



## NATIONAL SAFETY COUNCIL

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### Position/Policy Statement

#### Adoption of Safety Regulations and Recommended Practices for State and Local Government Workers, and Drug-Free Workplace for all Federal Contractors

#### NSC Position:

The National Safety Council believes that state and local government employees should have the same baseline protections provided to their private sector counterpart, which, at a minimum, meet federal OSHA standards. The Council also believes that all federal contractors should be covered under the federal Drug-free Workplace Act. Removal of the current specified contract amount would provide a consistent fair standard and objective messaging on safety to all federal contractors and grantees, as well as for public safety. A modern vision and strategy in public safety, such as concerning harm on the roadway, is “the road to zero”.

#### Comment

{Recommend that the paragraph in black below (from p.2) be updated to inform on the current status}

There are 26 states and 2 territories that have established their own OSHA-approved State Plan which has been determined to be “At least as Effective” as the Federal program. Twenty-one of these states and one territory administer state plans covering both private and public sector employees, while the remaining 5 states and one territory cover only public sector employees<sup>1</sup>.

When first enacted, the federal Drug-free Workplace Act (1988) had an exception of a drug-free workplace policy for any organization that receives a federal contract for under \$100,000. This exception may have served as a viable compromise for assistance in gathering more support to introduce the Act. This exception can reduce administrative resources and financial costs for the organization and the federal government. However, this exception reduces the effectiveness of the Act on safety in those exempted organizations, and the public. The rationale presumes that an organization with a contract below the specified amount has a significant lower risk of adverse event than one at or above. There is no specification of the number of workers involved or consideration of the nature and risk posed by the work performed. A federal contract for \$99,999.99 does not require a drug-free workplace policy under the Act, but one for a penny more does. The exception for a federal contract under the limit is logically inconsistent with that specified in the Act for a federal grant in which that “of any size” requires a drug-free workplace policy.

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<sup>1</sup> <https://www.osha.gov/dcsp/osp/index.html>

## Reference

Substance Abuse and Mental Health Services Administration (2022).  
Federal Contractors and Grantees,  
September 27,  
Last Accessed: September 18, 2023.  
<https://www.samhsa.gov/workplace/employer-resources/contractor-grantee-laws>

## Background

~~In 1971, the Occupational Safety and Health Administration (OSHA) was created to set and enforce protective workplace safety and health standards. Since then, workplace fatalities have fallen from nearly 14,000 per year to approximately 4,836 while the workforce has doubled in size.<sup>23</sup>~~

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{moved to p.1}

~~Private sector industries in 24 states are regulated by Federal OSHA. Under the Federal program, private sector employers must comply with the Federal standards while state and local government employers are not covered. This means that in many public sector operations, employees are executing the same jobs/tasks with the same hazards as the private sector without the same protections.~~

## Facts

- State and local government injury rates are higher than that of the private sector, 5.1 per 100 fulltime workers compared to 3.0 for the private sector<sup>5</sup>.
- Days away, restricted and transferred (DART) case rates are 1.6 for the private sector compared to 2.4 for the public sector; likewise, the Days Away from Work (DAFW) case rates are considerably higher in the public sector -- 1.7 for state and local government workers compared to 0.9 for the private sector.

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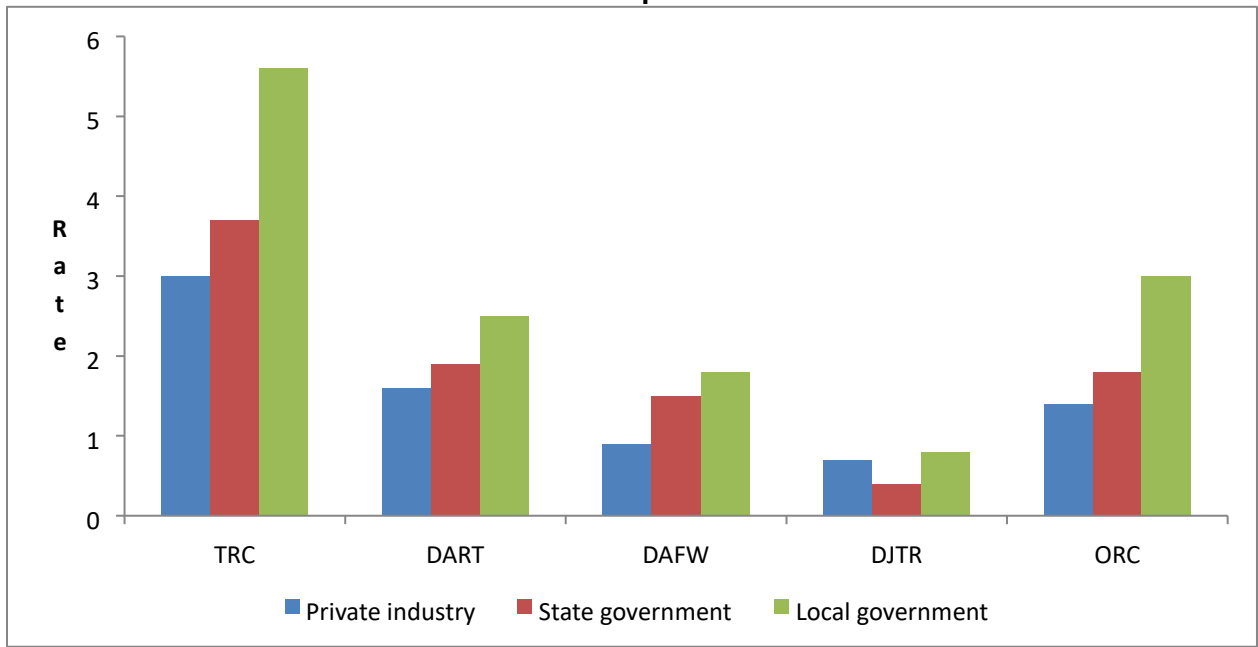
<sup>2</sup> <https://www.osha.gov/osha40/timeline.html>, <https://www.bls.gov/news.release/cfoi.nr0.htm>

<sup>3</sup> National Safety Council, *Injury Facts 2017*

<sup>4</sup> <https://www.osha.gov/desp/osp/index.html>

<sup>5</sup> National Safety Council, *Injury Facts 2017*

## Recordable Case Rate Comparison<sup>6</sup>



TRC = total recordable cases

DART = days away, restrictions and transfers cases    DAFW = days away from work cases

DJTR = days of job transfer or restriction only cases    ORC = other recordable cases

### **Conclusion**

All private sector employers in the nation are regulated by either the Federal OSHA program or an OSHA-approved state plan (which must – at a minimum – be “at least as effective” as the Federal program). The Federal program does not regulate state and local government employers, therefore, public sector employers in twenty-four states are not regulated to a federal standard, leaving them without the same access to protections as the private sector.

It is clear that state and local government employers have higher injury rates than private sector employers, and that these state and local government employers are not always held to the same safety standards. The National Safety Council supports the adoption of legislation, policies, and standards to bring a baseline of protection to public sector employees that is at minimum equal to the protections provided by Federal OSHA.

**ADID Members Draft Edits – December 1, 2023**

*This position statement reflects the opinions of the National Safety Council but not necessarily those of each member organization.*

Adopted by the National Safety Council, 2018

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<sup>6</sup> Ibid.