

Health and Safety Rights

**Labor Occupational Health Program,
University of California, Berkeley
In partnership with
ATU Local 192
2016**

This training is supported under grant number #SH-2764SH5 from the Occupational Safety and Health Administration, U.S. Department of Labor. It does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.

Module at a Glance

Activity	Time	Materials and Resources
A. Introduction to Module Four. The instructor reviews the objectives. The instructor also gives an overview of Cal/OSHA.	15 minutes	<ul style="list-style-type: none"> ▪ Slide #2, <i>Module Four Objectives</i>. ▪ Slide #3, <i>OSHA disclosure statement</i>. ▪ Slide #4, <i>Overview of Cal/ OSHA</i>. ▪ Factsheet A, <i>What Is Cal/ OSHA?</i>
B. Understanding Cal/OSHA. The class takes a quiz to see how much they already know about Cal/OSHA.	30 minutes	<ul style="list-style-type: none"> ▪ Worksheet #1, <i>What Do You Know About Cal/ OSHA?</i> ▪ Factsheet B, <i>What Do You Know About Cal/ OSHA? (Quiz Answers)</i>.
C. Using Cal/OSHA Rights and Resources. The class reads a factsheet, and then small groups work on a case study about health and safety rights. The class reviews OSHA 300 logs.	50 minutes	<ul style="list-style-type: none"> ▪ Slide #5, <i>Cal/ OSHA Standards</i>. ▪ Factsheet C, <i>Cal/ OSHA Standards</i>. ▪ Factsheet D, <i>Worker Health and Safety Rights and Responsibilities</i>. ▪ Worksheet #2, <i>The Case of the Mystery Chemical</i>. ▪ OSHA 300 logs
D. Sum Up. The instructor summarizes key points of this module.	5 minutes	

Total time: 1 hour and 40 minutes

Preparing to Teach This Module

Before you present this training:

1. Make sure you have copies of your employers OSHA 300 logs. These will be needed for this module.
2. Make sure you have copies of factsheets A – D for all participants.
3. Make sure you have copies of Worksheet #1 and Worksheet #2 for all participants.

Detailed Instructor's Notes

A. Introduction to Module

(15 minutes)

1. **Show Slide #2, *Module Objectives***, and explain what will be covered in this module:

In this module we will talk about Cal/OSHA. We'll be learning about the occupational safety and health regulations in California that protect workers. We'll also discuss OSHA 300 logs from your worksite and how to read the information on the log.

Our objectives are that by the end of this module, you will be able to:

- Describe Cal/OSHA and list its main functions.
- Explain health and safety rights and responsibilities of employers and employees.
- Describe three Cal/OSHA standards that apply to most California workplaces (Injury and Illness Prevention Program, Hazard Communication, and Access to Employee Exposure and Medical Records).
- Identify how to read and OSHA 300 log.

2. **Show Slide #3** and review the OSHA disclosure statement.

This training is supported under grant number #SH-2764SH5 from the Occupational Safety and Health Administration, U.S. Department of Labor. It does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.

3. Ask the class about their experiences with Cal/OSHA:
We've mentioned Cal/OSHA a couple of times during this course.
Can someone tell me what Cal/OSHA is?

Cal/OSHA is the California state program that is responsible for protecting the health and safety of workers.

**Has anyone here ever had contact with Cal/OSHA before?
For example, has Cal/OSHA inspected anyone's workplace
or has anyone ever called Cal/OSHA for information?**

Let the class respond. If participants have had experience with Cal/OSHA, tell them that we will be building on this experience. If no one has dealt with Cal/OSHA, tell the class that they will learn about its functions and how to get Cal/OSHA's help if you need it.

4. Tell participants about federal OSHA and state OSHA programs:

Show Slide #4 and explain: At the federal level there is the Occupational Safety and Health Administration, or "OSHA." This is a government agency that is part of the U.S. Department of Labor.

