

Cal/OSHA's Significant Revisions to Proposed Workplace Violence Regulation Would Create More Obligations for More Employers

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Related Services

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Takeaways

- The proposed changes to the workplace violence prevention plan regulation add significant burdens, many of which are not listed in the statute (Labor Code Section 6401.9).
- Under the proposed changes, more employers would be covered by the proposal.
- The deadline for concerns and comments to Cal/OSHA is 07.14.25.

Related link

- [Workplace Violence Prevention in General Industry - Revised Discussion Draft](#)

Article

The California Division of Occupational Safety and Health, better known as Cal/OSHA, has issued [significant revisions to its *proposed* workplace violence regulation](#). The proposal provides needed clarity for employers but also expands the requirements of the law, adding significant burdens that are not in the statute (Labor Code Section 6401.9).

Although the proposed regulation is not in effect, it shows where Cal/OSHA is headed on employers' workplace violence plans.

Comments must be submitted to Cal/OSHA by July 14, 2025.

Key changes include:

- Expanding the scope of the plan to cover employers with lower headcounts;
- Establishing a carve-out for threats of violence sent by text, social media, or electronic messaging of which the employer is not aware;
- Clarifying various definitions, including "authorized employee representative," "engineering controls" and "workplace violence hazards";
- Specifying who can submit reports of violence and how employers must accept reports;
- Expanding the communications employers must provide;
- Setting additional times inspections must be conducted;
- Permitting employers to encourage or require employees to confront shoplifters;
- Laying out requirements for post-incident response; and
- Updating certain recordkeeping requirements.

Employee Headcount

The law exempts employers from its requirements "where there are less than 10 employees

working at the place at any given time.”

Saying this “created an absurd result,” Cal/OSHA proposes to exempt employers only if they have fewer than 10 “total” employees and the employer has an injury and illness prevention plan. This change is expected to affect small employers that have staggered employee headcounts at a location.

Departing from the previous draft proposal, the proposed regulation covers security, janitorial, or domestic workers (defined under Labor Code Section 1451) regardless of the number. Employers with fewer than 10 security guards, janitors, or domestic employees at any location at any time can no longer rely on the headcount exception as written in the law.

Electronic Messaging Carve-Out

The proposed regulation establishes a carve-out for threats of violence communicated by employees’ texts, electronic messages, or personal social media posts “that are not brought to the attention of the employer or that the employer could not otherwise be reasonably be aware of.”

This clarifies when an employer must begin an investigation and take action to mitigate a hazard.

Clarified Definitions

The proposed regulation gives various definitions and clearly states where items are examples, as opposed to being required. Clarifications include “engineering controls,” “work practice controls,” and “workplace violence hazards,” which are defined as lists of examples, not requirements. “Authorized employee representative” is defined as an organization with a bargaining relationship, and not a person chosen by an individual employee.

Workplace Violence Reporting

The proposed regulation requires employers to accept anonymous reports and reports from authorized employee representatives, which is not specifically provided for in the law.

It also requires employers to have a way to report workplace violence “in a manner that does not discourage reporting” and to a non-supervisor for “type-3” workplace violence (by an employee against a current or former employee, supervisor, or manager).

The practical impact of this is likely to require some kind of anonymous reporting system.

Expanded Communication

Cal/OSHA proposes to require employers to communicate with authorized employee representatives on the topics required by the law, including how to make reports and how reports will be investigated.

The proposed regulation also requires employers to inform authorized employee representatives of the results of an investigation into workplace violence, which could pose unique challenges for unionized workforces.

Additional Inspections

The proposed regulation adds that inspections must be conducted (and records kept)

whenever “new substances, processes, and procedures, or equipment are introduced to the workplace that represent a new workplace violence hazard.”

Permits Employers to Require Confronting Shoplifters

The proposed regulation deleted a restriction that employers could not “require or encourage employees to confront persons suspected of committing a criminal act or persons suspected of engaging in workplace violence.”

Post-Incident Response

The law requires post-incident response and investigation but does not specify employer actions. Instead of giving examples, the proposed regulation details several actions that employers must take. Actions include offering (including through an EAP or workers’ compensation) trauma counseling, conducting a post-incident debriefing, and soliciting employees’ “observations” about what caused and could have prevented an incident.

In language aimed specifically at the special education setting, Cal/OSHA proposes waiving several post-incident requirements for “involuntary or unintentional type 2 workplace violent incidents” (by students, patients, customers, and so on) if it is “repetitive.”

Recordkeeping Updates

The proposal newly requires employers to keep records of threats and reported concerns (including anonymous reports), evaluations of reported concerns, and corrective actions taken.

What Employers Should Do

Being mindful of the draft proposed regulation and continuing to follow their current Workplace Violence Prevention Plan (WVPP), employers should consider the following:

1. Review the WVPP and determine how the potential changes would impact it.
2. Begin planning now with those personnel responsible for your WVPP on how to implement the changes, including how to solicit employees’ “active involvement.”
3. For unionized employers, consider how to implement the changes and work with the union, especially if you are preparing for or in bargaining.
4. If you have concerns, submit written comments to Cal/OSHA Deputy Chief of Health Eric Berg, EBerg@dir.ca.gov, by *July 14, 2025*.

Jackson Lewis attorneys are here to help provide advice and training relating to workplace violence prevention plans and training.

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