

Zero Tolerance for Workplace Violence



By

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Key Component of Workplace Safety

Workplace safety is one of those better-safe-than-sorry areas of management where prevention is critical. Although an organization's hiring and supervision policies appear to preclude violent behavior in the workplace, early intervention helps prevent more serious acts. Instituting a zero tolerance for workplace violence policy sends a clear message to all involved that in your nonprofit there are consequences for violent actions.

Did You Know?

- In 2006, an estimated 2 million U.S. employees were physically or verbally abused in the workplace.
- 58% of senior managers have been threatened by an employee.

Addressing Threats

For the most part, the people who live in the nonprofit world — employees, volunteers, donors, clients, participants and attendees — are well meaning folk who bring an inspired mission to life. Occasionally, a handful of people — through their words and actions — strike fear in the hearts of a nonprofit's employees. For example:

- The recently terminated employee who shouts, "I will get you for this!" as he is being escorted out of the building;
- The parent of a child who has been removed from the nonprofit's programs due to repeated misbehavior who sends an e-mail to the executive director promising to "make your life hell for what you've done to my kid"; or
- The anonymous caller who leaves a message on the nonprofit's answering machine expressing rage at the nonprofit's selection of a controversial political figure as the keynote speaker at its upcoming annual conference.

Workplace Violence

OSHA Standards

There are currently no specific standards for workplace violence.

Section 5(2)(1) of the OSH Act, often referred to as the General Duty Clause, requires employers to “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.” Section 5(a)(2) requires employers to “comply with occupational safety and health standards promulgated under this Act.”

Note: 24 states, Puerto Rico and the Virgin Islands have OSHA-approved State Plans and have adopted their own standards and enforcement policies. The Connecticut, New Jersey, New York and Virgin Islands plans cover public sector (state & local government) employment only. For the most part these states adopt standards that are identical to Federal OSHA. However, some states have adopted different standards applicable to this topic or may have different enforcement policies. (See www.osha.gov for links to state plans.)

The organization needs to interpret and address threats against specific people or the nonprofit. Staff members need to discern an “empty threat” from one that is serious. They need to know when a threat should be reported to law enforcement or when to obtain outside help addressing threats.

Evaluating Threats

Determining which threat to take seriously, which is just venting or which is a hoax is part experience, part intuition and part luck. Your nonprofit can create policies that put people on notice that threats will not be tolerated.

Defining Workplace Violence

Perception is reality. For instance, one person’s perceived teasing may be another person’s perceived threat. Defining what the organization considers “violent” behavior alleviates most misunderstanding. The organization’s policies should spell out in clear and simple language what the organization considers violent behavior and what consequences will ensue if the policies are broken. See the two examples that follow.

Definitions of terms

[Name of Nonprofit] prohibits disrupting, interfering, or preventing normal work functions or activities; making physical or verbal threats; or endangering the health or safety of any individual.

- Disruptive behaviors include yelling, using profanity, waving arms or fists, verbally abusing others, and refusing reasonable requests for identification.
- Threatening behavior includes physical actions short of actual contact or injury (moving aggressively into another’s personal space), general oral or written threats to people or property (“You better watch your back.” “I’ll get you.”), and implied threats (“You’ll be sorry.” “This isn’t over.”).
- Violent behavior includes any physical assault, with or without weapons; behavior that a reasonable person would interpret as being potentially violent (throwing things, pounding one’s fist on a desk or door, or destroying property), or specific threats to inflict physical harm (a threat to shoot a specific person: “I’m going to shoot you, Eustis.”).

Sample language prohibiting workplace violence

The safety of [name of nonprofit]’s employees, clients, and visitors is an important concern to the organization. Threats, threatening behavior or acts of violence against employees, clients, visitors or others while on [name of nonprofit]’s property, conducting business or receiving services from [name of nonprofit] won’t be tolerated. Violations of this policy will lead to disciplinary action, possible dismissal, and criminal prosecution as appropriate.

Blogs Gone Wrong

Q. Can you discipline or terminate an employee for bad-mouthing your nonprofit in a blog or e-mail?

A. Yes – While a disciplined or terminated employee might believe that your actions violate their First Amendment right to freedom of speech, remember that the First Amendment to the Constitution limits *governmental action*; it does not restrict private employers’ behavior. You can and should discipline an employee or volunteer who disparages your nonprofit in a blog. Harsher discipline and in most cases termination is appropriate for a staff member or volunteer who makes a threat of violence in a personal blog.

