OFFICE OF THE COUNTY EXECUTIVE

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Edwin J. Day *Rockland County Executive*

September 30, 2019

To:

All Commissioners and Department Heads

From:

Edwin J. Day

County Executive

Subject:

EXECUTIVE ORDER 2019-03: AMENDING EXECUTIVE ORDER 2009-03 Workplace Violence Prevention Program

Purpose of Order

In accordance with New York State Labor Law §27-b, the County has undertaken the review of the County of Rockland's Workplace Violence Prevention Program.

Pursuant to law, the County administration under the direction of the County Executive, is dedicated to compliance with the New York State Workplace Violence Prevent Act of 2006 which amended New York State Labor Law §27-b, by requiring all state and local government employers to take steps to ensure their employees are adequately protected from potential incidences of violence in the workplace.

Implementation of Executive Order

- I. Implementation of the program.
 - A. In accordance with New York State Labor Law §27-b and the regulations established by the New York State Department of Labor, (See 12 NYCRR 800.6), all employees and departments of the County of Rockland shall adhere to the requirements of law, regulations, and the most recent Workplace Violence Prevention Program policy on file with the Executive Order of the County Executive:

- 1. the most recently filed policy is incorporated into this Executive Order by reference;
- 2. the latest policy shall be on file, in hardcopy, in each department and available to any employee of the department upon request; and
- 3. the latest policy shall be posted on the County's website.
- B. Each time a new version of the policy is promulgated all department heads, supervisors, managers and other employees, shall be informed of the location of the written the Workplace Violence Prevention Program and how to obtain a copy.
- C. The regimen for training shall be developed and implemented in accordance with the training guidelines promulgated by the New York State Department of State.

II. Program re-evaluation and renewal

- A. Pursuant to section 27-b and 12 NYCRR 800.6, the Workplace Violence Prevention Program policy shall be re-evaluated annually.
- B. Re-evaluation shall be conducted by the Department of Law in consultation with the Hazard Reduction Team.
- C. For the purposes of re-evaluation, the Hazard Reduction Team shall keep copies of all reports of workplace violence, as defined by law or the policy.
- D. Re-evaluation must be completed by November 1st of each year, with the final revisions made to the Workplace Violence Prevention Program policy by December 31st.
- E. The anticipated cost of compliance with the training of the program shall be included in the Department of Personnel's annual budget submission.
- F. The anticipated cost of annual re-evaluation shall be included in the Department of Law's annual budget submission.

III. Scope of this Executive Order

As a result of the statutory responsibility of the County Executive as the ultimate employer of each employee serving the Executive Branch of the County's government, this Workplace Violence Prevent Program applies only to those departments and employees within the Executive Branch of government.

Elected officials and agencies that are not within the executive branch of the County government are free to, and encouraged to, adopt this policy. Failure to do a policy, may result in fines imposed by the New York State Department of Labor, which is charged with enforcing New York Labor Law §27-b.

These non-executive branch agencies are welcome to use the resources of the executive branch to implement the Workplace Violence Prevention Program, if it is adopted by those agencies.

Edwin J. Day COUNTY EXECUTIVE

Attachments(s)

cc: Larry Toole, Clerk to the Legislature

Rockland County

WORKPLACE VIOLENCE PREVENTION PROGRAM

September 30, 2019

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SECTION 1 – INTRODUCTION

POLICY STATEMENT

Rockland County is committed to providing its employees with a work environment that is safe, secure, and free from violence. The County also considers the safety of its residents, vendors, contractors, and the general public to be of paramount importance and strives to provide them the same type of protections while on County property.

In accordance with the New York State Workplace Violence Prevention Act, Rockland County has developed a Workplace Violence Prevention Program. As a part of this program, the County, has conducted comprehensive risk evaluations of each County work site. The County will conduct annual reviews to identify risk factors that may increase the likelihood of workplace violence and implement appropriate measures to minimize or eliminate these hazards. In order to achieve this goal, the County encourages the participation and cooperation of employees and their authorized employee representative(s).

