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GSBE's News to Use

How to Get the Right Results from Your Safety Committee

Safety committees play an important role in workplace safety and health. In fact, OSHA highly recommends them. But to get the best results from your committee, you have to start with all the right ingredients.

Ideally, your safety committee is well established and effective, with employees eager to serve and management responsive to its recommendations. But there may be a significant gap between what you'd like to achieve and the committee you see today. Consider these tips and benchmarks for getting your committee from here to there.

Right size. The size of the committee depends on the size of your workforce. The experts suggest a committee of 6 to 10 members in a company of fewer than 200 employees. If there are 200 to 1,000 employees, a committee of between 6 and 12 members is recommended. And at businesses with more than 1,000 employees and/or various shifts and locations, consider having multiple committees. If you do have more than one committee, there's value in encouraging members to attend one another's meetings to ensure "cross-pollination" of best practices and information.

Right people. A good safety committee member is one who cares about the duties and the outcome. Choose active, productive people who work well in groups and are comfortable speaking out, and who are accessible to their colleagues. One of the most important roles of a member is to serve as a vehicle for rank-and-file employees to express their concerns about working conditions. You want committee members to whom everyone can reach out. As for a leader, some experts advise a process in which the head of the committee is elected

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by members. Although corporate safety managers may participate on committees or serve as advisors, it's not advised that they lead the group. Committees stay fresh when members rotate on and off. A one-year appointment is usually long enough to permit members to get something done without getting burned out.

Right tasks. Although the purpose and activities of committees vary, the tasks generally include those on the list that follows. Take a good look at your facility, your risks, and the special skills of your committee members. Consider special roles they can play that may be unique to your situation:

- Accident investigations
- Safety inspections
- Behavioral observations
- Review of equipment to be leased or purchased for safety controls
- Hazard identification, including conducting job safety analyses

- Reporting problems or concerns to management and/or maintenance
- Recommending corrective actions
- Monitoring new policies and procedures
- Communicating safety and health information and updates to employees
- Participating in safety training, including selecting materials and possibly leading a session
- Developing and managing incentive programs
- Serving as role models for safe practices

Right results. Ultimately, you won't find the right formula on any list. A strong, purposeful committee should be inspired by management's belief in the work of the committee and populated by members who sincerely want to improve the safety and health of their co-workers.

Source: www.Safety.BLR.com

7 Secrets to Attention - Grabbing Safety Training

You're knocking yourself out training, but are your trainees learning? According to studies of adult learners, your trainees may be paying a lot less attention to vital safety training than you think.

Most studies of adult attention spans agree that for most adults the outer limit is about 20 minutes. The longer a training session continues, the shorter the attention span becomes.

One study indicates that after an hour of uninterrupted lecture, attention spans can drop to 3 or 4 minutes punctuated by long periods of inattention.

You have to wonder—and worry—about what trainees might have missed during those lapses in attention. Was it the essential piece of information that could have prevented an accident?

Shrinking Attention Spans

Many educators and training experts believe that attention spans actually are shrinking because we've become such a visual society. Just watch TV with the sound off for a few minutes. The images change every

few seconds. Take a look at the electronic games that kids grow up on today, and think about e-mail, texting, and so many other recent technological developments.

Information comes now in short, fast bursts. So trainees—especially the younger ones—may tune out anything that requires too much focus for too long.

How to Keep Their Attention

Here are seven strategies that can help you grab and hold trainees' attention during those all-important safety training sessions:

1. Plan training sessions in reasonable chunks. Say you're going to train on a particular hazard, procedures necessary to prevent injuries, and required PPE. Rather than delivering information about all three points in one continuous stream, break it up into three chunks interspersed with interaction between trainer and trainees and among trainees.

2. Use self-paced materials composed of short modules. Make sure each module offers interactive opportunities as well as opportunities to go back review information covered.

