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Int. No. 512

By Council Member Lancman

A Local Law to amend the administrative code of the city of New York, in relation to requiring certain city contractors to implement workplace violence prevention programs

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 6 of the administrative code of the city of New York is amended by adding a new section 6-142 to read as follows:

§ 6-142 Social Services Workplace Violence Prevention Act. a. Definitions. For purposes of this section, the following terms have the following meanings:

"Contracting agency" means the following city agencies: the administration for children's services, the department for the aging, the department of homeless services and the human resources administration/department of social services.

"Covered contractor" means a person that contracts with a contracting agency in order to provide social services directly to members of the public and that has one or more employees, except that a covered contractor does not include any person required to comply with section 27-b of the New York labor law.

"Employee" means a non-public employee who performs work for a covered contractor.

"Retaliatory action" means an adverse employment action taken against an employee in the terms and conditions of employment, including but not limited to discharge, suspension, demotion, penalization or discrimination.

"Supervisor" means any person within a covered contractor'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 a violation of a law, rule or regulation of which an employee submits written notice.

"Workplace" means any location away from an employee's domicile where an employee performs any work-related duty in the course of his or her employment by a covered contractor.

"Workplace violence" includes any homicide, assault or other physical violence or any attempted or threatened use of physical violence that occurs in a workplace.

b. Risk evaluation and determination. Every covered contractor shall evaluate its workplace or workplaces for factors or situations that might place employees at risk of workplace violence. Examples of such factors include but are not limited to the following:

1. Working in emotionally escalated situations.

2. Working with potentially aggressive individuals in health care, social service or criminal or juvenile justice settings.

3. Handling or exchanging money.

4. Working late night or early morning hours.

5. Working in areas with exits secured from the inside.

6. Working alone or in small numbers.

7. Working in high-crime areas.

8. Working in locations with uncontrolled public access.

9. Areas of previous security problems.

c. Written workplace violence prevention program. Every covered contractor shall develop and implement a written workplace violence prevention program for its workplace or various workplaces that includes all of the following:

1. A list of the risk factors identified pursuant to subdivision b of this section that are present in such workplace or workplaces.

2. The methods the covered contractor will use to prevent workplace violence. Such methods shall

include, but need not be limited to, the following:

(a) Making high-risk areas more visible to more people;

(b) Providing training in conflict resolution and nonviolent self-defense responses;

(c) Installing and maintaining appropriate security features, such as locks and exterior lighting where appropriate; and

(d) Establishing and implementing reporting systems for instances of aggressive behavior.

3. A hierarchy of controls to which the program will adhere as follows: engineering controls, work practice controls and personal protective equipment.

4. The methods by which the covered contractor will address each specific risk factors identified in the workplace evaluation.

5. A system for reporting, in writing, incidents of workplace violence.

6. A written outline or lesson plan for employee program training.

7. A plan for program review and update on at least an annual basis that includes any mitigating steps taken in response to previous incidents of workplace violence.

d. Employee information and training. 1. Every covered contractor shall make its workplace violence prevention program available upon request to employees, their designated representatives and the contracting agency with which the covered contractor contracts.

2. Every covered contractor shall provide its employees with all of the following information and training on the risks of occupational assaults and homicides in their workplace or workplaces at the time of their initial assignment and annually thereafter:

(a) Employees shall be informed of the requirements of this section, the risk factors in their workplace or workplaces, and the location and availability of the written workplace violence prevention program required by this section.

(b) Employee training shall include at least: (i) the measures employees can take to protect themselves

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from such risks, including specific procedures the covered contractor has implemented to protect employees, such as appropriate work practices, emergency procedures and use of security alarms and other devices, and (ii) the details of the written workplace violence prevention program developed by the covered contractor.

e. Reporting violations. 1. An employee or representative of employees who believes that a serious violation of a workplace violence prevention program exists or that an imminent danger exists shall bring such matter to the attention of a supervisor in the form of a written notice and shall afford the covered contractor a reasonable opportunity to correct the violative activity, policy or practice. This requirement does not apply where an imminent danger or threat exists to the safety of a specific employee or to the general health of a specific person and the employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action.

2. If following a referral of such matter to the employee's supervisor's attention and after a reasonable opportunity to correct the violative activity, policy or practice the matter has not been resolved and the employee or representative of employees still believes that a violation of a workplace violence prevention program exists, or that an imminent danger exists, such employee or representative of employees may request an inspection by giving notice of such violation or danger to the contracting agency with which the covered contractor contracts. Each contracting agency shall designate by rule an individual responsible for receiving and handling such complaints. A notice and request pursuant to this paragraph shall be in writing, shall set forth with reasonable particularity the grounds for the notice and shall be signed by such employee or representative of employees. The contracting agency shall provide a copy of the notice to the covered contractor no later than the time of inspection, except that on the request of the person giving such notice, such person's name and the names of individual employees or representatives of employees shall be withheld. Such inspection shall be made as soon as practicable after receipt of such a request.

3. A contracting agency's representative conducting an inspection shall allow a representative of the covered contractor and an authorized employee representative to accompany such representative during an

inspection for the purpose of aiding such inspection. Where there is no authorized employee representative, the contracting agency's representative conducting the inspection shall consult with a reasonable number of employees concerning matters of safety in the workplace.

4. The authority of a contracting agency to inspect a premises pursuant to an employee complaint under this section is not limited to the alleged violation contained in such complaint. The contracting agency's representative conducting the inspection may inspect any other area of the premises in which he or she has reason to believe that a serious violation of this section exists.

5. No covered contractor may take retaliatory action against an employee as a result of the employee having done any of the following:

(a) Provided written notice pursuant to paragraph 1 of this subdivision.

(b) Requested an inspection pursuant to paragraph 2 of this subdivision.

(c) Accompanied a contracting agency's representative during an inspection as authorized in paragraph 3 of this subdivision or otherwise assisted such representative in the course of an inspection.

6. In addition to conducting inspections pursuant to employee complaints, a contracting agency may establish a general schedule of inspections for purposes of enforcing this section.

7. A contracting agency's representative conducting an inspection may inspect any premises occupied by a covered contractor if such representative has reason to believe that a violation of this section has occurred or if the contracting agency has a general administrative plan for the enforcement of this section, including a general schedule of inspections, which provide a rational administrative basis for such inspections.

8. Any information obtained by a contracting agency pursuant to this subdivision shall be obtained with a minimal burden on any affected covered contractor.

9. When a request for an inspection alleges the existence of an imminent danger such that an employee would be subjecting himself or herself to serious injury or death because of a hazardous condition in the workplace, the applicable contracting agency shall give the request the highest priority and shall perform an

inspection immediately.

f. Incident reports. 1. A covered contractor shall report any instance of workplace violence involving such covered contractor's employees to the applicable contracting agency no later than ten days after its occurrence.

2. No later than sixty days after the end of each fiscal year, each contracting agency shall (i) post a report on its website containing the total number of occupational assaults and homicides occurring that year against employees of its covered contractors and (ii) provide a copy of such report to the council.

g. Each contracting agency shall promulgate rules as necessary to implement and carry out the provisions of this section.

§ 2. This local law takes effect 120 days after it becomes law, except that prior to such effective date the administration for children's services, the department for the aging, the department of homeless services and the human resources administration/department of social services shall take any steps necessary for its implementation, including the promulgation of rules.

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