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Workplace Violence

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Workplace safety and health hazards have traditionally been associated with unsafe work practices and hazardous conditions, but violent acts committed in the workplace are a growing concern.

On September 30, 2023, Governor Gavin Newsom signed into law Senate Bill (SB) No. 553, which requires virtually every California employer to implement a comprehensive workplace violence prevention plan with very specific requirements. There are actually two separate provisions of SB553. Here is a summary of the two sections of the new law according to the California Legislature.

This bill requires an employer to also establish, implement, and maintain, at all times in all work areas, an effective workplace violence prevention plan. The employer will also need to record information in a violent incident log for every workplace violence incident. In addition, the employer must provide effective training to employees on the workplace violence prevention plan and provide additional training when a new or previously unrecognized workplace violence hazard is identified and when changes are made to the plan.

Of course, records of workplace violence hazard identification, evaluation, and correction and training records must be created and maintained. Violent incident logs and workplace incident investigation records also need to be maintained and will require certain records to be made available to the division, employees and employee representatives, as specified.

The bill would make these requirements operative on and after July 1, 2024.

This bill, starting January 1, 2025, first will authorize a union collective bargaining representative of an employee to seek a temporary restraining order, (TRO), and an order after hearing on behalf of the employee and other employees at the workplace, as described.

The bill will also require an employer or union collective bargaining representative of an employee, before filing a TRO, to provide the employee who has suffered unlawful violence or a credible threat of violence an opportunity to decline to be named in the temporary restraining order. Under the new law, however, an employee's request to not be named in the TRO would not limit the ability of an employer or collective bargaining representative from seeking a TRO additionally on behalf of other employees at the workplace, and, if appropriate, employees at other workplaces of the company.

Once an employer gets everything set in place with respect to workplace violence, this bill will extend the perceived protection of employees through the use of a TRO, (Temporary Restraining Order). This provision will be in effect on January 1, 2025, so every company should consult with their employment counsel.

In the meantime, the first item our clients need to do is develop the written program. You can develop one on your own, use the model program provided by Cal-OSHA, or use the template available through Leavitt Pacific. Once the program is developed (including the Violence Incident Log), the appropriate training for employees needs to take place as outlined in the program, and then the training records need to be kept at least for a year.



This Bulletin is an overview of the Workplace Violence Prevention section of [California Senate Bill 553](#). SB 553 amended [Labor Code § 6401.7](#), which now requires employers to develop and implement a Workplace Violence Prevention Plan starting July 1, 2024.

Below are the elements that are required to be included in your written Workplace Violence Prevention Plan:

- ▶ The names of the people responsible for its implementation.
- ▶ Effective procedures for employee involvement in developing and implementing the plan.
- ▶ Methods to coordinate implementation of the plan with other employers, when applicable.
- ▶ Procedures for employers to handle and respond to reports of workplace violence while ensuring no retaliation against the reporting employee.
- ▶ Procedures to ensure compliance from employees, including supervisors.
- ▶ Procedures to communicate with employees regarding workplace violence matters.
- ▶ Emergency response protocols.
- ▶ Training provisions.
- ▶ Procedures to identify and evaluate workplace violence hazards that include inspections with the following frequency:
 - When the plan is first set up.
 - Periodically scheduled.
 - After violent incidents.
 - Whenever a new hazard becomes known.
- ▶ Procedures to timely correct workplace violence hazards identified and evaluated.
- ▶ Procedures for post-incident response and investigation.
- ▶ Training provisions.

INFORMATIONAL BULLETIN

The Workplace Violence Prevention Plan includes the following sections:

- ▶ Prohibiting employee retaliation.
- ▶ Accepting and responding to reports of workplace violence.
- ▶ Employee workplace violence training and communication.
- ▶ Emergency response.
- ▶ Workplace violence hazard assessments.
- ▶ Recordkeeping requirements, such as maintaining a Violent Incident Log.

- ▶ Procedures to identify and evaluate workplace violence hazards that include inspections with the following frequency:
 - When the plan is first set up.
 - Periodically scheduled.
 - After violent incidents.
 - Whenever a new hazard becomes known.
- ▶ Procedures to timely correct workplace violence hazards identified and evaluated.
- ▶ Procedures for post-incident response and investigation.
- ▶ Procedures that allow for plan review.
 - Annually.
 - When a deficiency is observed or becomes apparent.
 - After a workplace violence incident.

