



Safety and Health Investigations

What to do when DOSH arrives.

If you run a business, you already have valuable experience and training to draw upon. But does your background include managing health and safety investigations? If your answer is no, it is important that you have a handle on these basics, or your business could pay a price.

Health and safety investigations usually occur in response to an accident or complaint. They may also be pre-scheduled as a routine check or follow-up. Either way, when the Washington State Department of Labor and Industries' Division of Safety and Health (DOSH) arrives to conduct an inspection, you want to be well-prepared.

How you respond to the investigation can greatly affect its outcome. You cannot ignore DOSH. And, although you have the right to demand DOSH obtain a warrant, it will only briefly delay the inevitable inspection. It is far better to work with the DOSH inspection team initially. Just be sure you have a plan, and consider including legal counsel. Investigations can result in citation, fines and, in some cases, jail time. This overview can help you get started with a competent plan.

OPENING CONFERENCE

Upon arrival, DOSH will conduct an opening conference with management and labor. You should clarify why DOSH is conducting an investigation. This is your first opportunity to determine the big picture. It will give you a good indication of how the investigation will be conducted and its general timeline. DOSH has six months from the opening conference to complete the investigation and issue any citations.

DOCUMENTS REQUESTS

Once the opening conference is completed, DOSH will request copies of your accident prevention plan and other relevant documents in an expedited timeframe. While you must produce the documents, you do have the right to take time to review the material before it is produced. While the records requested will vary by investigation, it is important to ensure you provide only those records requested. Providing additional documents can result in an expanded investigation. As an employer, you have the right to have legal counsel review any documents before they are produced to DOSH.

EMPLOYEE AND MANAGEMENT INTERVIEWS

As DOSH moves forward with the investigation, it will conduct interviews of key management and employees. All management and employees reserve the right to have legal counsel present during the interviews. If a union is involved, it usually is a shop steward or

union representative. If no union is involved, employees can ask to have anyone they wish be present during the interview, including a management member or legal counsel.

DOSH will contact employees outside of work to ensure that they feel comfortable speaking. As the employer, you will want to make sure employees know that they have the right to have someone present during the interviews, regardless of where they take place.

Be sure you have a plan, and consider including legal counsel. Investigations can result in citation, fines and, in some cases, jail time.

CLOSING CONFERENCE

Once DOSH has completed its investigation, it will schedule a closing conference. DOSH will let the employer know if citations will likely be issued and the possible fines. The closing conference is your opportunity to informally learn what DOSH found in the investigation. You may also provide additional information in response to the potential citations. It is not the time to argue particular citations or interpretations of the regulations.

APPEAL OF THE CITATIONS

Once the citations have been issued, the employer has 15 business days to file a formal appeal or request a reassumption hearing. Although the reassumption hearing is an informal process, everything said at the reassumption hearing can be used against you in the formal appeal. It is recommended that you have legal counsel at both the reassumption hearing and during any subsequent appeal.

While it is never pleasant to have DOSH arrive at your doorstep, it does not have to result in citations. Seek legal advice early and have a plan.

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