

California Releases Workplace Violence Prevention Guidance

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California's Division of Occupational Safety and Health (Cal/OSHA) recently published guidance to assist employers in complying with [Senate Bill 553](#) ahead of the law's employer compliance date of July 1, 2024. As we reported in [November 2023](#), SB 553 requires virtually all employers to develop, implement, and maintain an "effective" written workplace violence prevention plan (WVPP), as well as train employees, and create and maintain extensive records regarding workplace violence.

The guidance includes a [model WVPP for general industry \(non-healthcare settings\)](#), as well as fact sheets for employers and employees. Employers must customize the model WVPP for their specific workforce. Under the law, only certain healthcare facilities, employees teleworking from locations of their choice and not under the control of their employers, and places of employment with fewer than 10 employees and not accessible to the public are exempt from the law's requirements. Although Cal/OSHA is not required to adopt workplace violence standards until December 31, 2026, it may begin enforcing the law on July 1, 2024. Thus, it is critical that employers take steps now to draft, implement and train employees on their WVPPs.

Model WVPP

The WVPP must include a [long list of required components](#), such as the identification of persons responsible for implementing the plan, as well as procedures to respond to reports of workplace violence, identify and correct workplace violence hazards, and conduct post-incident responses and investigations. Employers are not required to use the state's model WVPP and may also incorporate workplace violence prevention into any existing injury and illness prevention program (IIPP). The state's model IIPP does not yet appear to include sample workplace violence language. Notably, the agency states that using the state's model WVPP does not ensure compliance with the law.

While Cal/OSHA notes that its model WVPP was "written for a broad spectrum of employers, and it may not match [an employer's] exact needs," it provides helpful guidance by providing examples of how employers can meet the law's required components. For example, in developing the required "procedures to obtain the active involvement of employees and authorized employee representatives in developing and implementing the plan," the model suggests that management have monthly safety meetings with employees to discuss workplace violence related concerns and hazards, which could involve brainstorming sessions, discussions of recent incidents, and reviews of safety procedures. The agency also suggests employers encourage employees to participate in designing and implementing training to accomplish this objective, by, for example, incorporating employee suggestions on new training scenarios into training materials.

On another required component of the plan, "procedures to communicate with employees regarding workplace violence matters," the model suggests employers do more than just posting or distributing workplace violence prevention information and hosting regularly scheduled meetings addressing security issues. The model refers to "other methods of effective communication," which may include updating employees on the status of investigations and corrective actions through email and at safety meetings, providing updates during meetings with other employers in the building, discussing recent incidents, and sharing training materials and incident reports with other employers to ensure a coordinated response to incidents.

The model plan also includes examples of how employers can evaluate workplace hazards, which is another required component of the WVPP. For example, the plan suggests analyzing factors such as the exterior and interior of the workplace for attractiveness to robbers and assessing whether employees have "effective escape routes from the workplace," the adequacy of workplace security systems, and employees' skill in safely handling threatening or hostile service recipients.

Training requirements

In addition, the model WVPP expands on employers' training requirements, which must be conducted when the plan is first established and annually thereafter, as well as when a new or previously unrecognized workplace violence hazard has been identified and when changes are made to the plan. The model suggests employers include additional topics as part of this training, such as strategies to avoid/prevent workplace violence and physical harm, ways to defuse hostile or threatening situations, employee routes of escape, and how to seek post-event trauma counseling for employees desiring such assistance. Notably, the model WVPP states that "[e]mployers must use training material appropriate in content and vocabulary to the educational level, literacy, and language of employees."

Incident log requirements

The model WVPP also includes a sample of the required workplace violence incident log. The WVPP sample log includes the location of the incident, in addition to both a "workplace violence type" and "type of incident." These are two separate and distinct categories of information. Specifically, the model states that the "type of incident" refers to the "nature or characteristics of the incident being logged." For example, a "type of incident" could include whether the incident involved physical attack with or without a weapon or object, sexual assault or threat, or animal attack, while "workplace violence type" refers to these four categories:

- **Type 1:** Workplace violence committed by a person who has no legitimate business at the worksite, including violent acts by anyone who enters the workplace or approaches workers with the intent to commit a crime.
- **Type 2:** Workplace violence directed at employees by customers, clients, patients, students, inmates or visitors.
- **Type 3:** Workplace violence against an employee by a present or former employee, supervisor, or manager.
- **Type 4:** Workplace violence committed in the workplace by a person who does not work there, but who has or is known to have had a personal relationship with an employee.

Importantly, in filling out the incident log, employers should only include the classification of who committed the violence (e.g., whether the perpetrator was a client or customer, family or friend of a client or customer, stranger, etc.) for confidentiality reasons and exclude information that would identify any person involved in a violent incident.

Employer and employee fact sheets

Cal/OSHA's [employer fact sheet](#) and an [employee fact sheet](#) serve as helpful primers in outlining employers' responsibilities under the law by defining types of workplace violence, providing recommendations on preventing workplace violence, and explaining employees' rights under the WVPP.

Next steps

Employers should take steps now to establish their WVPP and train employees by July 1. Multistate employers also should keep apprised of new developments imposing obligations in this area. For example, Texas' [SB 240](#) requires certain healthcare facilities to establish workplace violence prevention committees, a workplace violence prevention plan and response protocols, and to implement training by September 1, 2024. In addition, since September 1, 2023, all Texas employers have been required to [post a notice in the workplace](#) instructing employees to report instances of workplace violence or suspicious activity to the Texas Department of Public Safety. Other states may follow the lead taken by California and Texas.

If you have any questions about California's SB 553 or need assistance with developing and implementing a WVPP, please contact a member of Cooley's employment group.

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