The plan must be in effect at all times and in all work areas and be specific to the hazards and corrective measures for each work area and operation and may be incorporated as a stand-alone section in the written injury and illness prevention program.

NOTE

Leavitt Pacific has developed a model program that can be used to help develop your own program.

The next item that employers need to be aware of with respect to this program is the Training Requirements that employers will have to comply with as part of the Workplace Violence Prevention Plan. Those requirements are spelled out in the regulation as follows:

Employers must provide effective training and ensure that training materials are easy to understand and match the workers' education, reading skills, and language.

Employers must provide employees with initial training and annually thereafter.

When new or previously unidentified workplace violence hazards are discovered, or changes are made to the plan, the employer must provide additional training that focuses on the specific hazard or plan modifications.

TRAINING TOPICS

The specific training topics required to be covered include the following:

- ▶ Familiarizing employees with the company's written Violence Prevention Plan.
- ▶ How to obtain a copy of the company's written Violence Prevention Plan.
- ▶ How to participate in the development and implementation of the company's written Violence Prevention Plan.
- ▶ Definitions and requirements of Labor Code section 6401.9.
- ▶ How to report workplace violence incidents without fear of retaliation.
- ▶ Understanding of job-specific violence hazards and preventive measures.
- ▶ Purpose of the violent incident log and how to obtain related records.
- ▶ Opportunities for interactive discussions with someone knowledgeable about the employer's plan.

Recordkeeping requirements include:

- ▶ The plan must be in writing and easily accessible to employees, authorized employee representatives, and Cal/OSHA representatives.
- ▶ Records of workplace violence hazard identification, evaluation, and correction must be created and maintained for a minimum of five years.
- ▶ An organization.
- ▶ Training records must be created and maintained for a minimum of one year.
- ▶ Violent incident logs must be maintained for a minimum of five years.
- ▶ Records of workplace violence incident investigations must be maintained for a minimum of five years.

COMMONLY ASKED QUESTIONS

What is workplace violence?

- ▶ Workplace violence means any act of violence or threat of violence that occurs in a place of employment.
- ▶ Workplace Violence does not include lawful acts of self-defense or defense of others.

What are the four types of workplace violence?

- ▶ **Type 1 Violence:** Workplace violence committed by a person who has no legitimate business at the worksite and includes violent acts by anyone who enters the workplace or approaches workers with the intent to commit a crime. Examples of type 1 violence include:
 - Retail robberies.
 - Workplaces where employees or proprietors have face-to-face contact and exchange money with the public
 - Robberies of delivery, taxicab, and ride-hailing drivers.
 - Janitors/maintenance workers.
 - Threats and acts of violence directed at security guards.



- ▶ **Type 2 Violence:** Workplace violence directed at employees by customers, clients, patients, students, inmates, or visitors. Examples of type 2 include:
 - Social welfare service providers in unemployment offices, welfare eligibility offices, homeless shelters, probation offices, and child welfare agencies.
 - Social welfare service providers while onsite and during visits at residences.
 - Teaching, administrative, and support staff in schools where students have a history of violent behavior.
 - Other types of service providers, e.g., justice system personnel, customer service representatives, and delivery personnel.
- ▶ **Type 3 Violence:** Workplace violence against an employee by a present or former employee, supervisor, or manager.
 - The primary target of a type 3 event can be a co-employee, a supervisor, a domestic partner, or a manager of an individual who may be seeking revenge for what they perceive as unfair treatment at the workplace.
- ▶ **Type 4 Violence:** Workplace violence committed in the workplace by a person who does not work there but has or is known to have had a personal relationship with an employee.

What Can Be Done to Reduce Workplace Violence?

