

To The Point Temporary Workers

Temporary workers play a crucial role in many industries, providing organizations with a flexible workforce that can adapt to varying business needs, such as covering for permanent employees on leave or managing peak workloads. While they offer economic advantages, including reduced labor costs, the risks associated with employing temporary workers cannot be overlooked. Incidents such as a trash collector succumbing to heat stress on his first day highlight the potential dangers these workers face. This scenario emphasizes the need to address the unique liabilities that come with employing temporary staff, ensuring their safety and well-being in the workplace.

Responsibilities

Training and orientation of temporary workers to new facilities, processes, and operations can create additional safety challenges. The staffing agency and the host organization each have responsibilities to ensure temporary worker safety. A study on workers' compensation claims in Ohio found that temporary workers have higher injury rates than permanent workers.¹

While a temporary worker may be familiar with specific tasks and operations, their lack of familiarity with a new facility can introduce unanticipated risks, such as workflow in a loading dock area. Some of these challenges can be as simple as determining who to voice their health and safety concerns. They might even hesitate to voice concerns if they feel it could risk the staffing agency's contract with the host organization.

The US Occupational Safety and Health Administration (OSHA) has recognized the increase in fatalities involving temporary workers and has created its Temporary Worker Initiative. OSHA considers the host employer and the staffing agency jointly responsible for maintaining a safe work environment. The host employer is responsible for providing a safe work environment and equipment, while the staffing agency ensures that the host protects its workers. Host employers must treat temporary workers like any other workers in terms of training and safety and health protections. This is reinforced by several recent investigations that resulted in citations and fines for both the host employer and the staffing agency.

Best practices for Hiring Through a Staffing Agency

The National Institute for Occupational Safety and Health (NIOSH) suggests best practices broken down into three sections:

1. Evaluation and Contracting
2. Training for Temporary Workers and Their Worksite Supervisors
3. Injury and Illness Reporting, Response, and Recordkeeping

During the evaluation and contracting phase, the obligations of the host employer and the staffing agency should be clearly described in the agreement or contract between the employers. The host employer should request certificates of insurance for workers' compensation and general liability from the staffing agency. As a best practice, the host should have the staffing agency add them as an additional insured on a primary noncontributory basis for general liability and as an alternate employer on the workers' compensation policy. The host employer should work with their legal counsel to ensure that terms and conditions, such as hold harmless agreements, indemnification provisions, and insurance requirements, are appropriate for their operation.

The host and the staffing agency should contractually agree on how safety training and supervision will be provided for temporary workers. The host employer should prequalify tasks for temporary workers from a safety perspective by conducting a Job Safety Analysis (JSA), a systematic process of identifying and controlling hazards in a job or task. The JSA should be shared with the staffing agency and should contemplate standard operations, process disruptions, and emergencies. Any training the staffing agency provides should be validated to ensure its adequacy. Personal protective equipment should be provided based on the host's JSA for specific job assignments.

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The host should determine whether the staffing agency provides staff with certifications or licenses. They should also investigate how the staffing agency verifies an individual's competencies and whether the agency has a formal process for tracking licenses or certifications to ensure they are current.

OSHA requires that the host employer be responsible for day-to-day supervision and maintain injury and illness logs. Knowledge of workplace injuries and investigation of these injuries is vital to preventing future injuries from occurring. Therefore, this information must be shared between the host and the staffing agency.

The contract terms associated with temporary workers should include JSA, safety training, worker health and safety accountabilities, and consequences for failing to meet these terms and conditions. When partnering with a staffing agency, it is essential to obtain information regarding safety protocols, training, and insurance to help avoid taking on unplanned liabilities. Contracts should indicate the responsibilities of the host employee and the staffing agency. For more comprehensive guidance on NIOSH best practices, please refer to the listed references.

Resources

Occupational Safety and Health Administration (OSHA),
<https://www.osha.gov/temporaryworkers>

The National Institute for Occupational Safety and Health (NIOSH),
<https://www.cdc.gov/niosh/docs/2022-126/default.html>

1. Al-Tarawneh IS, Wurzelbacher SJ, Bertke SJ. Comparative analyses of workers' compensation claims of injury among temporary and permanent employed workers in Ohio. *Am J Ind Med*. 2020 Jan;63(1):3-22. doi: 10.1002/ajim.23049. Epub 2019 Sep 20. PMID: 31541504.

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