3. Include interactivity when you lecture. For instance, talk for a bit and then discuss what you've just covered,

encouraging lots of trainee participation. Have a question and answer period between training points, or divide large training groups into small groups to discuss issues or complete training exercises. You can use quizzes and problem-solving exercises to challenge trainees and make them think about what they're learning. Or give trainees a chance to practice what they've learned for a few minutes before proceeding to the next point.

4. Think about attention span when planning training, especially if your training group is composed largely of younger workers who have grown up in the "electronic age." Realize that they may have shorter attention spans than older workers, and take that into account.

5. Use a combination of training techniques. For instance, give a brief 5-minute introduction, show a short training video, have a discussion about key

points, give a quiz, and then provide a handout and have a short review. Mixing it up helps keeps trainees alert and engaged.

6. Allow rest breaks during long training sessions so that trainees have a chance to get up and move around, have some water, and refresh themselves for the next round.

7. Let trainees know up front that they'll be evaluated. Tell trainees at the beginning of the session that there will be a quiz or performance evaluation at the end of the session, which they will be expected to pass. This will encourage them to pay attention during the session and ask questions about any information they don't understand.

Source: www.Safety.BLR.com

2011 Safety Expo

Save-the-Date - The 2011 Safety Expo - Statewide Safety Training & Management Conference will be held April 19-21 at Cosumnes River College in Sacramento.

Top Reasons to Attend:

- 35 topics and more than 120 sessions.
- Forklift 4, 5, 7; Aerial Boom and Scissor Lift certifications.
- Professional instructors and quality classroom learning environment.
- Six training tracks: Equipment and General Safety Certifications, General Safety, Management - including Green sessions, Special Projects and PEMA Hands-on Training.
- Complimentary trade show and parking.
- Networking opportunities with colleagues and industry counterparts.
- Registration fees for all three days—\$65
- Group discounts for multiple registrations.
- 2011 focus on certification compliance-oriented sessions.

The Goals of the Expo

Develops and delivers a comprehensive training and education forum that will help eliminate and/or greatly reduce workplace injuries; provides a trade show that

allows workers and supervisors access to manufacturers and suppliers of safety products, tools equipment and services; promote the advancement of new technology, ideas, and processes by recognizing individuals through the Safety Innovations Awards competition; continually strive to develop partnership with other industries and organizations that share similar goals.

For additional information on the 2011 Safety Expo, please contact Heidi Hughes - heidi@sbxchange.net or Jim Neely - jneely@sbxchange.net - Phone: 916-442-8991.



Ready to Respond to an Electrical Accident?

Electrical accidents require fast but careful response to save injured workers and protect rescuers. Find out how to prepare your workplace and your workers for an electrical emergency.

Electric shock occurs in one of three ways. Individuals, while in contact with the ground, must come in contact with:

- Both wires of the electric circuit
- One wire on an energized circuit and the ground
- A metallic part that has become "hot" by contact with an energized conductor

The extent of injuries depends on the current's magnitude, the pathway of the current, and the duration of current flow through the body.

Resistance Factor

Because the skin offers most of the body's electrical resistance, the point of electrical contact with the skin will determine the amount of shock received.

The condition of the skin also affects resistance to electricity. Resistance is increased if electricity contacts in an area that has thick or callused skin or if the skin is dry. Resistance is decreased if the electricity contacts thin, wet or sweaty, or broken skin.

The presence of moisture from standing water, wet clothing, high humidity, or perspiration decreases resistance. Under dry conditions, the resistance offered by the human body may be as high as 100,000 ohms. Wet or broken skin may drop the body's resistance to 1,000 ohms.

People have different levels of resistance to electric shock because every human body is different. Different medical conditions may also affect a person's reactions.

Caution a Must

When an electrical accident occurs, the victim may be incapable of moving or releasing the electrical conductor because of the effect of something called "muscle clamping."

As a result of this effect, attempts to rescue a victim of an electrical accident may pose a hazard for the

rescuer. A rescuer who touches a victim who is affected by muscle clamping and is still in contact with an electrical current could also be exposed to that current.

Caution, therefore, should always be a primary consideration during rescue in response to any electrical accident or emergency.

