



ASSP NORTH FLORIDA CHAPTER NEWSLETTER – JANUARY 2020

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Should Workers Be Allowed to Wear Earbuds?

[Robert S. Nichols](#)
[Caroline Biehl](#)

The use of earbuds and similar devices to listen to music, books and podcasts, and conduct phone conversations has grown rapidly in recent years – particularly among millennials and post-millennials. For example, wireless AirPods now seem to be everywhere.

The concern for employers with these devices, particularly in safety-sensitive industries like manufacturing, is how occupational safety is impacted by their use—and could the Occupational Safety and Health Administration (OSHA) even regard their use in a manufacturing environment to be illegal?

OSHA has issued no rules specifically regulating the use of earbuds or similar devices in the workplace. Yet the U.S. Department of Labor, in 2011 rulemaking, explicitly recognized that

“workers of all ages [working with dangerous equipment] are at risk when ... using earphones or ear buds to listen to electronic devices.” Additionally, in that rulemaking, the DOL expressed concerns that these devices make it “very hard” to hear emergency alerts and difficult for workers to remain “aware of their surroundings” and “maintain an appropriate level of safety consciousness.”

OSHA has issued no specific rules around this, but there are guidelines.

While not adopting binding regulations for earbud use in the workplace, OSHA has issued guidance that should give any responsible employer pause when considering permitting their use in a manufacturing facility or other safety-sensitive environment.

Some History

OSHA’s consideration of hazards associated with these types of devices began in the 1980s with the burgeoning popularity of the Sony Walkman. In a 1987 letter, OSHA directed that the use of earphones constituted a violation of OSHA hearing protection standards when:

1. Noise is at levels requiring hearing protection – 85 decibels or more for an eight-hour day
2. Earphones are worn over hearing protection devices.

Very significantly, OSHA also instructed that allowing the use of such devices when hearing protection is not otherwise required is up to management’s discretion, unless its use causes a serious safety hazard, under the general duty clause of the OSHA Act. That clause requires an employer to act reasonably to maintain a safe work environment for its employees, even when OSHA has not promulgated a specific safety standard



regarding the hazard at issue.

Setting Ground Rules

There is no doubt that OSHA recognizes that in some work environments, the wearing of audio devices potentially could place the employee in serious danger.

For instance, in considering vehicle and other equipment backup risks, OSHA has directed in its guidance that workers should “[n]ever wear earbuds or headphones” when working near vehicles or equipment.

Of course, in the manufacturing setting, even with employees who are not directly operating heavy equipment, there is almost always energized equipment located somewhere nearby, such as conveyors and forklifts.

Further, in manufacturing settings, there are commonly dangerous energy-related hazards such as electrical, heat, chemical, or fire hazards where audible warnings

may be of critical importance such as in the case of malfunctioning equipment or an evacuation.

Given these risks and the federal government’s guidance, a manufacturing employer would be well advised to adopt the following measures. (That said, keep in mind that in a unionized environment, employers may be required to negotiate with the union on earbud use.)

1. All employees in any operational area of a manufacturing facility, including even employees who work in warehousing or supply areas, should be prohibited from using earbuds or similar items.
2. Those individuals who work strictly in an office setting, well away from any operational sectors of the facility may use earbuds—but even in that setting, they should be prohibited from using the devices while walking or otherwise leaving their desk.

3. Employees must be prohibited from using these devices in place of required hearing protection.

4. Employees must be prohibited from wearing these devices under, or over, hearing protection.

5. Further, even without earbuds, workers must not be on their smartphones while performing work or near any operating equipment. When using phones, they must be well clear of any transit paths for vehicles, forklifts, bicycles or even walkways for pedestrians in the plant.

One more piece of advice: Never permit earbud or cellphone use on a trial basis. Experience teaches us that once employees in a particular setting are allowed to use these devices, taking away that privilege creates very difficult employee relations challenges

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January 3, 2020
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Workplace fatalities increase 2% in 2018

Merriell Moyer

After a slight decline in 2017, the number of workplace deaths increased by 2% in 2018.

There were 5,250 fatal work injuries recorded in the U.S. in 2018, up from 5,147 in 2017, according to Bureau of Labor Statistics data.

The fatal work injury rate didn't change, remaining at 2017's 3.5 per 100,000 full-time equivalent (FTE) workers, the BLS report states.

Why the increase in fatalities?