OSHA was established in 1970 to reduce injuries and illnesses in the workplace. OSHA issues health and safety regulations, enforces them, and provides information on health and safety issues.

OSHA has had a big impact over the years. According to the U.S. Bureau of Labor Statistics, work-related deaths in this country have been reduced from 17.8 per 100,000 workers in 1970 to 3.3 per 100,000 in 2013.

Still, work-related deaths, injuries, and illnesses are still occurring and are preventable. In 2013, there were 4,585 workplace fatalities in the U.S. and 3,753,000 recordable cases of non-fatal injuries and illnesses. Many work-related injuries and illnesses are never reported so we know this is an underestimate of the extent of the problem.

Show Slide #5 and explain: Each state has a choice whether to be covered by federal OSHA or to have its own state program. About half the states, including California, have chosen to have their own state plan. Government employees in the states without a state OSHA plan are not covered by OSHA. Only private employees are

covered by federal OSHA in states without their own OSHA program.

State OSHA programs are required to protect workers at least as well as federal OSHA and must cover both private and public employees. California's state OSHA program is known as Cal/OSHA.

Almost all workers in California are covered by Cal/OSHA, including public employees. However, some workers are not covered:

- People who are self-employed
- Family members of farm owners who work on the family farm
- Federal employees working in California. These workers are covered by federal OSHA.

Cal/OSHA protects California workers by making sure that employers keep the workplace safe and comply with safety and health regulations.

How does this work?

Show Slide #6, Overview of Cal/ OSHA, and tell the class:

Cal/OSHA, housed in the Department of Industrial Relations, has several parts:

- The **Division of Occupational Safety and Health (DOSH)** is the agency that provides both enforcement and consultation services.
 - The **Cal/OSHA Enforcement Unit** enforces occupational safety and health standards by responding to complaints and reports of accidents, and by conducting scheduled (programmed) inspections of certain workplaces. In some cases, it issues citations and fines for violations of standards.
 - The **Cal/OSHA Consultation Service** provides technical assistance on health and safety problems to employers and employees to help them comply with Cal/OSHA standards.

The Consultation Service is separate from the Enforcement Unit, and consultants do not participate in Cal/OSHA enforcement activities.

- The California **Occupational Safety and Health Standards Board** establishes health and safety regulations that protect workers from injury and illness on the job. These are called “standards.”
- The **Occupational Safety and Health Appeals Board** hears appeals from employers who receive citations and fines from the Enforcement Unit.

Ask participants to turn to Factsheet A, *What Is Cal/ OSHA?* Explain that this provides more detailed information about what Cal/OSHA does.

B. Understanding Cal/OSHA

(30 minutes)

1. Ask participants to take out **Worksheet #1**, *What Do You Know About Cal/ OSHA?* Explain to the class:

Our first activity involves finding out how much you already know about Cal/OSHA. This is not a test. You won't be turning in your answer sheet.

Mark your answers on the worksheet. Later we will discuss the answers together.

You can work with your neighbor to complete the worksheet. One of you can read the statements aloud. Then decide together whether you think each statement is true or false.

2. Let people work on the quiz for 5 minutes. Then bring everyone back together and read each statement to the class. For each statement, ask how many people believe the statement is true and how many believe it's false.

Ask participants to explain why they think the statements are true or false. Make sure the information below is provided through the participants' answers or your own. Tell participants they do not need to take notes because the answers will be given to them in a handout.

What Do You Know About Cal/OSHA?

1. **The employer, the workers, and the union are all legally responsible for providing a safe and healthful workplace.**

False. Under both the federal and the state Occupational Safety and Health Acts, only the **employer** is legally responsible for providing a safe and healthful workplace.

Add the following information:

Workers, unions, and WOSH Specialists do still have a role to play in promoting safe and healthy workplaces.

For example, workers have the responsibility to follow safety rules. In California, Cal/OSHA's Injury and Illness Prevention Program standard requires that every employer must have a way to ensure that workers follow the safety rules and procedures established for the workplace.

