general industry workforce works remotely, on flexible schedules, or in field environments with no fixed reporting location. An employee completing online training at 9:00 PM on a Friday — which is increasingly common — would trigger a response obligation due by the end of business Monday. For large, multi-site employers with distributed workforces, this effectively requires maintaining a standing resource available to respond to training questions outside of normal business hours and across time zones, on a just-in-case basis. The administrative cost of that standing obligation has not been established, and the safety rationale for requiring a faster turnaround on a training question than on access to the underlying program document has not been explained.

For context: access to the written IIPP under §3203 — the foundational program this standard is incorporated into — requires employer response within five business days.

We also note that as EHS compliance functions increasingly incorporate AI-based tools and interactive knowledge bases, limiting the response to "a person" may create an unnecessary and increasingly impractical constraint. A well-designed interactive tool capable of providing accurate, plan-specific responses serves the same purpose — and in some cases serves it more consistently and immediately than a human respondent on standby. The regulation should be drafted to accommodate how compliance tools actually function today and will function tomorrow.

Our Recommendation. Replace the one-business-day response requirement with five business days, consistent with §3203. We also recommend revising the provision to permit responses by interactive, plan-specific technology-based tools — not limited to a human respondent — where such tools are capable of providing accurate answers to employee questions.

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6. Stalking — "Reasonably Aware" Limitation Language | §3343(b)(10)(K)

We raise one residual concern about the limiting language attached to §3343(b)(10)(K), which extends employer responsibility to stalking situations the employer "could otherwise be reasonably aware of." The first clause — incidents brought to the attention of the employer — is the right standard. It is clear, workable, and establishes a defined trigger: the employer has a responsibility because someone told them. That is a defensible and enforceable obligation.

The second clause — "or that the employer could otherwise be reasonably aware of" — is not. Stalking situations frequently involve personal relationships and private information that employees share selectively and informally, outside of any established reporting channel. Under this language, an employer could be found responsible for a stalking situation that was discussed between coworkers in casual conversation — never reported to a supervisor, never elevated through any formal process — on the basis that the information existed somewhere within the organization and the employer "could" have known.

Holding the employer responsible for constructive knowledge derived from informal social exchanges — rather than from established reporting mechanisms — extends employer liability beyond what is operationally reasonable and beyond what the employer can meaningfully be expected to manage.

The first clause already accomplishes the goal: if an employee reports a stalking concern, the employer has an obligation to respond. That is appropriate. The second clause adds uncertainty without adding protection.

Our Recommendation. Delete "or that the employer could otherwise be reasonably aware of" from §3343(b)(10)(K). The remaining language — stalking "that occurs at a place of employment, or in connection with a place of employment that is brought to the attention of the employer" — is appropriate, workable, and sufficient to address the concern that motivated this provision. It places the obligation where it belongs: on the employer who has been informed, not on an individual who may piece together information from informal conversations that never reaches anyone with authority or responsibility to act.

Closing

The April 2026 draft reflects a genuine and productive pre-rulemaking process, and we appreciate the Division's continued responsiveness throughout this engagement. The changes that addressed our prior recommendations are real improvements, and they demonstrate that this process is working as it should.

The concerns we raise above are targeted and specific. They are not objections to the purpose or direction of this regulation. They are practical concerns about provisions that, as currently drafted, will not function as intended across the complex, multi-site general industry environments our members operate — and, in the case of records access, introduce risks that the regulation's own existing structure was designed to prevent.

We remain committed to continued engagement and are available to meet individually with Division staff to discuss any of these issues in greater detail. We look forward to the next draft and will continue to participate constructively as this rulemaking moves forward.

Sincerely,

Helen Cleary
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OSH Proterie

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