- Incidents involving contact with objects and equipment rose 13%, from 695 to 786, due to a 39% increase in workers caught in running equipment or machinery and a 17% increase in workers struck by falling objects or equipment.
- Unintentional overdoses due to non-medical use

of drugs or alcohol at work increased for the sixth straight year from 272 to 305, up 12%.

- Violence and other injuries by people or animals increased 3% due to an 11% increase in work-related suicides, which rose from 275 to 304 in 2018.

By occupation

Fatal falls, slips and trips decreased 11% to 791 after reaching a high of 887 in 2017. The decline was due to a 14% drop in falls to a lower level, down from 713 to 615, the lowest its been since 2013.

Transportation incidents remained the most frequent type of fatal event at 2,080, or 40% of all work-related fatalities.

As in 2017, driver/sales workers and truck drivers accounted for the most fatalities of any broad occupation group at 966, up from the previous year's 840.

Logging workers, fishers and related fishing workers, aircraft pilots and

flight engineers, and roofers all had fatality rates 10 times greater than the all-worker rate of 3.5 fatalities per 100,000 FTE workers.

Demographic information

The number of fatalities declined for workers age 65 years and older in 2018, but their fatal work injury rate remains more than double the all-worker rate.

Fatalities to non-Hispanic Black or African American workers increased 16% to 615, the highest it's been since 1999. Their fatal injury rate also increased from 3.2 per 100,000 FTE workers in 2017 to 3.6 in 2018.

Hispanic or Latino workers experienced 961 fatalities, a 6% increase over 2017. Of those workers, 67% were born outside of the United States.

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December 31, 2020
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Divided Florida Court Says On-the-Clock Bowling Outing Was Not a Recreational Event

Thomas A. Robinson

In a split decision, a Florida appellate court held that an employee’s injuries sustained while bowling with co-workers during an employer-sponsored event arose out of and in the course of the employment, justifying an award of workers’ compensation benefits in spite of the employer’s contention that the event was an excluded “recreational activity,” as defined by § 440.092(1), Fla. Stat. [*Reynolds v. Anixter Power Sols.*, 2019 Fla. App. LEXIS 18265 (1st DCA, Dec. 10, 2019)].

“...the bowling activity was conducted during regular work hours and had, as one of its purposes, the discussion of business goals...”

The appellate court stressed that the fact that the bowling activity was conducted during regular work hours and had, as one of its purposes, the discussion of business goals

for the upcoming year meant that the case was distinguishable from an earlier Florida decision in which a claim filed by an “on-call” worker, injured while playing softball, had been denied.

Background

As is the situation in a number of other states [see *Larson’s Workers’ Compensation Law*, § 22.01, et seq.], Florida has a special statute covering the compensability of injuries sustained during recreational activities. § 440.092(1), Fla. Stat., provides:

Recreational or social activities are not compensable unless such recreational or social activities are an expressly required incident of employment and produce a substantial direct benefit to the employer beyond improvement in employee health and morale that is common to all kinds of recreation and social life.

Speaking for the majority of the appellate court, Justice Wolf said there was no dispute that the bowling

event was held during regular work hours and that those attending were paid to do so. Employees were advised via email — the message was never introduced into evidence — about the event.

Apparently, the email invitation could be accepted or declined. Justice Wolf summarily said that an electronic option to decline was insufficient to establish that participation in the event was voluntary. He observed that Claimant was not told she could have remained at work or taken a vacation day rather than attend the event.

Claimant’s supervisor testified that the purpose of the event was to improve morale and to discuss “some of our goals for the next year.” Justice Wolf indicated that under these circumstances, no reasonable person in Claimant’s position would have believed that the activity was not a required incident of employment. The Justice added that the testimony of the employer established that there was a substantial and direct benefit to the employer beyond simply improving employee morale and health. Justice Wolf



stressed that there was nothing in § 440.092(1) that would indicate a desire to preclude compensation where a person was injured in conducting actual job duties. The JCC was in error, therefore, when the injury was found not to be compensable.

Dissent

Justice Rowe dissented, observing that Claimant's supervisor testified that the event was not mandatory — it was “basically building morale” and did not include either clients or advertising. She indicated Claimant had failed to present competent, substantial evidence to show that the bowling event was required as an incident of her employment or that it provided a substantial direct benefit to the employer beyond improving employee health and morale. Justice Rowe stated, therefore, the JCC's order denying compensability should be affirmed.

