

# Workplace Violence Prevention - California Labor Code section 6401.9

LABOR CODE - LAB - DIVISION 5. SAFETY IN EMPLOYMENT [6300 - 9254] ( Division 5 enacted by Stats. 1937, Ch. 90.) - PART 1. OCCUPATIONAL SAFETY AND HEALTH [6300 - 6725] ( Heading of Part 1 amended by Stats. 1973, Ch. 993.) - CHAPTER 3. Responsibilities and Duties of Employers and Employees [6400 - 6413.5] ( Chapter 3 repealed and added by Stats. 1973, Ch. 993.)

## (a) For purposes of this section, the following definitions apply:

- (1) **“Emergency”** means unanticipated circumstances that can be life threatening or pose a risk of significant injuries to employees or other persons.
- (2) **“Engineering controls”** mean an aspect of the built space or a device that removes a hazard from the workplace or creates a barrier between the worker and the hazard.
- (3) **“Log”** means the violent incident log required by this section.
- (4) **“Plan”** means the workplace violence prevention plan required by this section.
- (5) **“Threat of violence”** means any verbal or written statement, including, but not limited to, texts, electronic messages, social media messages, or other online posts, or any behavioral or physical conduct, that conveys an intent, or that is reasonably perceived to convey an intent, to cause physical harm or to place someone in fear of physical harm, and that serves no legitimate purpose.
- (6) (A) **“Workplace violence”** means any act of violence or threat of violence that occurs in a place of employment.  
(B) “Workplace violence” includes, but is not limited to, the following:
  - (i) The 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, regardless of whether the employee sustains an injury.
  - (ii) An incident involving a threat or use of a firearm or other dangerous weapon, including the use of common objects as weapons, regardless of whether the employee sustains an injury.
  - (iii) The following four workplace violence types:
    - (I) **“Type 1 violence,”** which means workplace violence committed by a person who has no legitimate business at the worksite, and includes violent acts by anyone who enters the workplace or approaches workers with the intent to commit a crime.
    - (II) **“Type 2 violence,”** which means workplace violence directed at employees by customers, clients, patients, students, inmates, or visitors.
    - (III) **“Type 3 violence,”** which means workplace violence against an employee by a present or former employee, supervisor, or manager.
    - (IV) **“Type 4 violence,”** which means workplace violence committed in the workplace by a person who does not work there, but has or is known to have had a personal relationship with an employee.
- (C) “Workplace violence” does not include lawful acts of self-defense or defense of others.
- (7) **“Work practice controls”** means procedures and rules which are used to effectively reduce workplace violence hazards.

**(b) (1) Except as provided in paragraph (2), this section applies to all employers, employees, places of employment, and employer-provided housing.**

**(2) Subject to paragraph (3), the following employers, employees, and places of employment are exempt from this section:**

**(A) Health care facilities, service categories, and operations covered by Section 3342 of Title 8 of the California Code of Regulations.<sup>1</sup>**

**Note that as stated in the footnote below, Section 3342 essentially applies to healthcare facilities where patients stay for at least 24-hours. Consequently, this current document (6401.9) applies to conventional outpatient medical and dental practices.**

(B) Employers that comply with Section 3342 of Title 8 of the California Code of Regulations.

(C) Facilities operated by the Department of Corrections and Rehabilitation, if the facilities are in compliance with Section 3203 of Title 8 of the California Code of Regulations.

(D) Employers that are law enforcement agencies that are a “department or participating department,” as defined in Section 1001 of Title 11 of the California Code of Regulations and that have received confirmation of compliance with the Commission on Peace Officer Standards and Training (POST) Program from the POST Executive Director in accordance with Section 1010 of Title 11 of the California Code of Regulations. However, an employer shall be exempt pursuant to this subparagraph only if all facilities operated by the agency are in compliance with Section 3203 of Title 8 of the California Code of Regulations.

(E) Employees teleworking from a location of the employee’s choice, which is not under the control of the employer.

(F) Places of employment where there are less than 10 employees working at the place at any given time and that are not accessible to the public, if the places are in compliance with Section 3203 of Title 8 of the California Code of Regulations.

(3) Notwithstanding paragraph (1), the division may, by issuance of an order to take special action, require an employer that is exempt pursuant to paragraph (1) to comply with this section or require an employer to include employees or places of employment that are exempt pursuant to paragraph (1) in their compliance with this section.