At the same time, speedy and effective response is essential, because to survive, victims must be rescued as soon as possible.

Rescue Basics

The first rule of electrical rescue is that co-workers should never rush in to an accident situation.

While one person calls 911 and summons a maintenance worker qualified for electrical work, other emergency responders should visually examine the victim to determine if he or she is in contact with energized conductors.

Metal surfaces, objects near the victim, or the ground itself may be energized. Responders could become victims if they touch an energized victim or conductive surface.

Any active electrical circuits should be de-energized, if possible. Once the power is off and it is safe to approach, the victim should be examined to see if he or she can be safely moved.

If the electrical circuit can't be de-energized, emergency responders must use extreme care. They should:

- Ensure that hands and feet are dry.
- Wear protective equipment such as low-voltage gloves and overshoes, if available.
- Stand on a clean, dry surface, or stand on a dry rubber blanket or other insulating material, if possible.
- Use a nonconductive material (for example, nonconductive rope or cord, or a dry stick or board) to remove the victim from the conductor.

First aid for a victim of an electrical accident may include CPR if the person isn't breathing and has no pulse. If the victim is breathing and has a heartbeat, first aid for shock and burns may be required until emergency medical help arrives.

Source: www.Safety.BLR.com

Laid Off or Fired?

Many employers want to end the working relationship with an employee who is not up to performance standards, but instead of calling the end of the relationship a “termination” they call it a “lay off”. Perhaps the employer hasn’t properly documented the issues leading up to the termination or maybe the employer finds it awkward to tell an employee they aren’t meeting company requirements. In any event, it’s a bad idea to misclassify the end of working relationship.

Definition of Layoff

A layoff generally refers to a reduction in force or closure resulting from a lack of funds or lack of work. The term is used to differentiate a layoff from a loss of employment caused by employee misconduct or poor performance—terminations that are “for cause” and result in “termination of employment”.

While there are no repercussions to an employer for calling a layoff a termination, it’s never a good idea to classify someone who is legitimately being fired because they aren’t working out as a “layoff”. If an employer classifies what is truly a termination as a layoff, there is an opportunity for a discrimination claim from the person who was “laid off”, if that person was in one of California’s many protected classes (age, race, gender, marital status, disability, etc.) For example, if you “layoff” Surly Sally who is over the age of 40 because of her poor customer service skills (but don’t have the heart to tell her the truth) and shortly thereafter hire 21 year old Positive Paula into that same position, Sally may have a great case for age discrimination.

Final Pay Rules The Same

For final pay purposes, the California Division of Labor Standards Enforcement has long maintained a policy that a layoff must be treated as a termination unless the employee is given a return to work date within the

same pay period—in those cases, normal payroll schedules can be followed.

Reminder: When an employee is terminated or laid off, the employer must provide him or her with a final paycheck on the last day that the employee performs work. The final paycheck must include all earned and unpaid wages and benefits, including accrued but unused vacation/paid-time-off compensation as well as earned commissions and bonuses. Failure to provide the final paycheck at the time of termination automatically entitles the employee to waiting time penalties for each day the final paycheck is late, up to 30 days of pay at the employee’s regular rate. This can get expensive!

Rehires

There is no obligation to rehire employees who were subject to a layoff, unless you have implemented special procedures regarding rehiring, however, most employers choose to do so to avoid retraining expenses.

Play it fair and honest, call the end of the relationship what it really is, a “layoff” that was beyond their control or a “termination of employment” due to poor job performance or a failure to meet job expectations.

Kim Parker, Executive Vice President for CEA

Source: www.employers.org



Attorney's Fees

By Sam K. Abdulaziz
Abdulaziz, Grossbart & Rudman

This is a case where the plaintiffs argued that the trial court needed to explain its award of attorney's fees to show that there was a reasonable basis for them. The plaintiffs also argued that the trial court did not award them enough attorney's fees and costs against their former general contractor.

Tassajara Development Corporation (the contractor) entered into a written contract to become the general contractor for a residential construction for the plaintiffs Gorman & Cheng (husband and wife).