The Workcomp Writer

Blog

December 12, 2019

[the workcomp writer](#)

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The Ultimate Guide to OSHA Record-keeping 2019

Posted by [admin](#) on August 10, 2018

Is my company required to complete OSHA recordkeeping?

Organizations in high risk industries with more than 10 employees are required by the Occupational Safety and Health Administration (OSHA) to track work-related employee injuries and illnesses according to OSHA recordkeeping requirements.

Organizations covered under OSHA must complete three recordkeeping logs for all work-related OSHA recordable injury and illnesses.

If your organization has 10 or fewer employees — including temporary and contract workers — or if you are part of a low-hazard industry that has been exempt according to your company's NAICs code, you don't have to keep OSHA injury and illness records.

However, all organizations covered under OSHA still must comply with OSHA Reporting requirements. This means that you must report directly to OSHA if a fatality, in-patient hospitalization, amputation, or loss of an eye occurs at your establishment due to a work-related incident.

Organizations covered under OSHA must complete three recordkeeping logs for all work-related OSHA recordable injury and illnesses.

Organizations in a few high risk industries such as railroading or mining are not covered under OSHA regulations but are required to complete injury and illness reporting requirements to the appropriate regulatory agencies such as the Mine Safety and Health Administration (MSHA) or the Federal Railroad Administration (FRA).



What is an OSHA Recordable Injury?

An OSHA recordable injury has to be work-related and results in any of the following circumstances:

- Death
- Loss of consciousness
- Days away from work
- Restricted work activity or job transfer
- Medical treatment beyond first aid
- Additional criteria for occupational illness including hearing loss, needlestick injuries and tuberculosis

Need to know what is a work-related incident or what exactly "restricted work behavior" means?

Check out OSHA's [letters of interpretation](#).

There are also injuries and illnesses that don't have to be recorded on your recordkeeping logs, and it's important to be aware of those as well. See our more detailed blog post on defining an [OSHA recordable injury](#).

What are the OSHA Recordkeeping Logs?

There are three types of OSHA recordkeeping logs, the OSHA Form 301, 300, and 300A. We have described each log and their requirements below.

Organizations covered under OSHA must complete these recordkeeping logs for all work-related OSHA recordable injury and illnesses.

OSHA Form 301

The OSHA 301 is an Injury and Illness Incident Report form, which must be filled out when a recordable work-related injury or illness occurs. According to OSHA regulations, the 301 log must include details of the incident, including the extent and severity of an injury or illness, employee information and medical information.

Within seven days after receiving information about an incident, employers are

required to fill out this form (though employer may use an equivalent form). It also must be kept on file for five years following the year during which the injury or illness happened.

OSHA Form 300

The OSHA 300 log is an incident summary describing the who, what, when of work-related incidents that occur throughout the year for each work location. Employers are required to complete and maintain an OSHA 300 log for each workplace location ("establishment"). The Occupational Safety and Health Administration (OSHA) regulations specify what type of workplace incidents employers must include on the OSHA 300 log.

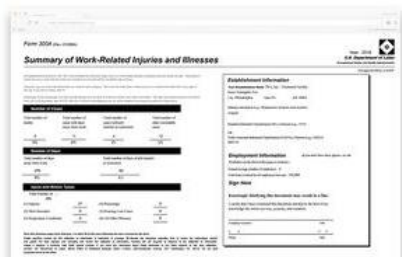
According to OSHA regulations, the 300 log must include details of the incident, including the employee information, date



of incident, and number of missed or restricted work days due to the incident. Employers are required to complete and maintain an OSHA 300 log for the year, accompanying the various 301 logs filed for each individual incident. Organizations inspected by OSHA are required to produce a copy of their log upon request.

Sometimes during the course of an incident investigation, new information may come to light and an incident that was once thought to be OSHA recordable is no longer OSHA recordable. In these cases, OSHA requires organizations to redline the incident on the OSHA 300 log. For more about redlining check out our [redlining blog post](#).

OSHA Form 300A



The OSHA 300A log is an annual summary of all OSHA recordable incidents at each business location. The OSHA 300A log of the

previous year's incidents must be posted for employees to view at each jobsite from February 1 to April 30.

OSHA requires specific information be provided to employees on this log, including the total number of OSHA recordable incidents, total number of hours worked, total number of missed and restricted days, injury and illness types, and identifying company data.

