



California Employers Must Develop a Workplace Violence Prevention Program Under New Law: Your 5-Step Compliance Plan

Insights

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California lawmakers were pushing an aggressive legislative proposal this year that would have required almost every employer in the state to comply with a workplace violence prevention standard developed with healthcare employers in mind. This was despite the fact that Cal/OSHA had been working on a standard that would apply to general industries. Thankfully for employers, SB 553 was amended late in the legislative session to essentially codify the proposal that Cal/OSHA had already been working on and remove some of the more controversial and burdensome requirements. As a result, many business groups dropped their opposition to the bill and Governor Newsom signed it on September 30. But the new law will still impose significant obligations on almost all non-healthcare employers in the state by July 1, 2024. Here's what you need to know about the specific requirements and the top five steps you should take to comply.

1. Create a Workplace Violence Prevention Plan

The program requires each employer to create and implement a written Workplace Violence Prevention Plan, train employees and supervisors on workplace violence matters, create and maintain a violent incident log, and keep records of all training and violent workplace incidents that occur.

The Workplace Violence Prevention Plan must be in writing and be easily accessible to employees. It must identify who is responsible for implementing the plan and include all of the following:

- A system for identifying and evaluating workplace hazards;
- Methods and procedures to correct unsafe or unhealthy conditions and work practices in a timely fashion;
- An occupational health and safety training program to teach safe and healthy work practices and provide instruction specific to an employee's particular hazards;
- A system for ensuring that employees comply with safe and healthy work practices, which may include disciplinary consequences;
- Procedures that allow for employee participation in developing and implementing the plan as well as to identify, evaluate, and correct workplace violence hazards;

- Procedures for accepting and responding to reports of workplace violence, including a prohibition on retaliating against the employee making the report;
- Procedures to communicate workplace violence matters with employees, including how to report an incident without fear of retaliation;
- Procedures to investigate employee concerns;
- Procedures for responding to an actual or potential workplace violence emergency, including the means to alert employees of the emergency and obtain help from staff designated to respond, and evacuation and shelter plans; and
- Procedures for post-incident response and investigation.

2. Incorporate Injury and Illness Prevention Program Requirements

The plan must also comply with the state's Injury and Illness Prevention Program (IIPP). Among other requirements consistent with those mentioned above, employers should take the following actions:

- Create a system for communicating occupational safety and health matters, such as meetings, training, posting, written communications, committees, or other means of communication;
- Conduct periodic inspections when new substances, processes, equipment, or procedures come into the workplace, and when the employer becomes aware of a new or previously unrecognized hazard; and
- Provide employees the opportunity to examine and receive a copy of any workplace injury and illness reports no later than five business days after the request for access is received.

3. Train Employees

Employers are required to provide training when the plan is initially implemented and then annually thereafter. The training must review the following:

- The plan and how employees can obtain copies and participate;
- Definitions and requirements of this law;
- How to report workplace violence incidents or concerns without fear of retaliation;
- Workplace hazards specific to a particular employee's duties;
- Corrective measures that you have implemented;
- How to seek assistance to prevent or respond to violence and avoid physical harm; and
- The violent incident log, and how to get copies of workplace violence incidents.

The training must also provide an opportunity for interactive Q&A with someone knowledgeable about the plan. As with the IIPP, training is required for all new employees, employees who are given

new job assignments, and all employees when a new hazard is presented by newly introduced substances, procedures, processes, or equipment.

4. Record Incidents of Violence

Each violent incident that occurs must be recorded in a violent incident log. The information from each log must come from an employee who witnessed the incident, other witness statements, or investigative findings. No personal identifying information may be included in the log, such as a name, address, email, phone number, Social Security Number, or any other information that could identify the person providing information for the log entry. Additionally, information in the log must include the following:

- Date, time, and location of the incident;
- Workplace violence type (see types below);
- Detailed description of the event;
- Classification of the offender, such as client, customer, family, friend, stranger, co-worker, supervisor, or other titles like these;
- Classification of the circumstances, such as the employee finishing up job duties or working in a poorly lit area;
- Classification of the incident's location, such as the workplace, parking lot, or some other area;
- Type of violence, such as physical force or threat of physical force, use of a weapon, animal attack, or sexual assault or threat of sexual assault;
- Consequences of the incident, such as the use of law enforcement, any actions taken to protect the employees; and
- Name and job title of the person who made the log entry, as well as the date completed.

There are four distinct workplace violence types classified under SB 553:

- Type 1 is workplace violence committed by someone with no legitimate business interests at the worksite;
- Type 2 is violence directed at employees by customers, clients, patients, students, inmates, or visitors;
- Type 3 is violence between two current employees or one current and one former employee; and
- Type 4 is violence committed by a non-employee who has a personal relationship with an employee.

Notably, "workplace violence" does not include lawful acts of self-defense or defense of others, according to the bill.

5. Properly Maintain Records

SB 553 requires employers to keep records of each workplace violence hazard as well as the identification, evaluation, and correction of each workplace hazard for a minimum of five years. Training records must be saved for a minimum of one year. Violent incident logs and records of workplace violence investigations must be retained for a minimum of one years.

Conclusion

We are continuing to monitor these developments and will provide updates as appropriate. Make sure you are subscribed to Fisher Phillips' Insight System to get the most up-to-date information. If you have any further questions, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in any one of our six California offices.

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