The contract included some language that stated that "In the event of litigation between the parties, or if a party becomes involved in litigation because of wrongful acts of the other party, the prevailing party will be entitled to recover reasonable attorneys' fees." This is not an unusual provision.

One of the plaintiffs (Gorman) is an attorney. He is the chief executive, chief financial officer, president and secretary of the Law Firm of Gorman & Miller. Gorman filed the lawsuit by filing a complaint on behalf of the plaintiffs against many defendants including the contractor alleging the defective construction of the residence.

A few years later, the plaintiffs entered into an exhaustive settlement with a number of defendants including the contractor. Part of the settlement stated that "it is agreed that Plaintiffs shall be deemed to be the 'prevailing parties' in the Action solely for the purpose of invoking plaintiffs' rights to recover attorneys' fees and costs pursuant to the terms of the Construction Contract and that plaintiffs are entitled to recover costs as authorized by law as if they were prevailing parties in the Action."

Ultimately, the plaintiff's requested attorney's fees in the amount of approximately \$1,300,000.00 and costs in excess of approximately \$266,000.00. Around half of these fees were billed by Gorman personally.

The trial court in a lengthy hearing, awarded the plaintiff "reasonable attorneys' fees" of approximately \$400,000.00 and reasonable costs of approximately \$142,000.00. However, despite the close study of the record on appeal, including the motion and opposition, the appellate court stated that it was unable to surmise a reasonable explanation for either of the amounts awarded. Given the apparent arbitrariness of the awards, they reversed the judgment and remanded it for further proceedings. That is to say even though a court is not required to explain an award for attorneys' fees, there still needs to be a reasonable basis for the award.

OSHA Approves Revisions to the Heat Illness Prevention Standard

On August 22nd, by a unanimous vote, the Cal/OHSA Standards Board approved revisions to the Heat Illness Prevention Standard that will help to clarify the existing rules.

Modifications to the standard add high-heat provisions for five industries, and clarify the shade requirement, including a "shade up" temperature trigger.

Revisions to the standard include the following:

High-Heat Procedures

High-heat procedures are required for agriculture, construction, landscaping, oil and gas extraction, and

transportation or delivery of agricultural products, construction material or other heavy materials when the temperature is 95 degrees or higher.

Shade

Above 85 degrees, enough shade must be present for at least 25 percent of the employees present to sit fully in the shade without having contact with each other.

The revised heat illness prevention standard is expected to take effect in October, once administrative procedures for formal adoption have been completed.

For the complete revision go to http://www.dir.ca.gov/oshsb/Heat_Illness_txtbdconsider.pdf.

Source: www.dir.ca.gov

Employee vs. Independent Contractor – Seven Tips for Business Owners

As a small business owner you may hire people as independent contractors or as employees. There are rules that will help you determine how to classify the people you hire. This will affect how much you pay in taxes, whether you need to withhold from your workers paychecks and what tax documents you need to file.

Here are seven things every business owner should know about hiring people as independent contractors versus hiring them as employees.

1. The IRS uses three characteristics to determine the relationship between businesses and workers:

- **Behavioral Control** covers facts that show whether the business has a right to direct or control how the work is done through instructions, training or other means.
- **Financial Control** covers facts that show whether the business has a right to direct or control the financial and business aspects of the worker's job.
- **Type of Relationship** factor relates to how the workers and the business owner perceive their relationship.

2. If you have the right to control or direct not only what is to be done, but also how it is to be done, then your workers are most likely employees.

3. If you can direct or control only the result of the work done -- and not the means and methods of accomplishing the result -- then your workers are probably independent contractors.

4. Employers who misclassify workers as independent contractors can end up with substantial tax bills. Additionally, they can face penalties for failing to pay employment taxes and for failing to file required tax forms.

5. Workers can avoid higher tax bills and lost benefits if they know their proper status.

6. Both employers and workers can ask the IRS to make a determination on whether a specific individual is an independent contractor or an employee by filing a Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding, with the IRS.