Please see our detailed blog post on the [OSHA 300A](#) for more information.

Submitting Electronically to OSHA

If you are an establishment with more than 20 employees covered under the OSHA recordkeeping requirements, you need to submit your OSHA 300A information electronically to OSHA using their injury tracking application (ITA).

Establishments currently have until July 1st of the following year to submit their 300A information to OSHA for the previous year. While OSHA's electronic submissions are under potential revision (See below) the 300A

electronic submission appears here to stay.

For more detailed guidance on how to use the Injury Tracking Application see our [ITA guide](#).

OSHA Changes to the New Recordkeeping Rule

On January 24, 2019, OSHA announced they had published a new final rule to Protect Privacy of Workers, which rescinds the agency's previous requirement for establishments with 250 or more employees to electronically submit Forms 300 and 301. See our detailed blog post on [OSHA electronic recordkeeping changes](#) for the details of this new NPRM.

The Ultimate OSHA Recordkeeping Guide

When it comes to OSHA recordkeeping, there are always questions regarding the requirements and in and outs. This guide is here to help!

Vector Solutions

Blog

August 10, 2018

[IndustrySafe](#)

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Your Leadership Can Transform the World

Recently, my team at the John Maxwell Company introduced a new offering for beginning leaders called Permission Granted. The purpose behind it was helping new or aspiring leaders understand that they have permission to lead—from themselves, the people around them, and the world at large.

We felt comfortable launching that product because we believe it is true: we are living in an age where we need new leaders. We also need more from established leaders.

This is a firm conviction of mine—we need leaders who aren't just title-holders, good managers, or inspirational speakers. We need men and women who are committed to taking action in order to make a difference in the world.

We need *transformational* leaders.

I wrote about this in my book, [Leadershift: 11 Essential Changes Every Leader Must Embrace](#). The next-to-last chapter is on the Impact Shift, which is moving from being a trained leader to a transformational

leader. Trained leaders have knowledge; transformational leaders have wisdom. Trained leaders know the right things to do; transformational leaders do the right things.

Transformational leaders.

See Things Others Do Not See

Say Things Others Do Not Say

Believe Things Others Do Not Believe

Feel Things Others Do Not Feel

Do Things Others Do Not Do

Transformational leaders influence others to think, speak, and act in ways that make a positive difference in the world. And that positive difference is what so many people all over the world long to see and experience for themselves.

Please hear me: of all the shifts you could make as a leader, this is the most important shift you can make. It will bring the greatest change to your life and to the lives of those around you.

So, what are the hallmarks of a transformational leader?

Here are five characteristics all transformational leaders possess:

They See Things Others Do Not See

While many leaders ask, “Why?”, transformational leaders see things differently. They ask, “Why not?” because they’re always thinking about how they can create a better future. Transformational leaders see problems, just like everyone else—but they see potential within those problems.

Where the vision of others stops at the problems themselves, transformational leaders see through the problems to discover the potential they hold. There is always an answer, a solution, a better way, and a brighter future for transformational leaders. And it inspires others to follow!

They Say Things Others Do Not Say

Transformational leaders speak up. They leverage their influence by speaking bold words about a better future. Their voices become tools for transformation. Consider the bold words of Dr. Martin Luther King, Jr., when he spoke about his dream on the steps of the Lincoln Memorial:

“I say to you today, my friends, even though we face the difficulties of today and tomorrow, I still have a



dream. It is a dream deeply rooted in the American dream. I have a dream that one day this nation will rise up, live out the true meaning of its creed: 'We hold these truths to be self-evident, that all men are created equal.'"

It took courage for him to be the voice of change when others opposed him—but he didn't hesitate to share his bold words that described a better future for our nation, and all of mankind.

Transformational leaders speak up when others won't.

They Believe Things Others Do Not Believe

Adopting the belief that you can make a difference changes everything. When transformational leaders believe their cause can change things for the better, they can bring conviction to their leadership. You can be a good leader who lacks this conviction and still get people to follow you—perhaps you can even lead them well.

But it's only when you as a leader understand that the higher calling of leadership is to get people to follow your cause that you become a great leader. That's because transformational leaders are belief magnets—people are drawn to those leaders not only because they believe in

their cause, but because they believe in people too.

Transformational leaders believe and live by the truth that one is too small a number to achieve greatness.