The County will not tolerate ANY acts of violence in the workplace, including but not limited to, physical assault (e.g., hitting, pushing), threatening, intimidating, or aggressive behavior, or verbal abuse or harassment which creates the reasonable expectation/fear of physical harm. Employees are prohibited from possessing firearms or weapons (e.g., guns, knives (except for pocket knives used in the normal course of the employee's job), explosives, and other items with the intent to inflict harm) in the workplace, even if the employee is licensed to carry the weapon. The only exceptions are for law enforcement and security personnel. An employee who has knowledge that a coworker or visitor possesses a weapon on County property must report this to a Department Head immediately.

For the purpose of this program, the workplace is defined as any location away from an employee's home, either permanent or temporary, where the employee performs any work-related duty in the course of employment. This includes, but is not limited to, County-owned buildings and surrounding perimeters, properties leased by the County, parking lots, work sites, residents' homes, and traveling to and from work assignments.

Any incident of workplace violence or imminent danger must be promptly reported to a Department Head/Supervisor and to the Hazard Reduction Team ("HRT")/or Risk Management as outlined in Section 2 (Employee Responsibility) of this program manual.

The Hazard Reduction Team is comprised of but not limited to, the County's Coordinator, Safety, Compliance & Fire Services, department head or designated employee(s) from Sheriff, Law, Personnel, Facilities Management and Insurance/Risk Management who shall be considered the department representatives. Such other representatives as the County Executive may designate.

Violations of this policy will result in appropriate remedial, disciplinary, and/or legal action, according to the circumstances.

Anyone, either directly or indirectly, participating in the process of a workplace violence incident will not be subject to criticism, reprisal, retaliation, demotion, discrimination, disciplinary action, or other adverse employment action for making a good faith report of acts pursuant to this program.

This Workplace Violence Prevention Program policy statement will be posted where notices to employees are normally displayed. In addition, a copy of the program manual will be made available to employees, the authorized employee representative(s), and the Commissioner of the New York State Department of Labor at each of the County's work sites during normal working hours.

OVERVIEW OF THE NEW YORK STATE WORKPLACE VIOLENCE PREVENTION ACT

Based on an increasing awareness of, and in response to, the violence that was occurring in public sector workplaces, the New York State Workplace Violence Prevention Act was passed in 2006. The Act amended NYS Labor Law by adding Section 27-b. Section 27-b requires all state and local government employers to take steps to ensure their employees are provided adequate protection from potential incidents of violence in the workplace.

Among other stipulations, Section 27-b requires Rockland County to:

- 1. Conduct a risk assessment of its work sites to identify and address any existing risk factors that may increase the possibility of workplace violence;
- 2. Provide training for all employees (upon initial assignment and annually thereafter) which informs them of the risk factors that may be present at their work sites, the measures they can take to protect themselves from such risks, and the steps the employer has implemented to protect employees, such as appropriate work practices, emergency procedures, and use of security alarms and other devices; and
- 3. Develop and implement a written workplace violence prevention program that lists the risk factors and the methods the employer is using to prevent violence and minimize or eliminate identified hazards.

WHAT IS WORKPLACE VIOLENCE?

12 NYCRR section 800.6.11 defines workplace violence as:

Any physical assault or acts of aggressive behavior occurring where a public employee performs any work-related duty in the course of his or her employment including, but not limited to:

- (i) An attempt or threat, whether verbal or physical, to inflict physical injury upon an employee;
- (ii) Any intentional display of force which would give an employee reason to fear or expect bodily harm;
- (iii) Intentional and wrongful physical contact with a person without his or her consent that entails some injury;
- (iv) Stalking an employee with the intent of causing fear of material harm to the physical safety and health of such employee when such stalking has arisen through and in the course of employment.

Many different actions in the work environment can trigger or cause workplace violence. It may even be the result of non-work-related situations, such as domestic violence or "road rage."

Workplace violence can be inflicted by an employee, a supervisor, department head, resident, member of the public, contractor, vendor, family member, or even a stranger.

WHAT IS A WORKPLACE VIOLENCE INCIDENT?

A workplace violence incident may be committed without one person actually touching, striking, or doing bodily harm to another person (i.e. harassment of a nature that would give a person reason to fear escalation or make it difficult to pursue a normal life when the harassment arises out of or in the course of employment).

