

# ECN News

Environment of Care | Emergency Management | Life Safety

## OSHA & Worker Safety

### Protecting Temporary Workers

*Personnel safety in the health care setting*

As the US economy and workforce change, the use of temporary workers is increasing in many sectors, including health care. Facility managers in particular often find themselves dealing with temporary, contracted workers such as electricians, plumbers, and other repair people; delivery workers and waste haulers; construction workers of all types; and many more (see “Potential Temporary Workers in the Health Care Setting,” page 3). Numerous studies show that new workers face greatly increased risks for work-related injury—and most temporary workers will be “new” workers multiple times a year. These workers are especially more likely to be injured or at risk if they are not offered the same protections, including training, as permanent workers. One goal of the Occupational Safety and Health Administration’s (OSHA) Temporary Worker Initiative is to highlight employers’ responsibilities to protect temporary workers from workplace hazards. The bottom-line message to employers: temporary workers are entitled to the same protections under the Occupational Safety and Health (OSH) Act\* as all other covered workers.

#### Defining terms

OSHA defines *temporary workers* as workers who are hired and  
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Architects and engineers might be considered “temporary” workers.

\* The Occupational Safety and Health (OSH) Act is the primary federal law that governs occupational health and safety in the private sector and federal government in the United States. It was enacted by Congress in 1970.

paid by a staffing agency and supplied to a host employer to perform work on a temporary basis. In general, OSHA considers the staffing agency and host employer to be joint employers of the worker. With joint employment, in some situations, key attributes of the employer–employee relationship are shared by two or more employers, and each bears responsibility for compliance with statutory and regulatory requirements. For example, the staffing agency often controls a worker’s paycheck and selects the location where the worker will be sent. The host employer, in turn, assigns the work to be done each day and controls operations in the workplace. As joint employers, both have responsibilities for protecting the safety and health of the temporary worker. Both are responsible to some degree for determining the conditions of employment and for complying with the law.<sup>†</sup>

### Sorting out responsibilities

Staffing agencies and host employers must together ensure that temporary workers are provided a safe workplace. The obligations each employer has vary depending on workplace conditions and may be clarified by agreement or contract. For example, staffing agencies might provide safety and health training that applies to a variety of occupational settings, while host employers provide training tailored to the particular hazards at their workplace.

Host employers typically have primary responsibility for identifying the hazards in their workplace and complying with OSHA’s worksite-specific requirements. Both employers are responsible for communicating with each other when a

worker is injured and determining measures to prevent future injuries. However, if investigations reveal that a temporary worker was exposed to a violative condition, OSHA will consider issuing citations to either or both employers, depending on the facts of the case.

Given the importance of communication between employers about the presence of hazards, both employers must ensure that temporary workers are aware of their rights under the OSH Act. For example, temporary workers have the right to report injuries or illnesses or make a complaint to both the host employer and the staffing agency without fear of retribution. Both employers should inform temporary employees how to report injuries and illnesses and include training on the employee’s right to report workplace safety concerns.

### Recommended practices

OSHA recommendations for host employees to better protect temporary workers include the following.<sup>‡</sup>

#### Clearly define safety and health responsibilities

The tasks that temporary workers are expected to perform and the safety and health responsibilities of each employer should be stated in the agency–host contract and communicated to workers before they begin work at the job site. For example, if the job tasks require personal protective equipment (PPE), the contract should state what equipment will be needed and which employer will supply it.

#### Track injuries and illnesses

The more employers know about workplace injuries and investigations, the more able they are to prevent future ones. Information about injuries should

## Potential Temporary Workers in the Health Care Setting

Any of the following types of workers might be among those considered “temporary” by OSHA.

#### Environmental services

- Housekeepers
- Maintenance and cleaning personnel
- Landscapers

#### Construction

- Architects
- Engineers
- Construction workers of all types

#### Repairs

- Electricians
- Plumbers
- HVAC specialists
- General equipment repair personnel

#### Delivery/Hauling/Waste Management

Those who manage or handle the following:

- Regular supplies and equipment
- Radioactive materials
- Hazardous materials
- Infectious waste

#### Clinicians

- Licensed independent practitioners (for example, physicians, nurse practitioners, physician assistants)
- Other practitioners who require a license, certification, or registration, such as registered nurses, dietitians, and social workers

flow between host employers and staffing agencies. If a temporary worker is injured and the host employer knows about it, the staffing agency should be informed promptly so the staffing agency knows about the hazards facing its workers.

