

# California Division of Occupational Safety and Health Crafts Workplace Violence Rules

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**PRACTICES** OSHA, Labor and Employment

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The California Division of Occupational Safety and Health (Cal/OSHA) held two advisory meetings in January to solicit input and comments on its proposed draft rules for workplace violence prevention that would apply to nearly all California employers. Passage of these standards would make California the first state to issue workplace violence rules, which would surpass federal protections.

**What are the current rules governing workplace violence?** Currently, Federal OSHA relies on its General Duty Clause established by Section 5(a)(1) of the Occupational Safety and Health Act of 1970, to cite employers for hazards that involve workplace violence. In October 2016, Cal/OSHA unanimously adopted a workplace violence prevention standard for health care workers, becoming the first state to implement regulations of this kind.<sup>1</sup> However, this standard only applies to healthcare employers. To address violence in the workplace for non-healthcare employers, Cal/OSHA applies Section 3203, which mandates an Injury and Illness Prevention Program.<sup>2</sup>

**What is being proposed?** The current draft proposal would require covered employers to (1) develop an effective workplace violence prevention plan, (2) provide all employees with workplace violence training, and (3) maintain thorough record keeping. “Workplace violence” is currently defined as “any act of violence or threat of violence that occurs at the work site” not including “lawful acts of self-defense or defense of others.” Under the draft proposal, the standards would apply to all employers with the exception of certain healthcare providers and certain law enforcement agencies.

**What are the proposed requirements for a workplace violence prevention plan?** Employers must include the following elements in their plan: (1) Persons responsible for implementing the plan; (2) Procedures to obtain involvement of employees and representatives in developing, implementing, and reviewing the plan; (3) Methods the employer will use to coordinate implementation of the plan with other employers, where applicable; (4) Procedures for accepting and responding to reports of workplace violence, and prohibiting retaliation against employees; (5) Procedures to ensure employees comply with plan; (6) Procedures to communicate with employees regarding workplace violence matters without fear of reprisal; (7) Procedures to develop and provide the training; (8) Procedures to identify and evaluate workplace violence hazards; (9) Procedures to correct workplace violence hazards in a timely manner, including emergency procedures; and (10) Procedures for post-injury response and investigation. Employers would be required to make the plan available to employees at all times.

**What training requirements are proposed?** Employers are required to provide effective training that addresses the workplace violence risks that employees are reasonably anticipated to encounter in their jobs. All employees must be provided with initial training when the workplace violence prevention plan is first established or when an employee is newly hired or newly assigned to additional duties. Initial training would need to 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.

**What are the proposed record keeping requirements?** Employers would need to maintain records of workplace violence hazard identification, evaluation, and correction as well as training records for one year. Additionally, employers would be required to keep records of workplace violence injury investigations for five years.

**What is the timeline for the draft rules?** The proposal is still in the pre-rulemaking stage. There have been two advisory meetings on January 12, 2017 and January 25, 2018 at the Harris State Building in Oakland. Cal/OSHA is currently soliciting comments through March 30, 2018, which will likely be discussed in another advisory meeting to be scheduled within the next year. The pre-rulemaking stage can take several years with the rule-making stage taking another year. As a comparison, the healthcare standard took about two years to draft and implement, but it was accelerated by legislative mandate.

**What can employers do now?** Employers have the opportunity to shape these standards by taking part in the comment period through March 30, 2018 and by attending upcoming advisory meetings. Given that the advisory committee has discussed the possibility of carving out specific industries instead of proceeding with a general standard, employers may want to comment on why these standards are ill-suited for their specific industries.<sup>3</sup>

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<sup>1</sup> California Code of Regulations, Title 8, Section 3342.

<sup>2</sup> California Code of Regulations, Title 8, Section 3203.

<sup>3</sup> [Information related to the Proposed Regulation including agenda and minutes for advisory meetings.](#)