Unions can also play a role in supporting health and safety prevention efforts. They can bargain about health and safety issues, bring in outside health and safety experts, and request and analyze various employer records.

However, while workers, WOSH Specialists, and the union can make important contributions, they are not **legally** responsible for making the workplace safe. This is the responsibility of the employer.

2. **Only a worker directly affected by a hazardous situation may file a complaint with Cal/OSHA.**

False. Any worker, worker representative (like a union representative, a health and safety professional, or an attorney), or another government agency may contact Cal/OSHA and file a complaint about a hazardous workplace. Members of the public can also call Cal/OSHA to file a complaint if they see a hazardous situation.

Add the following information:

A complaint can be filed by phone, fax, mail, or online. A "formal" complaint is one where the employee or representative gives

Cal/OSHA their name. If a worker wants to remain anonymous and does not give a name, the complaint is considered a “non-formal” complaint. Complaints from the public, which includes former employees of a company, are also considered non-formal.

Each complaint is classified by the Cal/OSHA Enforcement District Office to determine what inspection priority the complaint should be given. Complaints about an “imminent” hazard that puts a worker in immediate danger of being killed or seriously injured are given immediate priority. Work-related deaths, which must be reported by the employer to Cal/OSHA, are also investigated immediately. Complaints from named employees (formal complaints) about serious hazards are given the next priority. Complaints from anonymous sources (non-formal complaints) about non-serious hazards are given lower priority.

Cal/OSHA often handles non-formal complaints by phoning or sending a letter to the employer asking the employer to investigate and correct the unsafe or unhealthy conditions, instead of conducting an on-site inspection. If the employer does not respond, or the employer’s response is inadequate, an on-site inspection may be done.

If you do give your name when making a complaint, Cal/OSHA is required to keep it confidential, unless you give specific permission to reveal who complained.

3. You must be a U.S. citizen to file a complaint with Cal/OSHA.

False. All California workers—whether or not they are legally authorized to work in the United States—have the right to file Cal/OSHA complaints. No one from Cal/OSHA will question workers about their immigration status.

Add the following information:

All California workers, regardless of immigration status, are protected by state laws regulating wages and working conditions. They have a right to file Cal/OSHA complaints without fear of retaliation.

4. Employers will know when an inspector is coming and who filed the complaint.

False. Cal/OSHA does not give anyone advance warning of an inspection. In fact, it is a crime to do so in most cases. Also, the name of the person who filed the complaint is never revealed unless that person has given Cal/OSHA permission to do so. The person filing the complaint can ask Cal/OSHA to notify them when the inspection has been opened.

Add the following information:

As we mentioned earlier, Cal/OSHA also has consultants who come to the workplace to help employers comply with Cal/OSHA requirements. In these cases, the employer **does** know in advance when a consultant is coming because they invited them.

5. During an inspection, Cal/OSHA inspectors must talk to workers.

True. Cal/OSHA inspectors will request that a worker representative be contacted and invited to accompany the employer and inspector on the inspection. If a worker representative is not available, the inspector must interview workers in private during the inspection.

Add the following information:

The inspection process involves:

- An opening conference with the employer to gather preliminary information, discuss the reason for the inspection, describe what areas it will cover, explain the procedure, and obtain the employer's consent to the inspection
- A "walkaround" inspection which may include air monitoring, worker interviews, and a review of documents
- A closing conference during which the inspector discusses whether any violations were found and any requirements to correct hazardous conditions.

A citation may be issued which states what standards have been violated, what fines are proposed, and what deadline has been set to abate (correct) hazards. The citation must be posted in the workplace. Show Slide #5 and tell the class: The penalties can be very low. Federal OSHA penalties average \$1,972 for a serious violation and \$5,050 for a penalty resulting in a worker death.

See Factsheet A: *What is Cal/ OSHA?*, for additional information on the inspection process and citations.