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<sup>1</sup> § 3342. Violence Prevention in Health Care specifies:

“Health facility” means any facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, or treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which **the persons are admitted for a 24-hour stay or longer.** (Ref: Health and Safety Code Section 1250). For the purposes of this section, a health facility includes hospital based outpatient clinics (HBOCs) and other operations located at a health facility, and all off-site operations included within the license of the health facility. The term “health facility” includes facilities with the following bed classifications, as established by the California Department of Public Health:

- (1) General acute care hospital
- (2) Acute psychiatric hospital
- (3) Skilled nursing facility
- (4) Intermediate care facility
- (5) Intermediate care facility/developmentally disabled habilitative
- (6) Special hospital
- (7) Intermediate care facility/developmentally disabled
- (8) Intermediate care facility/developmentally disabled-nursing
- (9) Congregate living health facility
- (10) Correctional treatment center
- (11) Nursing facility
- (12) Intermediate care facility/developmentally disabled-continuous nursing (ICF/DD-CN)
- (13) Hospice facility

**(c) (1) (A) An employer shall establish, implement, and maintain an effective workplace violence prevention plan.**

(B) The plan shall be in writing and shall be available and easily accessible to employees, authorized employee representatives, and representatives of the division at all times. The plan shall be in effect at all times and in all work areas and be specific to the hazards and corrective measures for each work area and operation. The written plan may be incorporated as a stand-alone section in the written injury and illness prevention program required by Section 3203 of Title 8 of the California Code of Regulations or maintained as a separate document.

(2) The plan shall include all of the following:

(A) Names or job titles of the persons responsible for implementing the plan. If there are multiple persons responsible for the plan, their roles shall be clearly described.

(B) Effective procedures to obtain the active involvement of employees and authorized employee representatives in developing and implementing the plan, including, but not limited to, through their participation in identifying, evaluating, and correcting workplace violence hazards, in designing and implementing training, and in reporting and investigating workplace violence incidents.

(C) Methods the employer will use to coordinate implementation of the plan with other employers, when applicable, to ensure that those employers and employees understand their respective roles, as provided in the plan. These methods shall ensure that all employees are provided the training required by subdivision (e) and that workplace violence incidents involving any employee are reported, investigated, and recorded.

(D) Effective procedures for the employer to accept and respond to reports of workplace violence, and to prohibit retaliation against an employee who makes such a report.

(E) Effective procedures to ensure that supervisory and nonsupervisory employees comply with the plan in a manner consistent with paragraph (2) of subdivision (a) of Section 3203 of Title 8 of the California Code of Regulations.

(F) Effective procedures to communicate with employees regarding workplace violence matters, including, but not limited to, both of the following:

(i) How an employee can report a violent incident, threat, or other workplace violence concern to the employer or law enforcement without fear of reprisal.

(ii) How employee concerns will be investigated as part of the employer's responsibility in complying with subparagraph (I), and how employees will be informed of the results of the investigation and any corrective actions to be taken as part of the employer's responsibility in complying with subparagraph (J).

(G) Effective procedures to respond to actual or potential workplace violence emergencies, including, but not limited to, all of the following:

(i) Effective means to alert employees of the presence, location, and nature of workplace violence emergencies.

(ii) Evacuation or sheltering plans that are appropriate and feasible for the worksite.

(iii) How to obtain help from staff assigned to respond to workplace violence emergencies, if any, security personnel, if any, and law enforcement.

(H) Procedures to develop and provide the training required in subdivision (e).

(I) Procedures to identify and evaluate workplace violence hazards, including, but not limited to, scheduled periodic inspections to identify unsafe conditions and work practices and employee reports and concerns. Inspections shall be conducted when the plan is first established, after each workplace violence incident, and whenever the employer is made aware of a new or previously unrecognized hazard.

(J) Procedures to correct workplace violence hazards identified and evaluated in subparagraph (I) in a timely manner consistent with paragraph (6) of subdivision (a) of Section 3203 of Title 8 of the California Code of Regulations.

(K) Procedures for post-incident response and investigation.

(L) Procedures to review the effectiveness of the plan and revise the plan as needed, including, but not limited to, procedures to obtain the active involvement of employees and authorized employee representatives in reviewing the plan. The plan shall be reviewed at least annually, when a deficiency is observed or becomes apparent, and after a workplace violence incident.

(M) Procedures or other information required by the division and standards board as being necessary and appropriate to protect the health and safety of employees, pursuant to subdivision (h).

**(d) (1) (A) The employer shall record information in a violent incident log for every workplace violence incident.**

(B) Information that is recorded in the log for each incident shall be based on information solicited from the employees who experienced the workplace violence, on witness statements, and on investigation findings. The employer shall omit any element of personal identifying information sufficient to allow identification of any person involved in a violent incident, such as the person's name, address, electronic mail address, telephone number, social security number, or other information that, alone or in combination with other publicly available information, reveals the person's identity. The log shall be reviewed during the periodic reviews of the plan required in subparagraph (L) of paragraph (2) of subdivision (c).

