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No Fighting! CalOSHA Releases its Long-Awaited Model Workplace Violence Prevention Plan

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On September 30, 2023, Governor Newsom signed Senate Bill 553 ("SB 553") into law. Among other things, the new legislation added section 6401.9 to the California Labor Code ("Section 6401.9"), which requires that virtually all employers implement a workplace violence prevention plan ("WVPP") **by no later than July 1, 2024**. Now, after months of waiting, the Division of Occupational Safety and Health ("CalOSHA") has released a model WVPP for employers to use to satisfy their obligations under the new law.

The California Occupational Safety and Health Act of 1973 already imposed many safety-related obligations on employers, including the requirement that they establish, implement, and maintain an effective injury and illness prevention program. SB 553, which is the first law of its kind in the nation, now requires that employers in non-healthcare settings take additional steps to address the specific threat of workplace violence. Since 2017, healthcare employers have managed similar obligations under section 3342 of title 8 of the California Code of Regulations.

As noted above, under the new Section 6401.9, employers must adopt a written WVPP by no later than July 1st, which may either be incorporated into an existing injury and illness prevention program or maintained as a separate document. Among other things, the WVPP must include address all of the following:

1. The name(s) or job title(s) of the person(s) responsible for implementing the WVPP;
2. Effective procedures to obtain the active involvement of employees and authorized employee representatives in developing and implementing the WVPP;
3. Methods the employer will use to coordinate implementation of the WVPP with other employers, when applicable, to ensure that those employers and employees understand their respective roles;

4. Effective procedures for the employer to accept and respond to reports of workplace violence, and to prohibit retaliation against an employee who makes such a report;
5. Effective procedures to ensure that supervisory and nonsupervisory employees comply with the WVPP;
6. Effective procedures to communicate with employees regarding workplace violence matters, including, but not limited to:
    1. How an employee can report a violent incident, threat, or other workplace violence concern to the employer or law enforcement without fear of reprisal; and
    2. How employee concerns will be investigated, and how employees will be informed of the results of the investigation and any corrective actions to be taken;
7. Effective procedures to respond to actual or potential workplace violence emergencies;
8. Procedures to develop and implement required training regarding workplace violence and the WVPP;
9. Procedures to identify and evaluate workplace violence hazards, as well as procedures to correct any hazards identified;
10. Procedures to respond to incidents and investigation;
11. Procedures to review the effectiveness of and revise the WVPP, as needed; and
12. Procedures or other information required by CalOSHA and the Occupational Safety and Health Standards board as being necessary and appropriate to protect the health and safety of employees.

In addition to the model WVPP, CalOSHA also released a fact sheet for employees regarding the new requirements.

Section 6401.9 also requires, beyond the requirement to draft and disseminate a WVPP, that employers: (1) record information in a violent incident log each time there is an incident; (2) provide effective initial and annualtraining; and (3) keep records of workplace violence hazard identification, evaluation, and correction for at least five years.

Although CalOSHA is not required to propose its standards relating to workplace violence until December 31, 2025, the obligations listed above take effect on July 1, 2024. Thus, employers should take steps to implement their WVPP and training in the next few months.

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Related Professionals

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