6. Workers in California may refuse to do work that poses an immediate and serious threat to their health or safety.

True. Under the California Labor Code (section 6311), workers have the right to refuse to do work that is likely to create a “real and apparent” hazard that could cause serious injury or death.

Add the following information:

Successfully exercising the “right to refuse” is difficult. In California, the right applies only if the worker has a “reasonable belief” that there is a serious danger of injury or illness and that the work would violate a Cal/OSHA standard or state law. Examples include working in a confined space with dangerous vapors and no protective equipment, training, or rescue apparatus available, or working at heights with an unstable scaffold and no fall protection devices.

In these cases, it is illegal for the employer to retaliate against a worker for exercising his/her right to refuse hazardous work.

Ask the class:

As a shop steward, what advice would you give a worker about steps to take before refusing to do hazardous work?

Let participants respond, and then add the following points if they were not mentioned:

- The worker should inform the employer of the hazard and try to get it corrected. If it is not corrected, explain why he or she is refusing to do the hazardous task, and agree to do other work while the hazard is addressed. If not comfortable doing this, he/she could talk to his/her union representative refusing. Workers might want to consider presenting the problem to the employer as a group with the support of their union.
- The worker should document the problem in writing and keep a record of any efforts made to resolve it with the employer.

- He/she should always involve co-workers. Alert them to the problem and get their confirmation that a hazard exists.

7. It is illegal for a California employer to fire a worker because he/she complains about unsafe conditions on the job.

True. Under the California Labor Code (section 6310), employers may not retaliate against workers who complain about job safety or health hazards or who file Cal/OSHA complaints. If you feel you have been discriminated against, you may file a complaint with the Division of Labor Standards Enforcement (Labor Commissioner) within six months after action was taken against you.

Add the following information:

It is often hard to prove that workers have been discriminated against because they tried to exercise their health and safety rights. It is important that workers who believe they have been retaliated against keep careful records of what happened and get the support of witnesses.

8. If you suspect that something is hazardous in your workplace, the best course of action is always to call Cal/OSHA right away.

False. Although it depends on the nature and the severity of the hazard, there may be other methods for addressing it than to call Cal/OSHA.

If possible, try to resolve problems with the employer first. Steps for resolving problems include:

- Gathering information
- Documenting the problem
- Involving co-workers
- Coming up with ideas for solutions
- Approaching management and/or supervisors to propose solutions
- Talking to the workplace health and safety committee, if there is one.

- Involve your union.

You **should** call your Cal/OSHA district office right away if there is a hazard that is likely to cause a serious injury or death if not corrected, and if the employer does not take immediate action to protect the workers.

3. Explain that the answers to these questions may be found in Factsheet B, *What Do You Know About Cal/ OSHA? (Quiz Answers)*. Then summarize this activity by telling the class:

This concludes our overview of Cal/OSHA. Knowing how Cal/OSHA works and about worker and employer rights and responsibilities is important. You need this information to serve as a resource for others.

During the next activity you will have a chance to use your knowledge about Cal/OSHA and practice applying the information you learned.

C. Using Cal/OSHA Rights and Resources

(0 minutes)

1. Provide an introduction to Cal/OSHA standards:

We've mentioned health and safety standards. What are "standards?" Standards are Cal/OSHA regulations that say what employers must do to protect workers.

Show Slide #7, *Cal/ OSHA Standards*, and tell the class:

There are two kinds of standards: specific and general.

Specific Standards

Most standards address particular hazards like asbestos and noise. These standards:

- Provide protection against a specific hazard.

- Set out detailed rules that must be followed or minimum levels of protection that must be achieved.

Cal/OSHA's specific standards cover a wide variety of workplace hazards, including:

- Toxic substances (like solvents and asbestos)
- Harmful physical agents (like noise and radiation)
- Specific operations (like roofing, demolition, and welding)
- Hazardous equipment (like saws and ladders)
- Electrical hazards
- Tripping and falling hazards
- Hazardous waste
- Infectious diseases (like bloodborne pathogens)
- Fire and explosion hazards
- Machine hazards
- Ergonomics.

