

## AGREEMENT

This AGREEMENT is made on the 5<sup>th</sup> day of November, 2015, by and between the Commissioner of Labor (hereinafter referred to as "Commissioner") and Westfield Washington Schools (hereinafter referred to as "Employer").

### WITNESSETH THAT:

WHEREAS, the Commissioner issued Proposed Safety Orders on October 5, 2015;

WHEREAS, the Commissioner and Employer have since communicated to clarify language in the Proposed Orders and wish to enter into this Agreement to revise the Proposed Orders consistent with the clarifications;

NOW, THEREFORE, the Parties hereby agree as follows:

**Safety Order Amendments:** The Commissioner amends the Proposed Safety Order(s) and Notification(s) of Penalty, IOSHA Inspection No. 317865210 ("Inspection") issued to the Employer on October 5, 2015 in the following manner:

#### SAFETY ORDER 01:

**Item 1:** Upheld. Penalty reduced to \$.00. Abated.

The language has been amended as follows:

Westfield High School Auditorium - On April 23, 2015, and at times prior to, an engineer did not oversee the construction of and/or inspect the temporary orchestra pit cover.

**Item 2:** Dismissed.

**Item 3a and 3b:** Upheld. Penalty reduced to \$.00. Abatement date extended to February 1, 2016

Items 3a and 3b are consolidated into the following language:

Westfield High School Auditorium: The hazards presented by workplace tasks such as, but not limited to, using paint, stain, and mineral spirits and handling, cutting, and sanding wood were not assessed for the need to wear personal protective equipment. Westfield Washington Schools will assess the hazards presented to the "Auditorium Manager" and "Student Helper" positions at it relates to their work in the Auditorium.

Item 4: Upheld. Penalty reduced to \$.00. Abatement date extended to February 1, 2016

The language has been amended as follows:

Auditorium - A written hazard communication program describing how labels and other forms of warning, safety data sheets, and employee information and training will be met was not maintained for hazardous products such as, but not limited to, spray paints, paints, stains and mineral spirits used when building props and stage scenery. Westfield Washington Schools will create a written hazard communication program addressing the hazardous products used in the Auditorium.

**Amended Safety Orders:** The Commissioner shall amend the Safety Order(s) and Notification(s) of Penalty consistent with this Agreement. The amended Safety Orders(s) and Notification(s) of Penalty is included at Exhibit A and shall supersede any other Safety Order(s) and Notification(s) for the Employer.

**The TOTAL AGREED PENALTY is \$ 00.00.**

THE EMPLOYER IS SATISFIED WITH THE AMENDMENTS STATED ABOVE AND ACCORDINGLY WAIVES ITS RIGHT TO FILE A NOTICE OF CONTEST OF THE SAFETY ORDER(S) AND NOTIFICATION(S) OF PENALTY AS AMENDED AND AGREES TO WITHDRAW ANY PREVIOUSLY FILED NOTICES OF CONTEST IN THIS MATTER.

Upon full execution of this Agreement the Employer will post this Agreement for three (3) working days or until abatement is completed, whichever period is longer.

The Safety Order(s) and Notification(s) of Penalty are, and shall be, herein a final and enforceable Order of the Board of Safety Review.

Except for matters arising out of this Agreement, and any other subsequent IOSHA proceedings between the parties, none of the foregoing agreements, statements, findings, and actions taken by Employer shall be deemed an admission by Employer of the allegations contained within the Safety Order(s) and Notification(s) of Penalty or raised in the Inspection. The agreements, statements, findings and actions taken herein are made in order to compromise and settle this matter economically and amicably, and they shall not be used for any other purpose, except as herein stated. Nothing contained in this Agreement shall be considered, construed as or used as an admission of wrongdoing, liability, statutory or regulatory violation, or any other illegal or improper act by the Employer.