While sexual harassment (as defined in Executive Order #19 and the New York State Human Rights Law) is prohibited by Rockland County, it is specifically excluded from the definition of a workplace violence incident. An employee should refer to the County's sexual harassment policy for more information about this topic. Any questions should be directed to the employee's Department Head.

Definitions

The following definitions as set forth in Article 27b of the New York State Labor Law and 12 NYCRR Part 800.6 are to be used, incorporated into, and made a part of this program.

Terms: As used in or in connection with this part, the following terms mean:

- (1) Authorized Employee Representative. An employee authorized by the employees or the designee representative of an employee organization recognized or certified to represent the employee pursuant to Article 14 of the Civil Service Law.
- (2) Commissioner. The Commissioner of Labor of the State of New York or his or her duly authorized representative for the purposes of implementing this Part.
- (3) Employee. A public employee working for an employer.
- (4) Employer. The State, any political subdivision of the State, any public authority, public benefit corporation, and any other governmental agency or instrumentality thereof, except that an employer shall not include, for purposes of this part, any employer defined as such in Section twenty-eight hundred one-a (2801a) of the Education Law.
- (5) Imminent Danger. Any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided for by this Part.
- (6) Retaliatory Action. The discharge, suspension, demotion, penalization or discrimination against any employee, or other adverse employment action taken against an employee in the terms and condition of employment.

Definitions – continued

- (7) Serious physical harm. Physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ of a sexual offense as defined in Article 130 of the Penal Law.
- (8) Serious violation. A serious violation of the public employer workplace violence prevention program (WVPP) is the failure to:
 - (a) Develop and implement a program; and/or
 - (b) Address situations which could result in serious physical harm.
- (9) Supervisor. Any person within the employer's organization who has the authority to direct and control the work performance of an employee, or who has the authority to take corrective action regarding the violation of a law, rule, or regulation to which an employee submits written notice.
- (10) Workplace. Any location away from an employee's domicile, permanent or temporary, where an employee performs any work-related duty in the course of his or her employment by an employer.
- (11) Workplace Violence. Any physical assault or acts of aggressive behavior occurring where a public employee performs any work-related duty in the course of his or her employment including but not limited to:
 - (i) Any attempt or threat, where verbal or physical, to inflict physical injury upon an employee;
 - (ii) Any intentional display of force which would give an employee reason to fear or expect bodily harm;
 - (iii) Intentional and wrongful physical contact with a person without his or her consent that entails some injury;
 - (iv) Stalking an employee with the intent of causing fear of material harm to the physical safety and health of such employee when such stalking has arisen through and in the course of employment.
- (12) Workplace Violence Prevention Program. An employer program designed to prevent, minimize and respond to any workplace violence, the development and implementation of which is required by Article 2, Section 27-b of the New York State Labor Law.

SAVINGS CLAUSE

Rockland County has made every effort to ensure that this Workplace Violence Prevention Program complies with NYS Department of Labor regulations. In the event any of the provisions, portions or applications of this program are found to be invalid or inconsistent with any superseding legal requirements by any tribunal of competent jurisdiction, then the provisions, portions or applications specified in such decision shall be of no force and effect, but the remainder of this program shall continue to be in full force and effect.

SECTION 2 – EMPLOYEE AND SUPERVISOR ROLES AND RESPONSIBILITIES

EMPLOYEE RESPONSIBILITIES

Employee and authorized employee representative involvement in Rockland County's Workplace Violence Prevention Program is essential to the program's success. Employees are expected to read, understand, and comply with the County's program and to attend ongoing education and training on workplace violence. Any questions should be directed to the employee's Department Head/Supervisor.

Employees must promptly report any violations of the County's Workplace Violence Prevention Program or any imminent danger of workplace violence in accordance with the reporting procedures outlined in Section 5 (Incident Reporting, Investigation, and Recordkeeping) of this program manual.

PROTECTIVE AND RESTRAINING ORDERS

An employee who applies for or obtains a protective or restraining order which lists specific workplace locations as being protected areas must provide the employee's Department Head/Supervisor a copy of the petition and declaration used to seek the order. The Department Head in turn is to immediately notify the HRT and County Attorney. A copy of any temporary or permanent protective or restraining order that was granted must also be provided. The County will follow confidentiality procedures that recognize and respect the privacy of the reporting employee.