(C) For purposes of this section, at a multiemployer worksite, the employer or employers whose employees experienced the workplace violence incident shall record the information in a violent incident log pursuant to subparagraph (A) and shall also provide a copy of that log to the controlling employer.

(2) The information recorded in the log shall include all of the following:

(A) The date, time, and location of the incident.

(B) The workplace violence type or types, as described in clause (iii) of subparagraph (B) of paragraph (6) of subdivision (a), involved in the incident.

(C) A detailed description of the incident.

(D) A classification of who committed the violence, including whether the perpetrator was a client or customer, family or friend of a client or customer, stranger with criminal intent, coworker, supervisor or manager, partner or spouse, parent or relative, or other perpetrator.

(E) A classification of circumstances at the time of the incident, including, but not limited to, whether the employee was completing usual job duties, working in poorly lit areas, rushed, working during a low staffing level, isolated or alone, unable to get help or assistance, working in a community setting, or working in an unfamiliar or new location.

(F) A classification of where the incident occurred, such as in the workplace, parking lot or other area outside the workplace, or other area.

(G) The type of incident, including, but not limited to, whether it involved any of the following:

(i) Physical attack without a weapon, including, but not limited to, biting, choking, grabbing, hair pulling, kicking, punching, slapping, pushing, pulling, scratching, or spitting.

(ii) Attack with a weapon or object, including, but not limited to, a firearm, knife, or other object.

(iii) Threat of physical force or threat of the use of a weapon or other object.

(iv) Sexual assault or threat, including, but not limited to, rape, attempted rape, physical display, or unwanted verbal or physical sexual contact.

(v) Animal attack.

(vi) Other.

(H) Consequences of the incident, including, but not limited to:

(i) Whether security or law enforcement was contacted and their response.

(ii) Actions taken to protect employees from a continuing threat or from any other hazards identified as a result of the incident.

(I) Information about the person completing the log, including their name, job title, and the date completed.

**(e) (1) The employer shall provide effective training to employees, as specified in paragraphs (2) and (3). Training material appropriate in content and vocabulary to the educational level, literacy, and language of employees shall be used.**

(2) The employer shall provide employees with initial training when the plan is first established, and annually thereafter, on all of the following:

(A) The employer's plan, how to obtain a copy of the employer's plan at no cost, and how to participate in development and implementation of the employer's plan.

(B) The definitions and requirements of this section.

(C) How to report workplace violence incidents or concerns to the employer or law enforcement without fear of reprisal.

(D) Workplace violence hazards specific to the employees' jobs, the corrective measures the employer has implemented, how to seek assistance to prevent or respond to violence, and strategies to avoid physical harm.

(E) The violent incident log required by subdivision (d) and how to obtain copies of records required by paragraphs (1) to (3), inclusive, of subdivision (f).

(F) An opportunity for interactive questions and answers with a person knowledgeable about the employer's plan.

(3) Additional training shall be provided when a new or previously unrecognized workplace violence hazard has been identified and when changes are made to the plan. The additional training may be limited to addressing the new workplace violence hazard or changes to the plan.

**(f) (1) Records of workplace violence hazard identification, evaluation, and correction shall be created and maintained for a minimum of five years.**

(2) Training records shall be created and maintained for a minimum of one year and include training dates, contents or a summary of the training sessions, names and qualifications of persons conducting the training, and names and job titles of all persons attending the training sessions.

(3) Violent incident logs required by subdivision (d) shall be maintained for a minimum of five years.

(4) Records of workplace violence incident investigations conducted pursuant to subparagraph (K) of paragraph (2) of subdivision (c) shall be maintained for a minimum of five years. These records shall not contain "medical information," as defined in subdivision (j) of Section 56.05 of the Civil Code.

(5) All records required by this subdivision shall be made available to the division upon request for examination and copying.

(6) All records required by paragraphs (1) to (3), inclusive, shall be made available to employees and their representatives, upon request and without cost, for examination and copying within 15 calendar days of a request.

(g) The division shall enforce this section by the issuance of a citation alleging a violation of this section and a notice of civil penalty in a manner consistent with Section 6317. Any person who receives a citation and penalty may appeal the citation and penalty to the appeals board in a manner consistent with Section 6319.

(h) The division shall propose, no later than December 31, 2025, and the standards board shall adopt, no later than December 31, 2026, standards regarding the plan required by this section. The standards shall include, at a minimum, the requirements of this section and any additional requirements the division deems necessary and appropriate to protect the health and safety of employees.

(i) Subdivisions (b) to (g), inclusive, shall be operative on and after July 1, 2024.

(Added by Stats. 2023, Ch. 289, Sec. 4. (SB 553) Effective January 1, 2024.)