WESTFIELD WASHINGTON SCHOOLS

By: C. Bell

Title: Director of HR

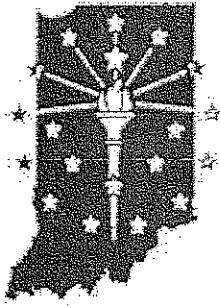
Date: 11/13/15

COMMISSIONER OF LABOR

By: Alexander

Title: Director

Date: 11/24/15



# Indiana

## Department of Labor

*Advancing the safety, health and prosperity of Hoosiers in the workplace*

MICHAEL R. PENCE, GOVERNOR  
Rick J. Ruble, Commissioner

402 West Washington Street, Room W195  
Indianapolis, Indiana 46204-2751

Phone: (317) 232-2655  
TT/Voice: 1-800-743-3333  
Fax: (317) 233-3790  
Website: [www.in.gov/dol](http://www.in.gov/dol)

October 5, 2015

Chris Baldwin, HR Manager  
Westfield Washington Schools  
322 W Main Street  
Westfield, IN 46074

RE: Inspection Number 317865210

Dear Chris Baldwin:

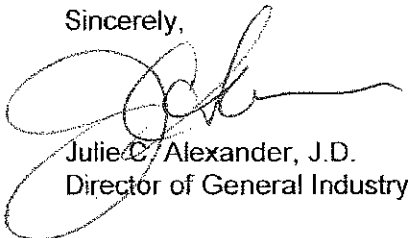
The Indiana Occupational Safety and Health Administration conducted an inspection at Westfield Washington Schools located in Westfield, IN 46074. The inspection was completed on 8/11/2015. Enclosed is the Safety Order and Notification of Penalty resulting from this inspection.

As a public sector entity, please note that the associated penalties have been deferred pending receipt of evidence of corrective action. This is in conformance with the attached Inspection & Enforcement Policy-Public Sector Worksites & Employees.

Fifteen working days have been initially provided in which to provide evidence of corrective action. Extensions of this time may be accomplished by contacting this office and making arrangements with an OSHA Supervisor or Director. We will make every effort to accommodate your reasonable requests for extension. However, unless such arrangements have been made, abatement documentation is expected by the date identified on the Safety Order. Please be advised that failure to provide timely documentation of corrective action will result in a follow-up inspection and the imposition of the deferred penalties for all unabated conditions.

It is our intention to work cooperatively with you in improving the safety and health conditions of our public sector employees.

Sincerely,



Julie C. Alexander, J.D.  
Director of General Industry

JCA:

# Indiana Department of Labor

Indiana Occupational Safety and Health Administration  
402 West Washington St - Room W195  
Indianapolis, IN 46204  
Phone: 317-232-2691 FAX: (317)233-3790



*Certified mail # 917190 0005 27200049 7724 10-5-15 JTO*

## Safety Order and Notification of Penalty

**To:**  
Westfield Washington Schools  
322 W Main Street  
Westfield, IN 46074

**Inspection Number:** 317865210  
**CSHO ID:** N9763  
**Optional Report No.:** 0001-15  
**Inspection Date(s):** 4/29/2015 - 8/11/2015  
**Issuance Date:** 10/5/2015

**Inspection Site:**  
322 W Main Street  
Westfield, IN 46074

*The violation(s) described in this Safety Order and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

An inspection of your place of employment has revealed conditions which we believe do not comply with the provisions of the Indiana Occupational Safety and Health Act (Indiana Code Chapter 22-8-1.1) or the standards or rules adopted thereunder. Accordingly, enclosed please find safety order(s) and notification(s) of penalty describing such violation(s) with references to applicable standards, rules, or provisions of the statute and stating the amount of any penalty(ies).

**Informal Conference** - Please be advised that it may be possible to informally settle any potential dispute without initiating the more elaborate proceedings brought on by a petition for review. Prior to filing a petition for review, you may request an informal conference concerning any of the results of the inspection (safety orders, penalties, abatement dates, etc.) by contacting the Indiana Department of Labor/IOSHA, preferably by telephone, in a prompt manner. Please be advised that a request for an informal conference cannot extend the fifteen working day period for filing a petition for review. Informal conferences frequently resolve any possible disputes, and therefore you are urged to take advantage of this opportunity. Because of the limited time period and in order to facilitate scheduling, any requests for an informal conference should be made promptly upon your receipt of the safety order(s) and notification(s) of penalty.