SUPERVISOR RESPONSIBILITIES

Department Heads are responsible for communicating the Workplace Violence Prevention Program to employees and answering any of their questions. Department Heads are expected to enforce the program in a fair and consistent manner and ensure all aspects of the program under their area of responsibility are properly met.

If an employee notifies his/her Department Head of an actual or potential workplace violence incident or submits a completed Workplace Violence Incident Report (Form-1), the Department Head is responsible for following the reporting procedures as outlined in Section 5 (Incident Recordkeeping, Reporting, and Investigation) of this program manual.

HAZARD REDUCTION TEAM

The Hazard Reduction Team is comprised of, but not limited to, the County's Coordinator, Safety, Compliance & Fire Services, the department head or designated employee(s) from Sheriff, Law, Personnel, Facilities Management and Insurance/Risk Management who shall be considered the department representatives.

The HRT's responsibilities will include:

- Participating in a comprehensive risk evaluation of the entire workplace to identify any factors or situations that may place employees at risk of violence;
- Reviewing feedback on employee surveys and interviews to collect data on the risk factors
 employees believe are present in the workplace to determine if there have been previous
 workplace violence incidents, etc.;
- Participating in developing risk reduction strategies and plans for responding to acts of violence;
- Conducting investigations of workplace violence incidents and implementing any necessary measures to reduce or eliminate the likelihood of similar incidents occurring;
- Reviewing the Workplace Violence Prevention Program at least annually, including analyzing Workplace Violence Incident Reports, if any, to identify trends in the types of incidents that occurred during the year and to determine the effectiveness of the mitigating actions taken and submit comments; and
- Updating the Workplace Violence Prevention Program as needed.

The listing of the County's Hazard Reduction Team members and the HRT contact information is available on the RCWEB and is posted in each department.

SECTION 3 – RESPONSE PROCEDURES

DURING AN INCIDENT

If a threatening situation arises:

- Try to remain calm;
- Remove yourself from the threat as soon as possible;
- Immediately call, or alert others to call, for on-site assistance from the appropriate resource (e.g., supervisor, police, ambulance). Refer to the County's emergency evacuation plan for the appropriate emergency contact number; and
- Notify coworkers as soon as practical to enable them to also reach safety if danger is imminent and applicable to them.

POST INCIDENT

If a workplace violence incident occurs or an employee submits a Workplace Violence Incident Report, the Department Head, in consultation with the County Attorney's Office, as needed, will coordinate the conduct of a thorough investigation of the situation.

Rockland County will respect the privacy and confidentiality rights of employees during investigations to the greatest extent possible, although the County cannot guarantee complete confidentiality.

Based on the specific situation and the results of the investigation, appropriate measures will be taken, if needed, to eliminate or reduce the likelihood of similar workplace violence incidents occurring in the future. If the workplace violence incident was related to a threat, all employees who might be affected if the threat-maker were to carry out such threat will be given proper notification. Throughout the investigation, the County will maintain open lines of communication with employees, visitors, and the public to answer questions and alleviate anxiety.

Rockland County will provide information to potential or actual victims about the options available to them, such as obtaining a restraining order against the threat maker, obtaining follow-up medical care, and counseling services through an Employee Assistance Program (EAP).

DEALING WITH CONFLICT

There is no sure way to tell whether someone will become violent. However, there are often warning signs before violence occurs. These warning signs do not mean that the individual will actually become violent, but in combination, they should be a cause for concern. Warning signs of potentially violent individuals include, but are not limited to:

- Written, oral, or implied threats or intimidation.
- Fascination with weaponry or acts of violence.
- Theft or sabotage of projects or equipment.
- Alcohol or drug abuse in the workplace.
- Expressions of hopelessness or heightened anxiety.
- Intention to hurt self or others.
- Lack of concern for the safety of others.
- Externalization of blame.
- Irrational beliefs and ideas.
- Romantic obsession.
- Displays of excessive or unwarranted anger.
- Feelings of victimization.
- Inability to take criticism.
- New or increased sources of stress at home or work.
- Productivity and/or attendance problems.

