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Cal/OSHA and Workplace Violence Prevention

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DISCLAIMERS

This presentation includes reference to proposed Cal/OSHA regulations and Labor Code provisions addressing prevention of violence in the workplace. This is not a comprehensive review of all elements of the proposals and should not be used, standing alone, in development of any workplace violence prevention plans.

This presentation, and our *discussion*, is based upon information known to us at this time. We attempt to provide you with information and resources. These resources must be continually reviewed for continued accuracy and relevance. We encourage you to do so.

Your participation in this presentation does not create an attorney-client relationship. We are unable to, and do not, give advice as to specific cases or situations.

California Senate Bill 553

- Requires the Division to enforce the Labor Code section 6401.9 via citation and notice of civil penalty in a manner consistent with Labor Code section 6317 (citations). Became operative **July 1, 2024**.
- Requires the Division to propose regulation no later than 12/31/25
- Requires the Standards Board to adopt no later than 12/31/26

California Senate Bill 553

- Cal/OSHA has proposed a regulation:
www.dir.ca.gov/dosh/doshreg/Workplace-Violence-in-General-Industry/WPV-Draft-Revisions-July-15-2024.pdf
- For now, the focus may be:
 - Establish a plan
 - Implement the plan
 - Workplace violence hazard assessments with Correction!
 - Training

Labor Code Section 6401.9

- Scope: All employers, employees, places of employment and employer-provided housing
- (Relevant) Exception
 - Places where there are less than 10 employees working at any given time AND that is not accessible to the public, if in compliance with Title 8 Section 3203

Labor Code Section 6401.9

- Workplace Violence Prevention Plan (Model Plan Available)
 - [Model-WPV-Plan-General-Industry.docx \(live.com\)](#)
- IIPP - note the similarities
 - Identify persons with responsibility
 - Procedures to ensure compliance
 - Procedures for communication with employees
 - Procedures to identify and evaluate hazards
 - Procedures to correct hazards
 - Training – when new hazard identified.

Labor Code Section 6401.9

- Workplace Violence Prevention Plan - **PART 1**
 - Identify person(s) responsible for implementing the plan
 - Procedures to obtain active involvement of employees/representatives
 - Coordination with other employers
 - Procedures to accept and respond to reports of workplace violence including prohibition of retaliation against employee making report
 - Procedures to ensure supervisory and nonsupervisory employee compliance with plan

Labor Code Section 6401.9

- Workplace Violence Prevention Plan - **PART 2**
 - Communication with employees: how to make reports and how employer will investigate
 - Procedures to respond to emergencies
 - Training
 - Identification of hazards via inspection, reports, incidents
 - Post incident response and investigation
 - Review for effectiveness including review of incident log

Labor Code Section 6401.9

- Workplace Violence Prevention Plan - Establish, **implement** and maintain
 - The Division's model program
 - A place to start
 - Recall: Implementation is Key
 - The Division has also published Fact Sheets for Employers and Employees. There is more to come.
 - Read these carefully

Labor Code Section 6401.9

- Workplace Violence Prevention Plan - Establish, **implement** and maintain
 - Identification of hazards – hazard assessments
 - Hazard correction – when hazard noted, note the response
 - Training and communication

Labor Code Section 6401.9

- Identification of hazards, evaluation and **correction**
 - Records of hazard correction required
 - Must be maintained for five years
 - Based upon inspection, reports and incidents
 - Limited language in regulation should not indicate limited attention to this issue
- Assume this will be treated as Title 8 CCR 3203 inspection requirement

Labor Code Section 6401.9

- Training
 - Records of this required
 - Date of training
 - Content or summary of training
 - Names of person conducting training
 - Those who attended training
 - Must be maintained for one year*
 - When: when program first established, when new hazard**

Labor Code Section 6401.9

- Violent Incident Log
 - Include information from person who experienced incident, witnesses and other investigative findings
 - Omit information that will allow for identification of those involved
 - At MEW – coordination of information with controlling employer

Labor Code Section 6401.9

- Violent Incident Log – Information Required
 - Date, time, location of incident
 - Type or types of violence involved in incident
 - Detailed description of incident
 - Classification of aggressor (client, customer, co-worker, family, friend)
 - Classification of circumstances (lighting issue, working alone)

Reporting to Cal/OSHA

- Records (training, incident log, inspection records) shall be available upon request
- Report of incident:
 - When defined as serious by Title 8 CCR section 330(h)

Resources

- Cal/OSHA Publications re: Workplace Violence Prevention
 - www.dir.ca.gov/dosh/PubOrder.asp
- SB 553
 - [Bill Text - SB-553 Occupational safety: workplace violence: restraining orders and workplace violence prevention plan. \(ca.gov\)](#)
- Cal/OSHA Proposed Plan
 - www.dir.ca.gov/dosh/doshreg/Workplace-Violence-in-General-Industry/WPV-Draft-Revisions-July-15-2024.pdf
- The Prince Firm
 - <https://www.lisaprincelaw.com>