

LEGAL UPDATES

PUBLISHED: JUNE 20, 2024

Services

Labor & Employment
Workplace Safety &
Health

Professionals

ANDREW J. WEISSLER
ST. LOUIS:
314.480.1500
AJ.WEISSLER@
HUSCHBLACKWELL.COM

ALLISON M. SCOTT
LOS ANGELES:
213.356.2946
ALLISON.SCOTT@
HUSCHBLACKWELL.COM

SARAH VINCENT
KANSAS CITY:
816.983.8000
SARAH.GEORGE@
HUSCHBLACKWELL.COM

AYISSA MALDONADO
AUSTIN:
512.370.3313
AYISSA.MALDONADO@
HUSCHBLACKWELL.COM

California Workplace Violence Prevention Plan

According to the Occupational Safety and Health Administration (OSHA), workplace violence is the second leading cause of fatal occupational injuries in the United States, impacting nearly 2 million American workers each year. California has taken a significant step towards ensuring the safety and well-being of general industry employees with California Senate Bill 553 (SB 553), which was signed into law on September 30, 2023. SB 553 amends Labor Code section 6401.7 to require employers to develop and implement a workplace violence prevention plan in accordance with newly codified Labor Code section 6401.9, which sets out the requirements for the plan and goes into effect on July 1, 2024.

Covered employers

All employers, employees, places of employment, and employer-provided housing must adhere to the new Labor Code requirements with a few exceptions listed below.

Covered employers include multi-employer worksites, such as shared office spaces, such that employers may need to work with their landlord and other employers sharing the workspace to coordinate the implementation of the employer's workplace violence prevention plan.

The following employers or places of employment **are not covered**:

Healthcare facilities;

Healthcare service categories;

Facilities operated by the Department of Corrections and Rehabilitation;

Employees teleworking from a location of the employee's choice that is not under the control of the employer; and

Workplaces that are inaccessible to the public with less than 10 employees working on location at any point in time.

Workplace Violence Prevention Plan requirements

Beginning on July 1, 2024, most California employers are required to establish, implement, and maintain a Workplace Violence Prevention Plan that includes:

The names of persons 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 employee retaliation;

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 when the plan is first set up, periodically, after violent incidents, and whenever a new hazard becomes known;

Procedures to correct workplace violence hazards identified and evaluated in a timely fashion;

Procedures for post-incident response and investigation;

Procedures that allow for plan review annually, when a deficiency is observed or becomes apparent, and after a workplace violence incident; and

Any other procedure necessary for employee health and safety as required by the Division and Standards Board.

The plan must be specific to the hazards and corrective measures for each work area and operation.

Cal-OSHA has created a Model Workplace Violence Plan for employers. The Model Workplace Violence Plan provides the foundation for drafting a compliant plan but must be revised to address the policies and procedures unique to the employer and the physical workspace.

Training requirements

In addition to implementing a Workplace Violence Prevention Plan, employers are required to provide training to employees when the initial plan is implemented and each year after. The training can be conducted by anyone knowledgeable about the Workplace Violence Prevention Plan. The training is required to cover various aspects, including:

Familiarizing employees with the plan, how to obtain a copy, and how to participate in the development and implementation of the plan;

The definition and requirements of Labor Code section 6401.9;

How to report workplace violence incidents without fear of retaliation;

Understanding job-specific violence hazards and preventative measures;

Purpose of the violent incident log and how to obtain related records; and

Opportunities for interactive discussions with someone knowledgeable about the employer's plan.

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

Recordkeeping

The plan must be in writing and easily accessible to all employees, authorized employee representatives, and Cal/OSHA representatives. Covered employers must maintain the following records for a minimum of five years: (1) records of workplace violence hazard identification, evaluation, and correction; (2) violence incident logs; (3) records of workplace violence incident investigations; and (4) Cal/OSHA Form 300.

Employers are required to keep training records for one year following the training.

Next steps

Because SB 533 requires immediate compliance, California employers should begin preparing their Workplace Violence Prevention Plans if they have not already started. California employers who fail to comply with the new Workplace Violence Prevention Plan requirements may be cited by Cal/OSHA

and may face civil penalties and misdemeanors. As the legislative landscape continues to evolve, staying informed of such measures has become critical for employers to ensure compliance with California labor laws.

Contact us

If you have questions about the Workplace Violence Prevention Plan requirements or other labor and employment matters, please contact AJ Weessler, Allison Scott, Sarah George, Ayissa Maldonado, or your Husch Blackwell attorney.