**Right to Contest** - You are hereby also notified that you are entitled to seek administrative review of the safety order(s), penalty(ies), or both by filing a written petition for review at the above address postmarked within fifteen working days of your receipt of the safety order(s) and notification(s) of penalty. ("Working days" means Mondays through Fridays, but does not include Saturdays, Sundays, legal holidays under a state statute or days on which the Indiana Department of Labor's offices are closed during regular business hours). If you do not file such a petition for review (contest), the safety order(s)

and penalty(ies) shall be deemed final orders of the Board of Safety Review and not subject to review by any court or agency. The issuance of a safety order does not constitute a finding that a violation has occurred unless no petition for review is filed, or if a petition for review (contest) is filed, it must contain a statement of its basis and should reference the above inspection number. Upon receipt of your petition for review, we will affirm, amend or dismiss the safety order(s) and notification(s) of penalty. If we affirm, your petition for review will be granted (unless it was not timely) and the dispute will be certified by the Board of Safety Review for further proceedings. The Board of Safety Review is an independent agency appointed by the governor with authority to conduct hearings and to issue decisions concerning disputed safety order(s) and notification(s) of penalty. If we amend the safety order(s) or notification(s) of penalty, your petition for review shall be deemed moot. However, you will then be given an opportunity to file a petition for review concerning the amended safety order(s) and notification(s) of penalty.

Please be advised that an employee or representative of employees may file a petition for review to contest the reasonableness of the time stated in the safety order(s) for the abatement of any violation.

**Posting** - Upon receipt of any safety order(s) you are required to post such safety order(s), or a copy thereof, unedited, at or near each place an alleged violation referred to in the safety order(s) occurred. However, if your operations are such that it is not practicable to post the safety order(s) at or near each place of alleged violation, such safety order(s) shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, if you are engaged in activities which are physically dispersed, the safety order(s) may be posted at the location from which the employees operate to carry out their activities. You must take steps to ensure that the safety order is not altered, defaced, or covered by other material. Posting shall be until the violation is abated, or for three working days, whichever is longer.

**Penalties** - Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Abatement does not constitute payment of penalties.

**Abatement** - The conditions cited in the safety order(s) must be corrected (abated) on or before the date shown for each item on the safety order(s) and notification(s) of penalty unless:

- (1) You file a petition for review concerning the violation, in which case the full abatement period shall commence from the issuance of a final decision by the Board of Safety Review or the courts which requires compliance with the safety order; or
- (2) The abatement period is extended by the granting of a petition for modification of abatement date.

**PMAs** - The petition for modification of abatement date is a manner in which you may seek additional time to correct (abate) a violation without having to file a petition for review concerning the safety order, or after the expiration of the time period to file such a petition for review when it becomes apparent that you need extra time to abate the violation. A petition for modification of abatement date shall be in writing and shall include the following information:

- (1) All steps you have taken, and the dates of such actions, in an effort to achieve compliance

during the prescribed abatement period.

(2) The specific additional abatement time necessary in order to achieve compliance.

(3) The reasons such additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.

(4) All available interim steps being taken to safeguard employees against the cited hazard during the abatement period.

(5) A certification that a copy of the petition has been posted, and if appropriate, served on the authorized representative of affected employees, and a certification of the date upon which such posting and service was made.

A petition for modification of abatement date shall be filed with the Indiana Department of Labor/IOSHA no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay. A copy of such petition shall be posted in a conspicuous place where all affected employees will have notice thereof or near such location where the violation occurred. The petition shall remain posted until the time period for the filing of a petition for review of the Commissioner's granting or denying the petition expires. Where affected employees are represented by an authorized representative, said representative shall be served a copy of such petition.

**Notification of Corrective Action** - Correction of the alleged violations which have an abatement period of thirty (30) days or less should be reported in writing to us promptly upon correction. A "Letter of Abatement" form and an "Abatement Photographs" worksheet are enclosed for your assistance in providing adequate documentation of abatement. Reports of corrections should show specific corrective action on each alleged violation and the date of such action. On alleged violations with abatement periods of more than thirty (30) days, a written progress report should be submitted, detailing what has been done, what remains to be done, and the time needed to fully abate each such violation. When the alleged violation is fully abated, we should be so advised. Timely correction of an alleged violation does not affect the initial proposed penalty..

**Followup Inspections** - Please be advised that a followup inspection may be made for the purpose of ascertaining that you have posted the safety order(s) and corrected the alleged violations. Failure to correct an alleged violation may result in additional penalties for each day that the violation has not been corrected.