Threat of a Lawsuit

In some cases an angry employee, volunteer or client may threaten to sue the nonprofit. At a minimum, make a

record of the threat and file a note indicating the statement made, and date and time in the appropriate file in your office (e.g. personnel, volunteer, client, vendor, unknown person file). Even before the nonprofit is threatened, speak to the organization's insurance advisor (broker or agent) about whether your particular insurance providers want threats of litigation reported as "incidents" under your current policies. This differs on a company-to-company basis. Some companies prefer to receive notice of incidents so that they can decide whether any assistance or intervention on their part will potentially ward off the threatened litigation. Others prefer that their insureds only report formal lawsuits or other claims for money damages.

Source: [***Workplace Safety Is No Accident: An Employer's Online Toolkit to Protect Employees and Volunteers.***](#)

Any person who engages in violent or threatening behavior on [name of nonprofit's] property or who uses any electronic means to make a threat against a staff member, volunteer or consumer of the nonprofit shall be removed from the premises as quickly as safety permits, and shall remain off [name of nonprofit's] premises pending the outcome of an investigation. Subsequent to the investigation, [name of nonprofit] will respond appropriately. This response may include, but isn't limited to, suspension and/or termination of any business relationship, reassignment of job duties, suspension or termination of employment, and/or the pursuit of criminal prosecution of the person or persons involved.

Handling Threats

In addition to policies, the nonprofit can create procedures to tell employees and volunteers how they are expected to handle specific threats. As an example, the policy reads:

"No bomb threat or arson threat call should be taken as a joke or disregarded. Treat all such calls as real threats to safety and immediately contact the Security Department. This includes threats of death or bodily injury.

The procedures include:

1. Call the Security officer or department at extension xxxx immediately. Sound the fire alarm and evacuate the building immediately pursuant to the procedure for a fire evacuation.
2. Notify the police in the case of a bomb threat or the fire department in the case of a fire threat.
3. No one can reenter the building until authorized by the appropriate police and/or fire authorities.
4. Threats of death or bodily injury should be reported to the Security officer or department immediately."

Post procedures in the workplace closest to where the threat of violence might occur; for a bomb threat, the mailroom might be the logical place.

Suspicious Parcels or Letters

- Do not try to open the mail piece!
- Isolate the mail piece.
- Evacuate the immediate area.
- Call a Postal Inspector to report that you've received a letter or parcel in the mail that may contain biological or chemical substances."

Provide a heads-up alert to senior managers when a situation deems watching. When a terminated employee or a dismissed client appears to be exceptionally agitated, alert senior managers that they should take threatening phone calls seriously.

Weapons at Work

Homicide is the fourth-leading cause of fatal occupational injury in the United States. The Bureau of Labor Statistics Census of Fatal Occupational Injuries reports that there were 564 workplace homicides in 2005 in the United States, out of a total of 5,702 fatal work injuries (www.bls.gov).

Most states prohibit the carrying of concealed weapons, but the majority of states don't have laws that specifically address whether or not an employer may prohibit employees from bringing weapons to work. In the absence of a law, employers are free to address this matter in their personnel policies. Two states (Montana and Oklahoma) won't allow employers to ban weapons from parking areas, employee cars or common outdoor areas. A few states (including Minnesota, Missouri, North Carolina, South Carolina and Tennessee) require employers to post a notice that bringing guns or carrying concealed weapons on the premises is prohibited. Ohio has a state law that provides immunity to employers from liability in a civil action for injury or death caused by someone who brings a gun onto the premises.

Source: [***Taking the High Road, A Guide to Effective and Legal Employment Practices for Nonprofits, 2nd Edition, page 202.***](#)

Reporting Potential Threats

All personnel should take responsibility for notifying management of any threats that they've witnessed, received, or have been told that another person has witnessed or received.

Even without an actual threat, staff members should also report any behavior they've witnessed or messages they have received that they regard as threatening or violent, when that behavior or communication is job related.

Employees are responsible for making this report regardless of the relationship between the individual who initiated the threat or threatening behavior and the person/persons who were threatened or were the focus of the threatening behavior.

Employees should report the presence of a weapon immediately to a manager, a supervisor, or if appropriate, to the police by calling 911 (or other emergency number in the jurisdiction).