7. You can learn more about the critical determination of a worker's status as an Independent Contractor or Employee at [IRS.gov](https://www.irs.gov) by selecting the Small Business link. Additional resources include IRS Publication 15-A, Employer's Supplemental Tax Guide, Publication 1779, Independent Contractor or Employee, and Publication 1976, Do You Qualify for Relief under Section 530? These publications and Form SS-8 are available on the IRS website or by calling the IRS at 800-829-3676 (800-TAX-FORM).

Source: www.irs.gov

Put a Stop to Machine Shop Accidents

Although every machine shop is unique, they all share certain hazards and require employees to follow similar rules to prevent accidents. By covering all the bases, you can provide a strong foundation for your machine shop safety program.

A while back when OSHA inspected a woodworking shop, the compliance officer cited the company for 36 violations with a proposed penalty of \$57,600. The violations ranged from unguarded woodworking machines and saws to electrical hazards. On appeal, the Review Commission upheld all of the violations.

That's the trouble with machine shops. There are such a wide variety of potential hazards that can change almost daily. Employees may be assigned to work on all types of machines. They may be required to use different tools and perform diverse tasks. While the jobs rarely become boring, the unexpected can make safety a challenging goal.

Design It Right

If you have the luxury of designing the ideal workshop, make sure that there is adequate space between machines and materials and goods. Walkways should be clearly marked with yellow lines to separate them from the work areas. They should be wide enough (at least 3 feet) for emergency evacuations if leading directly to an exit. And use a nonslip material for your walkways.

Also make sure your shop has a good ventilation system. There should be a minimum of three fresh air exchanges per hour. If you have processes that release toxic, flammable or corrosive gases, vapors, dusts, mists, or fumes, use a local exhaust system capable of capturing contaminants at the source. The outlets for the local exhaust system should be located far away from the air intakes to avoid recontamination.

Fires and Other Emergencies

Fires and flammable liquid spills are an ever-present danger in workshops. At the woodworking shop mentioned previously, an employee received third degree burns when he carried an open container of a flammable liquid through an area where an electric sander was being used. A spark from the sander ignited the liquid.

Avoid such incidents by making sure that flammable liquids are stored in closed containers and cabinets approved for this type of material. These liquids should be kept away from sources of heat, sparks or open flames.

Make sure to have fire extinguishers on hand that can contain the classes of fires common to machine shops:

- Class A—Combustibles (paper, wood, cardboard)
- Class B—Liquid fuels (solvents, oil-based paints, gasoline)
- Class C—Electrical fires

A combination fire extinguisher may be an appropriate choice for such a diverse work environment. Make sure the fire extinguisher is charged and ready for use.

In case of chemical splashes or spills, your shop should have emergency eyewashes and showers within reach of any workstation where toxic, corrosive, or oxidizing substances are handled. Also, make sure to have plenty of first aid kits readily accessible to all shop employees.

Keep a Clean Shop

And don't forget about housekeeping. A well-maintained and orderly workshop is a safe shop. Look around your facility. What do you see?

- Are floors wet or dirty?
- Are tools and equipment lying haphazardly around?
- Is there trash or debris everywhere?
- Is material stored properly as soon as it is received or is it left lying around?
- Are there sharp edges, nails or fasteners sticking out where employees can be cut?
- Are hazardous materials, compressed gas cylinders, and other flammable materials stored in their proper place?
- Are fire extinguishers blocked by materials or stored items?
- Are power cords strung in high traffic areas?

If you have answered "yes" to many of these questions, it's time to form a housekeeping squad of employee volunteers that will perform an inspection of these items sometime during the work shift each day. Use this checklist as a starting point. You might even want to give out awards to volunteer inspectors and employees with the cleanest, safest workstations.

Source: www.Safety.BLR.com



California Adopts Fire Sprinkler Requirements in New Homes

By unanimous vote the California State Building Standards Commission adopted the 2009 IRC code that includes fire sprinkler requirements in all new one- and two-family homes and townhomes. With this action, California becomes the third state to formally adopt the code. As the most populous state in the U.S., this is a huge victory for proponents of life safety. The new code requirement becomes effective January 1, 2011.