They Feel Things Others Do Not Feel

Passion is a leader's energy. It creates momentum and tenacity for the challenges that all leaders face. Passion fires up leaders and the people they lead, and that fire carries them forward and helps them endure.

Some of the most passionate people I know are the coaches from The John Maxwell Team. Every time I invite a group of those coaches to join me in leading roundtables in another country, the response is always one of passion. They pay their own way, train twelve hours a day, and sometimes endure less-than-ideal circumstances, all in the name of helping others.

Why do they do it? Because they are passionate—they feel something that compels them to act. As my friend, Paul Martinelli, President of The John Maxwell Team, often says, "When the light goes on in your life, you want to turn everyone else's light on."

They Do Things Others Do Not Do

The final characteristic of a transformational leader is their willingness to do things others do not—or will not—do. While others procrastinate, transformational leaders act. While others freeze because of fear, transformational leaders use their fear to find the courage to do something.

What is it that gives transformational leaders such courage? Purpose. Transformational leaders know they exist for a reason, and they tap into that sense of purpose whenever fear arises.

If you would rather try something big that is almost impossible than something small that won't make a difference, then you've got the courage of a transformational leader. It's the courage you'll need to change the world.

The good news is the world is waiting for you. And there are other leaders like you to cheer you on your way.

What are you waiting for?

John C. Maxwell

Blog

March 5, 2019

JohnMaxwell.com

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Local Chapter Officers and Chairs

Elected Officers

- President - Bob Dooley
- President Elect - Eric Gray
- Secretary - Steve Wilson
- Treasurer - Yaniv Zagagi
- Delegate – Paul Thomas

Appointed Chairs

- Membership Chair
Mark Gibson
- Newsletter Chair
Allen Davis
- Nominations Chair
Steve Brown
- Past President
Steve Brown
- Program Chair
Dan Hemsall
- Social Chair
Phil Baker
- Social Media Chair
Vernon Adams
- SPY Awards Chair
Open
- Scholarship Chair
Stephen Brown

Local Chapter Information

The North Florida Chapter of the American Society of Safety Professionals, formerly the American Society of Safety Engineers, was chartered in 1952 and currently has approximately 200 members.

Professional meetings are held nine times per year in the Jacksonville area.

Meeting notices are distributed, and RSVP's are returned by email. If you are a member of ASSP and are not receiving notices by email, please email the

[Chapter Secretary.](#)

ASSP Chapter Links

Find us on the web at:

[ASSP NFL](#)

Find us on Facebook at:

[ASSP NFL](#)

Job Market Links General Employment Links

[ASSP](#)

[BCSP General Safety Jobs](#)

[BCSP Construction Safety
Jobs](#)

[BCSP Industrial Hygiene Jobs](#)

[EHS Careers](#)

Volunteer Leadership Needed

The chapter is currently looking for volunteers to serve as Delegates as well as someone to fill the SPY Chair. If you are interested and able to devote time to the local chapter, please contact [Steve Brown](#), Nominations Chair, for details.

We believe that you will enjoy the experience and comradery and we most-certainly appreciate your help.

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LOCAL CHAPTER MEETING SCHEDULE

January 15, 2020

Alternative Confined Space Entry Processes - Maritime

Location: NEFSC
1725 Art Museum Drive
Building B, Classroom D
Jacksonville, FL 32207
11:30 Lunch & Networking
12 Noon Meeting

March 18, 2020

Annual OSHA Update

Location: NEFSC
1725 Art Museum Drive
Building B, Classroom D
Jacksonville, FL 32207
11:30 Lunch & Networking
12 Noon Meeting

April 24, 2020

Worker's Memorial

Location: NEFSC
1725 Art Museum Drive
Building B, Classroom D
Jacksonville, FL 32207
11:30 Lunch & Networking
12 Noon Meeting

February 19, 2020

Active Shooter/Workplace Violence

Location: NEFSC
1725 Art Museum Drive
Building B, Classroom D
Jacksonville, FL 32207
11:30 Lunch & Networking
12 Noon Meeting

April 15, 2020

Ergonomics

Location: NEFSC
1725 Art Museum Drive
Building B, Classroom D
Jacksonville, FL 32207
11:30 Lunch & Networking
12 Noon Meeting

May 20, 2020

TBA

For all meetings, please RSVP
Steve Wilson at
steven_wilson1@me.com.

Cost: Members: \$15
Non-Members: \$20



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