

Avoiding Claims in the Staffing Industry

“Host employers need to treat temporary workers as they treat existing employees. Temporary staffing agencies and host employers share control over the employee, and are therefore jointly responsible for temp employee’s safety and health. It is essential that both employers comply with all relevant OSHA requirements.” – David Michaels, PhD, MPH, Assistant Sec. of Labor for Occupational Safety and Health

According to OSHA, the primary concept to focus on is that each employer should consider the hazards it is in a *position to prevent and correct*. For example: staffing agencies might provide general safety and health training, and host employers provide training specific to the workplace.

- Communication between the agency and the host are key to provide necessary protections.
- Staffing agencies have a duty to check into work conditions to make sure they’re sending workers to a safe workplace.
- Ignorance of hazards is not an excuse.
- Staffing agencies don’t need to be an expert on hazards, but they still need to look at conditions, and consider what hazards may be encountered and how to protect temporary workers.
- The staffing agency has a duty to inquire and *verify* that the host has fulfilled its safety responsibilities.
- Like any other worker, temporary workers should receive training, and safety and health protections.

A staffing agency has limited control and supervision once a worker is at a job site. For this reason it’s important to do a thorough inspection before assigning employees. In addition to physical hazards, it’s important to look at the client’s culture so workers can be better prepared.

Policy and procedures

Controlling Loss Experience: Has the frequency and severity increased/decreased over the previous 3 years?

Safety Policy Statement: The insured has a safety policy statement and can demonstrate active Senior Management involvement with the following elements:

1. Staff training and communication
2. Analyze and determine if client risk is appropriate
3. Demonstrate effective hiring and assignment selections
4. Promptly investigate accidents and assign corrective actions

Risk Manager/Designee: The client has a designated Risk Manager with clearly defined job duties and is measured on performance. The job duties include:

1. Promoting internal safety program
2. Defining responsibilities for safety
3. Researching and assigning WC class codes
4. Investigates or reviews every accident
5. Monitors staff training
6. Works to continually improve safety program
7. Conducts periodic on-site safety reviews of client locations

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Top Management provides visible leadership: Senior management is actively engaged in the safety process including:

1. Attending safety committee meetings and accident investigation discussions
2. Wears PPE when required
3. Takes corrective actions on policy infractions
4. Responds quickly to correct hazards
5. Promotes good habits through positive reinforcement

Safety Committee: There is a Safety Committee in place and meetings are held on a regular basis. Minutes are maintained and accidents are discussed and reviewed for measurable corrective actions.

Establishing goals: Client goals to reduce frequency/severity are established on an annual basis and monitored by both the safety committee and senior management.

Incident injuries are tracked by client: Incident rates are established by client to determine the profitability of business and to determine if sufficient to cover costs incurred.

Training: Insured can document the use of employee training materials by utilizing quizzes and periodic refresher training.

Claims: The insured can demonstrate that they have a designated resource to work with the claims processors and maintain on-going contact with injured employee.

Safety Infraction Notification: The insured can demonstrate a written procedure to notify employees of safety infractions.

Client Location Practices

Client Location Safety: The insured can document that a client location review was completed and that all client operation contain adequate site safety procedures including:

1. Written programs
2. Employee communications and training
3. Supervisory and oversight/measurement

Client Risk Assessment: The insured can document that they have completed a Risk Assessment prior to placing their employees on site and employees completing this task have been trained.

Communication: The insured can document that their client is committed to safety and that there is regular communications between the parties promoting health and safety of the employees.

Training: There are protocols in place to assure client specific training (i.e. Forklift) takes place and that the training is interactive between the insured, the employee and the client host location.

Claim Management

Accident Investigations: Investigations are conducted within 24 hours of the accident in conjunction with the client to include the following elements:

1. Root cause of the loss is developed
2. Processes are developed to eliminate future claims
3. Assignments for follow-up corrective actions are made
4. Closure of protocols are put into place and monitored for completion

Modified Duty Program: Insured has a modified duty program in place and monitors compliance with its use.

Provider relationships: Insured has established a working relationship with an occupational medical provider. Insured maintains on-going contact with the provider and the provider has been made aware of the insured's philosophy regarding return-to-work and modified duty programs.

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