"This is another step forward in our efforts to eradicate the home fire death problem. By requiring home fire sprinklers in new homes, California adds an important safeguard for the people in the state," said Jim Shannon, NFPA President. "We are hopeful their action will lead to more states doing the same in order to save lives from fire."

It took a lot of hard work and dedication for this to become a reality. The CAL Fire-Office of the State Fire Marshal took an early lead position, by bringing stakeholders to the table to study the feasibility of adopting this code. The Residential Fire Sprinkler Task Force issued Phase I and Phase II of their final report in June and July of 2009, respectively.

Our very own Regional Manager Ray Bizal actively participated in the task force. "The California homebuilders did not oppose the adoption of the requirement," said Bizal. The California Building Industry Association also participated. Everyone on the ground worked cooperatively towards the goal. Their model is to be emulated.

Source: www.nfpa.typepad.com

Nondisclosure of Material Information

By Sam K. Abdulaziz
Abdulaziz, Grossbart & Rudman

This case deals with plans and specifications that were issued by the public authorities, which were inaccurate. They were used as the basis for bids. As a result, the contractor submitted a bid, which was lower than he would have otherwise bid because the public authority neglected to provide information that it had which materially affected the cost and performance.

Various authorities were used, including ones where the contractor had to show that the public entity misrepresented or intentionally concealed material facts leading to misleading information. Another case held that the contractor did not need to prove an "affirmative fraudulent intent to conceal" when disclosure would have eliminated or materially qualified the misleading effect of facts disclosed. Another authority stated that the thoughtless failure to provide information may allow recovery if the public entity had knowledge **inaccessible** to the contractor.

In this case, the Court of Appeal decided that a contractor does not need to prove there is an "affirmative fraudulent intent to conceal." Instead, a

public entity may be required to provide extra compensation if it knew, but did not disclose, material facts that would affect the contractor's bid or performance.

The main facts of this case are that Hayward Construction Company (Hayward) successfully bid a project to the Los Angeles Unified School District (District) to complete work that was left unfinished by a previous contractor that had been fired. The contract between Hayward and the District for this project was a guaranteed maximum priced contract. Almost immediately after starting the work, Hayward found deficiencies that were not on the pre-punch lists and could not have been known by simple observation. Therefore, Hayward asked for extra compensation above the maximum contract amount for work they described as latent defects. The District disputed the sum, but paid Hayward additional money under an express reservation of rights to take action to recover the additional compensation.

Hayward Cross-Complained stating that the District did not disclose the full extent of the defects in the existing construction.

The Court of Appeal stated that, "Hayward may maintain a cross-action for breach of contract based on nondisclosure of material information if it can establish

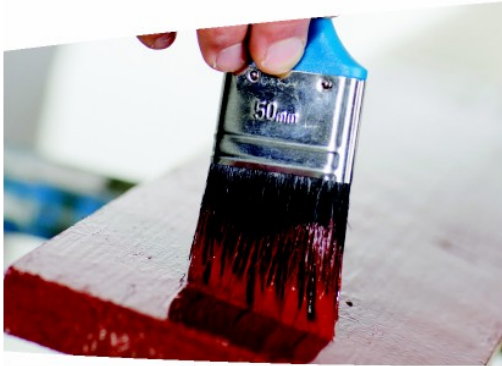
that the District knew material facts concerning the project that would affect Hayward’s bid or performance and failed to disclose those facts to Hayward.” Hayward was not asking for additional monies based on “careless bidding practices” but based it on the District’s “misleading nondisclosure to recover only on a showing the public entity harbored a fraudulent intent.”

There was, however, a dissenting opinion that, in essence, said that the Court of Appeals rule was overbroad in suggesting that recovery may be had for any failure to disclose material information.



Construction Photos of Millau Bridge in France, World’s Highest Bridge
Courtesy of darkroastedblend.com





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