

SAM—WORKERS' COMPENSATION

EMPLOYEE TOXIC EXPOSURE RECORDS

(Reviewed 12/13)

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All employers, including the State, are required to comply with the CAL/OSHA safety orders. General Industry Safety Order (GISO) Section 3204, (Title 8, California Code of Regulations) became effective April 1, 1981, and it requires the following:

- If employer creates, obtains, or has access to records of exposure or medical records of employees exposed to toxic substances or harmful physical agents, then the employer must maintain the records for the length of employment of the employee plus 30 years;
- The employer must make these records available to employees, their representatives or the Division of Occupational Safety and Health (DOSH) without cost, within 15 days of a request;

WARNING: DO NOT RELEASE EMPLOYEE MEDICAL RECORDS TO UNAUTHORIZED THIRD PERSONS. If in doubt contact your legal office, the State Personnel Board Office of Information Practice or the Department of General Services, Office of Insurance and Risk Management.

- Requests for these records must be made in writing by the employee. If the employee designates a representative to obtain the records then the employee must provide a written authorization form. A sample authorization form is contained in GISO 3204;
- If the employee requests the information, and if in the opinion of the physician representing the employer the employee may be harmed by that information, then the information may be withheld from the employee. But in no event can the information be withheld from the employee's designated representative. See 8 CCR 3204 (e) (2) (B) 4 and 5.
- Care must be taken when releasing records to a requesting employee or a designated employee representative. If the records contain any information identifying another employee (e.g., by name, address, social security number, payroll number, age, height, weight, race, sex, date of initial employment, job title, etc.) the employer shall assure that personal identifiers are removed before access to the records is provided to the requesting employee or designated representative. If the employer can demonstrate that removal of personal identifiers from an analysis is not feasible, access to the personally identifiable portions of the analysis need not be provided. See 8 CCR 3204 (e) (2) (C) 2.