

## California Enacts New Requirement For Complex Workplace Violence Prevention Plans

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California has enacted SB 553, which requires all California employers, with very few exceptions, to design, implement, and maintain workplace violence prevention plans (“WVPP”) by July 1, 2024. The new law, added as Labor Code Section 6401.9, creates the first general industry workplace violence prevention safety requirements in the United States, and its complex rules will pose myriad challenges for California employers.

Initially prompted by the tragic events in 2021 at the Valley Transportation Authority railyard in San Jose, the law adds WVPPs as a mandatory portion of an employer’s injury and illness prevention program (“IIPP”). WVPPs may also be maintained as a separate document from the IIPP. WVPPs will be structured similarly to IIPPs and will require an employer to: (1) designate the person responsible for implementing the program; (2) identify and correct hazards through periodic inspections; (3) train employees on hazards; and (4) maintain records of incidents. Three specific requirements, though, create particular complexities for compliance with the new law.

**Employee Involvement** -- Unlike the requirements for an IIPP, however, this law notably requires employers “to obtain the active involvement of employees” and any unions “in developing and implementing the plan, [and], in designing and implementing training.” SB 553 specifically calls for the participation of unions in many of the key actions required by WVPPs. Given the labor movement’s newfound energy, employers with collective bargaining relationships should be prepared for active union involvement in this process.

**Training Requirements** -- Additionally, the law requires employers to train employees on numerous topics, including the law’s definitions and requirements, the WVPP itself, the documentation required under the plan, how to report incidents and concerns, and ways employees can participate in the WVPP’s development and implementation. Aside from these legal and procedural topics, the law mandates that employers train employees on “[w]orkplace violence hazards specific to the employees’ jobs” and “strategies to avoid physical harm,” and requires employers to do so during a training that provides “[a]n opportunity for interactive questions and answers with a person knowledgeable about the employer’s plan.” This means that an employer with thousands of employees will need to provide live, interactive training to all of its significant workforce, even though various, differing positions could require myriad training curriculums tailored for the variety of different “strategies to avoid physical harm.”

**Investigatory Obligations** -- Under the new law, employee concerns of workplace violence must be investigated as part of the employer’s responsibility to identify and correct workplace hazards, and then the results of the investigation must be communicated to the reporting employee. Employers also have a duty to conduct an investigation after incidents of workplace violence. Given the broad definition of workplace violence as any “threat or use of physical force against an employee that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress,” these new investigative requirements impose a significant administrative burden on employers.

Employee involvement and complex training and investigatory obligations are merely a few examples of the law's many requirements that will likely prove extremely challenging for employers to implement. The law also requires employers to maintain various records, including a separate violent incident log, records of the employees' training, and records of workplace violence investigations.

Several of the law's requirements are similar to the requirements in the current WVPP regulation that governs health care institutions. While those requirements are likely not applicable for all employers, the health care industry's experience with WVPPs could serve as a useful source of information and guidance on how to implement the requirements of SB 553.

Employers, including their employee safety and Human Resources personnel, should carefully review the requirements of SB 553 and consult their employment counsel for any needed guidance in order to ensure proper compliance by the July 1, 2024 deadline.

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