- ▶ Conduct an initial assessment and evaluation of risk factors.
 - Any preventive measure and procedure taken by an employer to correct, respond to, or prevent workplace violence, must be determined based on a thorough understanding of the risk factors and/or hazards associated with the various types of workplace violence that exist in the workplace.
 - Every employer must perform an initial assessment to identify and evaluate workplace violence hazards that have been shown to, or that may contribute to the risk of violence in the workplace. Potential factors that could exist in workplaces that may increase the risk of workplace violence include, but are not limited to:
 - Exchange of money.
 - Working alone.
 - Working at night and during early morning hours.
 - Availability of valued items, e.g., money and jewelry.
 - Guarding money or valuable property or possessions.
 - Performing public safety or social welfare functions in the community.
 - Working with clients, passengers, customers, or students known or suspected of having a history of violence.
 - Employees with a history of assaults or who have exhibited belligerent, intimidating, or threatening behavior to others.

How does workplace violence prevention affect dual-employers and temporary (staffing) agencies?

- ▶ If you are a temporary worker, both your staffing agency and the host employer whose workplace you work at are responsible for your safety and health and must protect you against hazards in the workplace. Staffing agencies and the host employer must provide you with workplace protections as required by Cal/OSHA, such as appropriate training and personal protective equipment.

Does the law require employers to report workplace violence events to Cal/OSHA?

- ▶ Employers need to report only “serious” injuries or fatalities as required by Title 8 CCR §330(h) and §342. This law did not establish new reporting requirements.

Are employers with less than 10 employees automatically exempt from SB 553’s coverage?

- ▶ No. However, the law exempts worksites with less than 10 employees. If the worksite has less than 10 employees present “at any given time,” is not “accessible to the public,” and the employer complies with the injury and illness prevention Cal/OSHA regulation, then the worksite may be exempt from the new law.

Are healthcare facilities required to comply with SB 553 and the Violence Prevention in Healthcare Regulation, §3342?

- ▶ No. Health facilities are only required to comply with the Cal/OSHA regulation.

Does SB 553 require employers to provide training to all employees regardless of which state they are in or does this new law only apply in California?

- ▶ This new law only applies to California employers and their California employees.

Do workplace violence incidents also go on the Occupational Safety and Health Administration (OSHA) Log of Injuries and Illnesses (the OSHA Form 300 log)?

- ▶ Employers are required to record information on the 300 log only if an employee was injured and meets the requirements of recording on the 300 log.

Can our workplace violence plan be added to an injury and illness prevention program (IIPP)?

- ▶ Yes. It can be part of the IIPP or a stand-alone plan.

Will there be an opportunity for public comment during future Cal/OSHA rulemaking on workplace violence?

- ▶ Yes. There will likely be an opportunity to provide comments in 2024.

How can employers make the workplace violence plan accessible to employees?

- ▶ Many employers post their required safety plans on a company intranet or software platform. Employers may continue to make their workplace violence plans available in binders on the worksite or post them on bulletin boards in common areas.

Does each work location need a dedicated plan, or can an organization use a corporate plan for all sites?

- ▶ If there are different hazards at different locations, then a company's workplace violence prevention plan would need to be customized. If the company has consistent and similar hazards and risks across all its worksites, then the plan can be more uniform across a larger footprint.

Does the employee-involvement requirement in a company's workplace violence plan also apply to nonunion worksites?

- ▶ Yes. The employee-involvement requirement applies across all California employers that fall under SB 553.

Are animal attacks considered workplace violence under SB 553?

- ▶ Yes. This type of incident is called out for recording in the new law's required violent incident log.

Here are some links to some useful resources that you can use in developing your program.

[Cal/OSHA Workplace Violence Prevention Guidance and Resources](#)

[Occupational Safety and Health \(OSHA\) Workplace Violence webpage](#)

[Center for Disease Control and Prevention, The National Institute for Occupational Safety and Health \(NIOSH\), Occupational Violence Resources webpage](#)

[Washington State Department of Labor & Industries. Workplace Violence Awareness and Prevention for Employers and Employees](#)

[U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics: Indicators of Workplace Violence, 2019 report](#)

[Center for Disease Control and Prevention, NIOSH Science Blog: Highlights from a New Report on Indicators of Workplace Violence, 2022](#)

[U.S. Department of Labor, Women's Bureau: Gender-Based Violence and Harassment in the World of Work, 2023](#)

For more details or assistance with your own program, please contact your Leavitt Pacific Representative, or our Dir. of Safety Services, Alex Miller at alex-miller@leavitt.com. Leavitt Pacific has all of the resources you need to develop your program and training effort.