

**COALITION DRAFT REVISIONS****§3343. Workplace Violence Prevention.**

**(a) Scope and Application.** This section applies to all employers except as listed below.

EXCEPTION 1: This section does not apply to facilities covered by California Code of Regulations, title 8, section 3342.

EXCEPTION 2: This section does not apply to the following facilities operated by the California Department of Developmental Services (DDS) and scheduled to close by the end of 2021: (1) Porterville Developmental Center General Treatment Area; (2) Fairview Developmental Center; and (3) Sonoma Developmental Center. These facilities shall still comply with title 8, section 3203 during the closure process.

EXCEPTION 3: This section shall not apply to facilities operated by the California Department of Corrections and Rehabilitation. These facilities shall still comply with title 8, section 3203.

EXCEPTION 4: This section shall not apply to law enforcement agencies that are a “Department or Participating Department” as defined in title 11, section 1001, and have received confirmation of compliance with the Commission on Peace Officer Standards and Training (POST) Program from the POST Executive Director in accordance with title 11, section 1010. These facilities shall still comply with title 8, section 3203.

EXCEPTION 5: Employers whose operations have no exposure to Type I and Type 2 Violence may satisfy the requirements of this section by including appropriate and practicable workplace violence prevention as part of the Illness & Injury Prevention Program, including training, to prevent Type 3 and Type 4 Violence exposures.

**(b) Definitions.**

“Chief” means the Chief of the Division of Occupational Safety and Health of the Department of Industrial Relations, or his or her designated representative.

“Division” means the Division of Occupational Safety and Health of the Department of Industrial Relations.

“Injury” means an injury to an employee that meets the recording criteria listed in title 8, section 14300.7(b)(1).

“Threat of violence” means a statement or conduct that causes a person to fear for his or her safety because there is a reasonable possibility the person might be physically injured, and that serves no legitimate purpose.

“Workplace violence” means any act of violence or threat of violence that occurs at the work site. The term workplace violence shall not include lawful acts of self-defense or defense of others. Workplace violence includes the following:

(A) 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;

- (B) An incident involving the 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;
- (C) Four workplace violence types:
- (1) "Type 1 violence" means workplace violence committed by a person who has no legitimate business at the work site, and includes violent acts by anyone who enters the workplace with the intent to commit a crime.
  - (2) "Type 2 violence" means workplace violence directed at employees by customers, clients, patients, students, inmates, or visitors.
  - (3) "Type 3 violence" means workplace violence against an employee by a present or former employee, supervisor, or manager.
  - (4) "Type 4 violence" means workplace violence committed in the workplace by someone who does not work there, but has or is known to have had a personal relationship with an employee.

"Workplace violence hazards" are workplace violence risks that employees are reasonably anticipated to encounter in their jobs.

**(c) Workplace Violence Prevention Plan.** As a separate stand-alone plan or As part of the Injury and Illness Prevention Program (IIPP) required by title 8, section 3203, the employer shall establish, implement and maintain an effective workplace violence prevention plan (Plan). The Plan shall be in writing and shall be available to employees at all times. The written Plan may be incorporated into the written IIPP or maintained as a separate document, and shall include all of the following elements:

- (1) Names or job titles of the persons responsible for implementing the Plan.
- (2) Effective procedures to obtain the active involvement of employees and their representatives in developing and implementing the Plan, including their participation in identifying, evaluating, and correcting workplace violence hazards, designing and implementing training, and reporting and investigating workplace violence incidents.
- (3) Methods the employer will use to coordinate implementation of the Plan with other employers whose employees work in same workplace, where applicable.
- (4) Effective procedures for the employer to accept and respond to reports of workplace violence, including Type 3 violence, and to prohibit retaliation against an employee who makes such a report.
- (5) Procedures to ensure that supervisory and non-supervisory employees comply with the Plan in accordance with title 8, section 3203(a)(2).
- (6) Procedures to communicate with employees regarding workplace violence matters including:
  - (A) How an employee can report a violent incident, threat, or other workplace violence concern;
  - (B) How employees can communicate workplace violence concerns without fear of reprisal;
  - (C) How employee concerns will be investigated, and how employees will be informed of the results of the investigation and any corrective actions to be taken;
- (7) Procedures to develop and provide the training required in subsection (d).
- (8) Procedures to identify and evaluate workplace violence hazards, including scheduled periodic inspections to identify unsafe conditions and work practices and whenever the employer is made aware of a new or previously unrecognized hazard.

- (9) Procedures to correct workplace violence hazards in a timely manner in accordance with title 8, section 3203(a)(6).
- (10) Procedures for post-injury response and investigation.
- (d) Training.** The employer shall provide effective training to employees as specified in subsections (d)(1) and (d)(2) that addresses the workplace violence risks that employees are reasonably anticipated to encounter in their jobs. Training material appropriate in content and vocabulary to the educational level, literacy, and language of employees shall be used.
- (1) All employees shall be provided initial training as described in subsection (d)(2) when the Plan is first established and when an employee is newly hired or newly assigned to perform duties for which the training required in this subsection was not previously provided.
- (2) Initial training shall address the workplace violence hazards identified at the workplace, the corrective measures the employer has implemented, an explanation of the employer's workplace violence prevention plan, how to seek assistance to prevent or respond to violence, strategies to avoid physical harm, and how to report workplace violence incidents or concerns to the employer without fear of reprisal.
- (3) Additional training shall be provided when a new or previously unrecognized workplace violence hazard has been identified. The additional training may be limited to addressing the new workplace hazard.
- (e) Recordkeeping.**
- (1) Records of workplace violence hazard identification, evaluation, and correction shall be created and maintained in accordance with title 8, section 3203(b)(1), ~~except that the exception to title 8, section 3203(b)(1) does not apply.~~
- (2) Documentation of training required by subsection (d) for each employee, including employee name or other identifier, training dates, type(s) of training, and training providers. This documentation shall be maintained for at least one (1) year.  
~~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. Title 8, section 3203(b)(2) EXCEPTION NO. 1 does not apply to these training records.~~
- (3) Records of workplace violence injury investigations conducted pursuant to subsection (c)(10) shall be maintained for a minimum of five one years. These records shall not contain "medical information" as defined by Civil Code Section 56.05(j).
- (4) All records required by this subsection shall be made available to the Chief on request, for examination and copying.
- ~~(5) All records required by this subsection shall be made available to employees and their representatives, on request, for examination and copying in accordance with title 8, section 3204(e)(1) of these orders.~~