**Employer Discrimination Unlawful** - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the Indiana Department of Labor/IOSHA at the address shown above.

**Notice to Employees** - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must

be mailed to the Indiana Department of Labor/IOSHA at the address shown above within fifteen (15) working days (excluding weekends and State holidays) or receipt by the employer of this safety order and penalty.

If you wish additional information, you may direct such requests to us at the address or telephone number stated above.



**Indiana Department of Labor**

**NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE**

An informal conference has been scheduled with IOSHA to discuss the safety order(s) issued on 10/5/2015. The conference will be held at the IOSHA office located at 402 West Washington Street, Room W195, Indianapolis, IN 46204 on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives of employees have a right to attend an informal conference.

**Indiana Department of Labor**  
Occupational Safety and Health Administration

**Inspection Number:** 317865210  
**Inspection Date(s):** 4/29/2015 - 8/11/2015  
**Issuance Date:** 10/5/2015  
**CSHO ID:** N9763  
**Optional Report No.:** 0001-15

**Safety Order and Notification of Penalty**

**Company Name:** Westfield Washington Schools  
**Inspection Site:** 322 W Main Street, Westfield, IN 46074

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**Safety Order 01 Item 001**                      Type of Violation: **Serious**

IC 22-8-1.1 Section 2: The employer did not establish and maintain conditions of work which were reasonably safe and healthful for employees, and free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were exposed to fall hazards due to inadequate construction protocols for the pit cover:

Westfield High School Auditorium - On April 23, 2015, and at times prior to, a qualified engineer did not oversee the construction of and/or inspect the completed orchestra pit cover.

AMONG OTHER METHODS A FEASIBLE MEANS OF ABATEMENT MAY INCLUDE: Construct a pit cover according to Title 25 Professions and Occupations Article 31 Professional Engineers Chapter 1-25-31-1-19 Professional Engineers' Licenses which states: (a) A county, city, town, township, school corporation, or other political subdivision of this state may not engage in the construction or maintenance of any public work involving the practice of engineering for which plans, specifications, and estimates have not been prepared, certified, and sealed by, and the construction and maintenance executed under the direct supervision of, a professional engineer.

**Date By Which Violation Must Be Abated:**                      **11/6/2015**  
**Proposed Penalty:**    **\$4,500.00**

**Indiana Department of Labor**  
Occupational Safety and Health Administration

**Inspection Number:** 317865210  
**Inspection Date(s):** 4/29/2015 - 8/11/2015  
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**Safety Order and Notification of Penalty**

**Company Name:** Westfield Washington Schools  
**Inspection Site:** 322 W Main Street, Westfield, IN 46074

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**Safety Order 01 Item 002**

Type of Violation: **Serious**

29 CFR 1910.22(d)(1): On every building or other structure, or part thereof, used for mercantile, business, industrial or storage purposes, the loads approved by the building official were not marked on plates of approved design and securely affixed in a conspicuous place in each space to which they relate:

Westfield School Auditorium - The original orchestra pit cover was reconstructed and replaced with a new orchestra pit cover without a floor load limit sign stating how many pounds the new cover would hold.

**Date By Which Violation Must Be Abated:** 11/6/2015  
**Proposed Penalty:** \$4,500.00

**Indiana Department of Labor**  
Occupational Safety and Health Administration

**Inspection Number:** 317865210  
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**Safety Order and Notification of Penalty**

**Company Name:** Westfield Washington Schools  
**Inspection Site:** 322 W Main Street, Westfield, IN 46074

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The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

**Safety Order 01 Item 003a**                      Type of Violation: **Serious**

29 CFR 1910.132(d)(1): The employer did not assess the workplace to determine if hazards were present, or were likely to be present, which necessitated the use of personal protective equipment:

Westfield High School Auditorium: The hazards presented by workplace tasks such as, but not limited to, using paint, stain, and mineral spirits and handling, cutting, and sanding wood were not assessed for the need to wear personal protective equipment.