DEALING WITH POTENTIALLY VIOLENT INDIVIDUALS

Do's

- Do project calmness. Move and speak slowly, quietly, and confidently.
- Do listen attentively and encourage the person to talk.
- Do let the speaker know that you are interested in what he or she is saying.
- Do maintain a relaxed yet attentive posture.
- Do acknowledge the person's feelings and indicate that you can see he or she is upset.
- Do ask for small, specific favors such as asking the person to move to a quieter area.
- Do establish ground rules. State the consequences of violent or threatening behavior.
- Do employ delaying tactics that give the person time to calm down. For example, offer a glass of water.
- Do be reassuring and point out choices.
- Do help the person break down big problems into smaller, more manageable problems.
- Do accept criticism. When a complaint might be true, use statements such as, "You're probably right" or "It was my fault." If the criticism seems unwarranted, ask clarifying questions.
- Do arrange yourself so that your exit is not blocked.
- Do make sure there are at least three to six feet between you and the other person.

Don'ts

- Don't make sudden movements that may seem threatening.
- Don't speak rapidly, raise your volume, or use an accusatory tone.
- Don't reject all demands.
- Don't make physical contact, jab your finger at the other person, or use long periods of eye contact.
- Don't pose in challenging stances, such as directly opposite someone, hands on hips, or with arms crossed.
- Don't challenge, threaten, or dare the individual. Never belittle the other person.
- Don't criticize or act impatient.
- Don't attempt to bargain with a threatening individual.
- Don't try to make the situation seem less serious than it is.
- Don't make false statements or promises you cannot keep.
- Don't try to impart a lot of technical or complicated information when emotions are high.
- Don't take sides or agree with distortions.
- Don't invade the individual's personal space.

SECTION 4 – TRAINING AND EDUCATION

All employees will receive training and education on the risks of workplace violence. Training will be provided at the time of hire and at least annually thereafter. Additional training may be required prior to starting a new job assignment, if new laws relating to workplace violence are enacted or there are changes in any current laws, or if Rockland County makes significant changes in its Workplace Violence Prevention Program.

At a minimum, the County's employee training and education will address the following:

- Overview of the New York State Workplace Violence Prevention Act and NYS Labor Law Section 27-b.
- Overview of the County's Workplace Violence Prevention Program.
- Workplace location of the County's Workplace Violence Prevention Program manual and procedures for obtaining a copy.
- Methods of recognizing and responding to incidents of violence.
- Standard response action plan for violent situations.
- Procedures for reporting a workplace violence incident or imminent danger.
- Measures employees can take to protect themselves from identified risks.
- Procedures, policies, safety devices, and/or work environment accommodations that have been implemented to protect employees based on the results of the risk evaluation.

SECTION 5 – INCIDENT REPORTING, INVESTIGATION, AND RECORDKEEPING

INCIDENT REPORTING

Rockland County will follow all federal, state and local laws and procedures in the reporting of workplace violence incidents.

Internal Reporting Procedures

Any employee or authorized employee representative who believes that a workplace violence imminent danger exists or that there has otherwise been a violation of the County's Workplace Violence Prevention Program should report such to the employee's Department Head/Supervisor. If the Department Head/Supervisor is unavailable or is a party to the violation, the report should be made to the Hazard Reduction Team.

An employee is responsible for reporting all incidents of violence in writing within 48 hours of the occurrence using the Workplace Violence Incident Report.

The Department Head, in turn, is responsible for forwarding copies of the Workplace Violence Incident Report to the HRT.

If, after providing the County a reasonable opportunity to resolve the situation set forth in the Workplace Violence Incident Report, the employee believes that a violation of the County's program still exists or that there continues to be a workplace violence danger, the employee may contact the Commissioner of Labor at the NYS Department of Labor to request an inspection. Such request must be in writing, be signed by the employee or the employee's authorized representative, and include specific information as to the alleged violation or perceived danger. The Commissioner of Labor will provide a copy of the employee's notice to Rockland County no later than the time of inspection. The employee may request that his or her name, the names of individual employees, and/or the authorized employee representative's name be withheld from the County.

An employee will not be subject to criticism, reprisal, retaliation, demotion, discrimination, disciplinary action, or other adverse employment action for making a good faith report of acts pursuant to this program.