Involving Law Enforcement

If there is any possibility that the threat to harm to property or personnel is real, call in the next level of defense. Follow the chain of command in your organization — unless the threat is imminent. If the person threatens and immediately follows through, staff members should be instructed to call 9-1-1 (or the variation of this emergency number in the community). If the staff member has a wireless device, the person should leave the building and make the call. If the individual can safely call from within the building, he/she should call from there. Instruct personnel to calm down by taking several deep breaths, then speaking slowly, say what the threat is (man with a gun; ticking package, etc.), give his/her name, the address of the building and the number of people on the scene (in the building, on the playing field, etc.)

The following samples, an Emergency Action Plan and Workplace Anti-Violence Plan, were generously provided by the [Nonprofits' Insurance Alliance of California](#).

- [Emergency Action Plan](#)
- [Workplace Anti-Violence Plan](#)

Threat of Physical Harm

When one of your employees or volunteers has been threatened with physical harm, it is important to take immediate action to protect the employee or volunteer. First, meet with the person to obtain details of the threat and assess their feelings about its seriousness and fear level. Next, discuss with the individual what steps the organization might take. Some of the steps that you might agree on include:

- Requiring that visitors to the office be identified and then "buzzed" in rather than leaving your front office door open;
- Restricting the employee's or volunteer's work hours to times when other staff members will be in the office;
- Providing an escort for the employee or volunteer from the office to his or her vehicle;
- Allowing the employee to take unscheduled leave;
- Setting up a meeting with a representative of the local police department and the employee or volunteer

Preventing Workplace Violence

Checklist

Answer "Yes" or "No."

The nonprofit has a zero-tolerance policy toward workplace violence against or by workers.

The nonprofit has a workplace violence prevention program or incorporated the information into an existing accident prevention program, employee handbook, or manual of standard operating procedures.

All employees know the policy and understand that all claims of workplace violence will be investigated and remedied promptly.

Safety education is provided for all workers so they know what conduct is not acceptable, what to do if they witness or are subjected to workplace violence, and how to protect themselves.

The workplace is secure. Where appropriate to the mission, the nonprofit has installed video surveillance, extra lighting, and alarm systems and minimized access by outsiders through identification badges, electronic keys,

and guards.

The nonprofit has a “buddy system” or provides an escort service or police assistance in potentially dangerous situations or at night.

Employees are taught how to recognize, avoid, or diffuse potentially violent situations by attending personal safety training programs.

Procedures for reporting and logging all incidents and threats of workplace violence are developed and presented.

Prompt medical evaluation and treatment are provided after any incident.

Violent incidents are reported to the local police promptly.

Victims of workplace violence are informed of their legal right to prosecute perpetrators.

Source: [**Workplace Safety Is No Accident: An Employer's Online Toolkit to Protect Employees and Volunteers.**](#)

Negligence and the Duty to Prevent Foreseeable Harm

Under the legal *theory of negligence*, a nonprofit that has knowledge, or should have had knowledge, about an employee's dangerous attributes, could be liable for failing to prevent foreseeable harm to others. If a nonprofit hires an employee with a criminal record or past history of violence, which the nonprofit either knew about or should have known about, and that employee causes injury while working for the nonprofit, the organization could be legally responsible for the harm caused by the employee under the theory of negligent hiring. The basic elements of a cause of action for negligent hiring are:

1. An employment relationship exists between the nonprofit and the employee who caused the injury.
2. The employee was dangerous, incompetent, unprepared, ill-trained or otherwise unfit.
3. The employer knew or should have known through reasonable investigation that the employee was unfit or a danger to others.
4. The employee's wrongful actions, whether negligent or intentional, caused harm to another.

In the majority of states, court rulings have held that an employer who negligently hires or retains an individual who is unfit or incompetent is liable to a third party who is injured by that employee's conduct.

A nonprofit could be liable for negligent retention if an employee had previously acted violently or threatened violence, but the nonprofit didn't discharge the employee. A nonprofit could also be liable for acts of workplace violence that the nonprofit should have avoided through adequate training and supervision under the theory of negligent supervision.

Finally, a nonprofit can be liable under the theory of negligent failure to warn when the nonprofit has knowledge of the dangerous attributes of an employee, but takes no steps to warn other employees or specific identifiable persons whom the employee might harm.

Summary

While policies and raising awareness can't completely insulate any nonprofit from the risk of workplace violence, by incorporating some of the recommendations in this article your nonprofit will make a good faith efforts to educate and prepare staff for emergencies, have acted promptly to address concerns of the incompetence of staff or threats of workplace violence, and convey the message that safety truly is a primary concern.