General Standards

General Cal/OSHA standards apply to nearly all California workplaces. These include the Injury and Illness Prevention Program standard, the Hazard Communication Standard, the Access to Employee Exposure and Medical Records standard, and the Log of Work-Related injuries and Illnesses regulation.

Cal/OSHA standards are found in Title 8 of the California Code of Regulations. There are standards for the construction industry and standards for general industry.

Ask participants to turn to **Factsheet C**, *Cal/ OSHA Standards*. Explain to the class:

This factsheet can help you find out which Cal/OSHA standards relate to your workplace. Notice the instructions for finding a standard on the DIR website. The table of contents on this handout can help you locate where to look.

You can also contact the WOSH Specialist Resource Centers for help in finding out about Cal/OSHA standards.

There are also guidebooks that can be helpful.

Tell participants they can take a look at these guides during the break and that they are available at the Resource Centers.

You may sometimes find that there is no standard about the hazard you are concerned with. Or, in some cases, you may feel the standard does not provide adequate protection. Interested individuals and organizations can petition the Cal/OSHA Standards Board for a new standard, or for changes to an existing one. They may also take part in standards development as members of Standards Advisory Committees or by testifying in front of the Board.

2. Introduce the small group activity. Explain:

Next, you will be working in small groups on a case study. You will practice using the materials in your to learn more about workers' rights under Cal/OSHA.

You will also learn about a few general Cal/OSHA regulations and consider how they apply to a particular situation. These include the:

- **Injury and Illness Prevention Program standard.**

This standard, which we covered in Module One, requires that all California employers have an injury and illness prevention program. The program must include such elements as hazard identification and control, training, and reporting systems. (Title 8, California Code of Regulations, section 3203.)

- **Log of Work-Related Injuries and Illnesses (Cal/OSHA Form 300).**

This regulation, which we covered in Module Two, requires most employers with ten or more employees to keep a written log of all work-related injuries and illnesses. (Title 8, California Code of Regulations, section 14300.)

- **Hazard Communication standard.**

This standard requires employers to provide basic information to workers about hazardous substances at work. (Title 8, California Code of Regulations, section 5194.)

- **Access to Employee Exposure and Medical Records standard.**

This standard gives workers the right to get results of any tests the employer has performed to check the air for chemicals, or any medical tests the employer has done to assess the health impact of exposure. (Title 8, California Code of Regulations, section 3204.)

After reviewing the case study, you will answer the following questions:

- What is the problem presented in the case study?
- What Cal/OSHA regulations apply to this situation and what do they require?
- What steps could you take to solve this problem? Would you call Cal/OSHA? Why or why not?

3. Refer participants to Factsheet D, *Worker Health and Safety Rights and Responsibilities*, and tell them it will be helpful during the activity. Review key sections of the factsheet.
4. Divide the class into small groups.
5. Ask participants to take out **Worksheet #2, *The Case of the Mystery Chemical***, from their manual. Tell the small groups:

Have a volunteer in your small group read the case study aloud to your group. Then work together to answer the questions that

follow. Use Factsheet D, *Worker Health and Safety Rights and Responsibilities*, to help you decide on the answers. Be prepared to have someone from your group report back to the class on your answers and what your group discussed.

Your group will have about 15 minutes to answer the questions.

6. After 15 minutes, bring the class back together. Have the small groups take turns reporting their answers, one question per group. Be sure the points below are covered in the discussion.

The Case of the Mystery Chemical

You are a shop steward. Several workers have come to you to report a concern about a new chemical product they have been using for three months. They tell you they are not sure what is in the product but that many of them have started getting rashes. Some are also feeling dizzy and nauseous at times. One worker thinks someone from management might have tested the air but he's not sure. None of the workers remember getting any information about air testing results.