Law Enforcement Reporting Procedures

The Department Head, employee or any Rockland County Official with knowledge is responsible for immediately reporting any workplace violence incident that may be of criminal or domestic violence nature to the County Sheriff's Department, as well as the HRT and County Attorney's Office.

If a pattern of workplace violence incidents involving criminal conduct or serious injury develops, Rockland County will work with the District Attorney and/or the County Sheriff's Department to develop a protocol to ensure that any future violent crimes occurring in the workplace are promptly investigated and appropriately prosecuted.

If an employee chooses to file a criminal complaint, the County will provide the employee with the protocol and contact information for the District Attorney and/or the County Sheriff's Department. Rockland County will not infringe upon the right of an employee to pursue or file a criminal complaint.

Department of Safety and Health Reporting Requirements

The County is required to report any workplace violence related fatalities and multiple hospitalizations to the Department of Safety and Health ("DOSH") District Office within eight hours of the incident. (Refer to NYCRR Part 801 for complete information pertaining to employee recordkeeping and PESH reporting requirements). The nearest DOSH District Office is located at:

White Plains District Office

120 Bloomingdale Road, Room 250 White Plains, NY 10605 Tel. 914-997-9514 Fax. 914-997-9528

Whenever there is a workplace violence incident resulting in an employee fatality or multiple employee hospitalizations, DOSH will conduct an on-site inspection. Other valid complaints that do not involve a fatality or multiple hospitalizations may result in an on-site inspection to determine if the County is in compliance with the Workplace Violence Prevention Act.

INCIDENT INVESTIGATION

Risk Evaluation after a Workplace Violence Incident

The Hazard Reduction Team will coordinate or perform a risk evaluation and determination immediately after the occurrence of a workplace violence incident. The investigation may take various forms, depending upon the type of incident.

Upon completion of its review, the Department Head and/or HRT will address the cause(s) of the incident and take the necessary steps to eliminate or reduce the likelihood of such an incident occurring again. The team may also make recommendations for revising the Workplace Violence Prevention Program. Any revisions to the program will be put in writing and made available to employees. Employee training will be provided if significant changes to the program are made. The County will also consider global prevention enhancements at all work sites which may be necessary to properly protect employees. All of the above will be reviewed prior with the County Executive or his/her designee.

Review of Workplace Violence Program and Incident Reports

The Hazard Reduction Team are responsible for reviewing the County's Workplace Violence Prevention Program and making any appropriate modifications at least annually. This review will include analyzing SH 900 Logs and Workplace Violence Incident Reports, if any, for any trends in the types of workplace violence incidents occurring and to review the effectiveness of the mitigating actions the County has taken.

INCIDENT RECORDKEEPING

Rockland County will maintain accurate records regarding all workplace violence incidents. The County will adhere to all of the requirements of 12 NYCRR Part 801, known as the Public Employer Recordkeeping Rule, which is implemented pursuant to Section 27-a of the Labor Law, for the recording of employee injuries or illnesses due to workplace violence incidents. All workplace violence incident forms will be kept according to the applicable retention and disposition schedules.

Any situation that meets the definition of a workplace violence incident as defined in Section 1 (Introduction) or any workplace violence injury that results in imminent danger, serious physical harm, death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness will be documented on a Workplace Violence Incident Report. Any recordable injury will also be documented on the SH 900 Log.

If a workplace violence incident meets the definition of a privacy concern case as specified below, before sharing a copy of the Workplace Violence Incident Report Form with any party other than the Department of Labor, the County will remove the name of the employee who was the victim of the workplace violence incident and shall instead enter "PRIVACY CONCERN CASE" in the space normally used for the employee's name. The County will treat incidents involving the following injuries or illnesses as privacy concern cases:

- (1) An injury or illness to an intimate body part or the reproductive system;
- (2) An injury or illness resulting from a sexual assault;
- (3) Mental illness;
- (4) HIV infection;
- (5) Needle stick injuries and cuts from sharp objects that are or may be contaminated with another person's blood or other potentially infectious material;
- (6) Other injuries or illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the Report.

SECTION 6 – FORMS

The following forms are to be used in administering Rockland County's Workplace Violence Prevention Program:

FORM-1 – Workplace Violence Incident Report Form

FORM-2 – Policy Acknowledgment Form

FORM-3 – Training Acknowledgment Form