Injuries and illnesses should be recorded on only one employer’s log, and responsibility for recordkeeping is determined by supervision. That is, the employer who supervises the worker on a day-to-day basis must record the injury or illness. Essentially, an employer is performing day-to-day supervision when that employer controls conditions pre-

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<sup>†</sup> This article focuses primarily on the responsibilities of host employers—in this case, health care organizations of all kinds. For complete information about OSHA’s Temporary Worker Initiative and the questions that naturally arise as to which joint employer bears which responsibility, visit [https://www.osha.gov/temp\\_workers](https://www.osha.gov/temp_workers).

<sup>‡</sup> To see the complete list of recommendations, visit <https://www.osha.gov/Publications/OSHA3735.pdf>.

sending potential hazards and directs the worker's activities around and exposure to those hazards. In most cases, this is the host employer.

The non-supervising employer (generally the staffing agency) still shares responsibility for its workers' safety and health. The staffing agency, therefore, should maintain frequent communication with its workers and the host employer to ensure that any injuries and illnesses are properly reported and recorded. Such communication also alerts the staffing agency to existing workplace hazards and to any protective measures that its workers need. Ongoing communication is also needed after an injury or illness so both employers can know the outcome of the case.

As a best practice, the staffing agency and host employer should establish notification procedures to ensure that when a worker informs one employer of an injury or illness, the other employer is apprised as well. The details of how this communication will occur should be clearly established in contract language. As noted, OSHA law prohibits discrimination or retaliation against a worker for reporting an injury or illness.

#### **Provide safety and health training**

OSHA standards require site- and

task-specific safety and health training in a language the workers understand. Staffing agencies and host employers share responsibility for training temporary workers. The training should include information on general worker-protection rights. At least one of the joint employers, generally the host, must identify worksite-specific hazards and provide worksite-specific training and protective equipment to temporary workers. Host employers should inform staffing agencies when such site-specific training has been completed. Temporary employees should be provided with information on how to report an injury and obtain treatment on every job assignment. Host employers should train temporary employees on emergency procedures, including exit routes. The key concept is that host employers should provide temporary workers with safety training that is identical or equivalent to what host employers provide their own employees who perform the same or similar work.

#### **Establish injury and illness prevention programs and evaluate them regularly**

Staffing agencies and host employers should each have a safety and health program and ensure that their temporary workers understand it and participate in it. The safety programs should be communicated at the start of each new project, whenever new temporary work-

ers are brought onto an existing project, or whenever new hazards are introduced into the workplace.

Employers are, of course, required to have hazard-specific programs. For example, workers may need training and protection related to bloodborne pathogens, hearing conservation, or air contamination. Contractors and employers who do construction work must initiate and maintain accident-prevention programs, conduct frequent and regular inspections, and instruct employees to recognize and avoid unsafe conditions. Employers should also investigate injuries and illnesses, including close calls, to determine root causes, immediate corrective actions, and opportunities to improve the injury- and illness-prevention programs. Staffing agency and host employers should act as partners in these investigations.

Too often, OSHA has had to investigate fatalities and injuries involving temporary workers who were not given the necessary safety and health protections required under the act. Lack of safety training is a particular concern. OSHA's Temporary Workers Initiative attempts to ensure that all employers, whether host or staffing agency employers, individually and collaboratively fulfill their duties to their workers, so that at the end of every work day, all temporary workers can return home safely. **EC**

## **Welcome, Environment of Care® News Editorial Advisory Board**

*Environment of Care® News* extends a warm welcome to the following new and returning Editorial Advisory Board (EAB) members. *EC News* staff consults with the EAB to identify article ideas and brainstorm new directions for the newsletter. We appreciate our EAB members' expertise and professionalism. Many thanks to our retiring members for their dedicated service.

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