They don't know how many other workers are exposed to this product and how many are having symptoms. They also don't know if anyone has lost work time. No one has told them about the long-term health effects of using this product. They aren't sure what they should be doing to protect themselves.

1. What is the problem presented in this case study?

Workers are being exposed to a chemical product, but they were not given information or training about possible health effects and how to use the product safely.

2. What Cal/OSHA regulations apply to this situation and what do they require?
 - Cal/OSHA's Hazard Communication standard gives workers the right to see and get copies of the Safety Data Sheets (SDSs) for the chemicals products in their workplace, to have chemical products labeled, and to be trained before using the products.

- Cal/OSHA's Log of Work-Related Injuries and Illness regulation gives workers the right to see and get copies of their employer's Cal/OSHA Form 300. This Log will help them see if there is a pattern of injuries and illnesses at their workplace and if anyone has lost work time due to symptoms similar to theirs.
- Cal/OSHA's Access to Employee Exposure and Medical Records standard gives workers the right to see and get copies of records from any testing done to measure levels of chemicals in the air. Another Cal/OSHA regulation requires employers to notify employees and their representatives in advance of planned workplace monitoring. Workers may observe, or have their representative observe, the monitoring. (Title 8, California Code of Regulations, section 340.1.)
- Cal/OSHA's Injury and Illness Prevention Program standard gives workers the right to be given safety and health information in a form "readily understandable" by all affected employees.

Ask the class to look at **Factsheet C**, *Cal/ OSHA Standards*. Have them locate the standards and regulations mentioned above in the list.

3. Tell the class: We are now going to look at an OSHA 300 log in greater detail. (Pass out the OSHA 300 logs from the worksite provided by ATU local 192.)

Refer to the completed OSHA 300 Log and emphasize that this form provides the following information about the workplace:

- How many workers are getting injured or ill
- The types of injuries and illnesses reported
- The jobs and departments where the most severe injuries or illnesses are occurring

Ask the class to show where the following information can be found on the OSHA 300 log:

- **Employee's name:** Column (B) - Note that employers cannot remove names
- **Job Title:** Column (C) - Can show the most dangerous jobs

- **Where the event occurred:** Column (E) - Can show the most hazardous departments.
- **Describe the injury or illness,** parts of body affected, and object/substance that directly injured or made person ill: Column (F)
- **Show the types of injuries/illnesses** and how people are getting sick or hurt. Page totals for Columns (G), (H), (I), & (J) - Shows the total number of injuries and illnesses occurring

D. Sum Up

(5 minutes)

1. Review key points from this module. Explain:

The key points to remember are that most public and private employees in California are protected by Cal/OSHA standards and similar state regulations.

There are many ways to try to solve a health and safety problem at your worksite prior to calling Cal/OSHA. You can:

- Talk to the supervisor or manager
- Talk to co-workers
- Talk to your union (and you union health and safety committee)
- Research the problem using your Cal/OSHA rights to information that we have discussed.

Working with management to solve the problem can be quicker, easier, and more effective. However, you **should** call your Cal/OSHA district office right away if there is a “real and apparent” hazard that could cause a serious injury or death if not corrected.

Cal/OSHA has a number of resources to assist in complying with health and safety regulations and making the worksite safer. These resources include its Consultation Service, its Enforcement Unit, publications, Cal/OSHA standards, and the Cal/OSHA website.

Four important Cal/OSHA regulations that you should be familiar with are the Hazard Communication standard, the Log 300 regulation, the Injury and Illness Prevention Program standard, and the Access to Employee Exposure and Medical Records standard.

2. Ask participants to share ideas for how they might use the information covered in this module back at their workplace. Suggest examples of something they might do with the information, such as requesting medical or monitoring records, asking for an SDS for a particular chemical product, checking on their employer's Hazard Communication training program, or reviewing the OSHA 300 log in their department health and safety committee meetings.