**Date By Which Violation Must Be Abated:**                      **11/6/2015**  
**Proposed Penalty:**    **\$1,350.00**

**Indiana Department of Labor**  
Occupational Safety and Health Administration

**Inspection Number:** 317865210  
**Inspection Date(s):** 4/29/2015 - 8/11/2015  
**Issuance Date:** 10/5/2015  
**CSHO ID:** N9763  
**Optional Report No.:** 0001-15

**Safety Order and Notification of Penalty**

**Company Name:** Westfield Washington Schools  
**Inspection Site:** 322 W Main Street, Westfield, IN 46074

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**Safety Order 01 Item 003b**

Type of Violation: **Serious**

29 CFR 1910.138(a): The employer did not select and require employee(s) to use appropriate hand protection when employees' hands were exposed to hazards such as those from skin absorption of harmful substances; severe cuts or lacerations; severe abrasion; punctures; chemical burns; thermal burns; and harmful temperature extremes.

Westfield High School Auditorium: Gloves were not furnished to protect from cuts, splinters and skin irritation when performing work tasks such as, but not limited to, using paint, stain, and mineral spirits and handling, cutting, and sanding wood.

**Date By Which Violation Must Be Abated:** 11/6/2015  
**Proposed Penalty:** \$0.00

**Indiana Department of Labor**  
Occupational Safety and Health Administration

**Inspection Number:** 317865210  
**Inspection Date(s):** 4/29/2015 - 8/11/2015  
**Issuance Date:** 10/5/2015  
**CSHO ID:** N9763  
**Optional Report No.:** 0001-15

**Safety Order and Notification of Penalty**

**Company Name:** Westfield Washington Schools  
**Inspection Site:** 322 W Main Street, Westfield, IN 46074

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**Safety Order 01 Item 004**

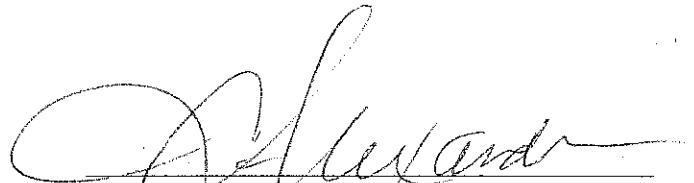
Type of Violation: **Serious**

29 CFR 1910.1200(e)(1): The employer did not develop, implement, and/or maintain at the workplace a written hazard communication program which describes how the criteria specified in 29 CFR 1910.1200(f), (g), and (h) will be met:

Auditorium - A written hazard communication program describing how labels and other forms of warning, safety data sheets, and employee information and training will be met was not maintained for hazardous products such as, but not limited to, spray paints, paints, stains and mineral spirits used when building props and stage scenery.

**Date By Which Violation Must Be Abated:**  
**Proposed Penalty:**

**11/6/2015**  
**\$1,350.00**



Julie C. Alexander, J.D.  
Director of General Industry

# Indiana Department of Labor

Indiana Occupational Safety and Health Administration  
402 West Washington St - Room W195  
Indianapolis, IN 46204  
Phone: (317)232-2691 FAX: (317)233-3790



## INVOICE/DEBT COLLECTION NOTICE

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**Company Name:** Westfield Washington Schools  
**Inspection Site:** 322 W Main Street, Westfield, IN 46074  
**Issuance Date:** 10/5/2015

**Summary of Penalties for Inspection Number: 317865210**

<b>Safety Order 1, Serious</b>	<b>= \$11,700.00</b>
<b>TOTAL PENALTIES</b>	<b>= \$11,700.00</b>

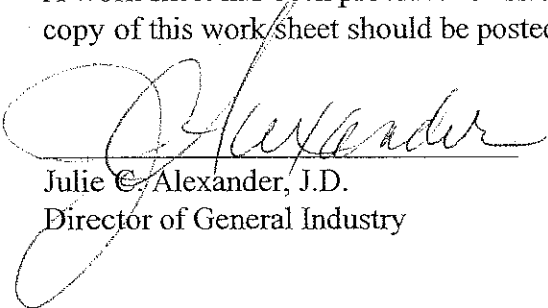
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Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Make your check or money order payable to: "Indiana DOL/IOSHA". Please indicate IOSHA's Inspection Number (indicated above) on the remittance.

IOSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Corrective action, taken by you for each alleged violation should be submitted to this office on or about the abatement dates indicated on the Safety Order and Notification of Penalty.

A work sheet has been provided to assist in providing the required abatement information. A completed copy of this work sheet should be posted at the worksite with the safety order(s).

  
Julie C. Alexander, J.D.  
Director of General Industry

10/5/15  
Date