

Landmark CA Workplace Violence Law: A Primer for Nonprofits

03.22.24 | Linda J. Rosenthal, JD



Violence is the second highest category of workplace injury.

While nonprofits “... are working to help society, they are not immune to the danger of violence present in all workplaces.” Indeed, certain types of organizations – for instance, social services agencies – report a higher number of incidents than the average across all work environments. Among the reasons for this spiked level of risk is the daily interaction by nonprofit personnel with many troubled people in desperate circumstances.

There’s also the factor in our turbulent era of deep viewpoint polarization and hair-trigger bursts of opposition and outrage. The nonprofit sector does not sell tasty desserts or offer vacation-planning services. The “product” of our workplaces may be seen by one side or another as controversial, if not outright “objectionable.” Critics these days, tragically, are not always satisfied with writing a strongly worded letter to the editor.

Experts recommend viewing the intractable problem of workplace violence through the prism of known health-and-safety “risks” that may be preventable or greatly reduced. Research indicates that many incidents resulting in serious injuries or fatalities are preceded by credible threats or other behavior strongly indicating that escalation is likely.

One of the best protections employers can offer workers is having in place clear policies in a comprehensive plan. Trained professionals advise establishing a zero-tolerance policy that takes threats and other provocative behavior seriously. Often, supervisors and even top executives balk at this recommendation, worried they may be seen as overreacting. The experts’ push back: It’s better to face a wrongful-termination lawsuit than a wrongful-death claim.

For several years, federal and state labor agencies have wanted to tackle workplace-violence prevention under this approach. They were understandably side-tracked, though, dealing with the urgent pandemic challenges.

California lawmakers last year decided to move aggressively, taking matters into their own hands. On September 30, 2023, Governor Gavin Newsom signed into law [Senate Bill \(SB\) 553, Occupational safety: workplace violence: restraining orders and workplace violence prevention plan](#). See [Governor Signs Senator Cortese’s SB 553: Preventing Workplace Violence](#) (September 30, 2023), Sen. Dave Cortez (D-Santa Clara), sd15.senate.ca.gov.

It’s a [groundbreaking measure](#) in the United States: the first statute that creates a “general-industry-safety” standard for workplace violence prevention. See [California Mandates Workplace Violence Prevention Plans for All Employers](#) (October 1, 2023) Joshua M. Henderson, Esq., [Jackson Lewis: California Workplace Law Blog](#).

Landmark Statute

“Effective July 1, 2024, [nearly every California employer](#) will be required to implement a comprehensive workplace violence prevention plan with very specific requirements.” See [California’s Workplace Violence Prevention Plan Law Takes Effect on July 1, 2024: 10 Answers to Employers’ Frequently Asked Questions](#) (January 26, 2024) Robert C. Rodriguez, Esq. & Karen F. Tynan, Esq., [Ogletree Deakins](#).

Under this new law, there is no across-the-board exclusion or exemption for nonprofit organizations. See [California SB 553: Workplace Violence Prevention Plan](#) (February 2024) Slater Jackson, [Gallagher, ajg.com](#). [Senate Bill 553](#) applies to all employers with at least one employee subject to the following exceptions:

- “Places of employment where less than 10 employees are working at any given time, and the location is not accessible by the public. The location must also be in compliance with [Cal/OSHA’s Injury and Illness Prevention Program Standard](#).
- Employees teleworking from a location of their choice that is not under the employer’s control.
- Healthcare facilities already covered by [Cal/OSHA’s Workplace Violence in Healthcare Standard](#).”

WVPP Requirements

SB 553 adds a “... [new layer](#) to California employers’ existing injury and illness prevention programs (IIPP). See [California Imposes New Workplace Violence Prevention Mandate](#) (February 22, 2024) Michelle S. Strowhiro, Esq., et al., [McDermott Will & Emery](#).

Employers “must [establish, implement, and maintain](#) an effective written Workplace Violence Prevention Plan” that is “specific to their workplace.” The development of the Plan “... requires active involvement of employees” as does its implementation.

The [Plan requirements include](#), but are not limited to, the following:

- Identifying who is responsible for implementing the plan
- Involving employees and their representatives
- Accepting and responding to reports of workplace violence and prohibit[ing] employee retaliation
- Communicating with employees regarding workplace violence matters
- Responding to actual and potential emergencies
- Developing and providing effective training
- Identifying, evaluating, and correcting workplace violence hazards
- Performing post incident response and investigations

These are not one-time duties: Many of these requirements involve ongoing and repeated actions, particularly for employee training, record-keeping and reports, and investigations.

“[T]he new legislation has been very clear....” according to the specialists at compliance firm, Ethena. “Employers are required to provide workplace violence prevention training that checks a few boxes: it must be effective, accessible to employees, and both appropriate for and relevant to your workforce in terms of content, vocabulary, and the language or languages it’s offered in.” See [SB 553 Explained: What needs to go into my Workplace Violence Prevention training and how long do I need to give folks to complete it?](#) (February 9, 2024).

Time Is Almost Up

The July 1, 2024, deadline for meeting the statute requirements – all of them! – is still a few months away.

But “the time needed to prepare” the required training and create the plan(s) is “considerable,” according to risk-management specialist, Melanie Linquist. “California employers are advised to begin planning now,” she wrote a month ago. See [California Requires Workplace Violence Prevention Plan Effective July 2024](#) (February 14, 2024) [sequoia.com](#).

She is not the only professional raising the alarm. See, for example, [Cal/OSHA Publishes Model Plan and Guidance for Complying with Workplace Violence Prevention Law](#) (March 5, 2024) Joshua M. Henderson, Esq., [Jackson Lewis: California Workplace Law Blog](#).

You’re Not Flying Blind

The key deadline in SB 553 is July 1, 2024, for employer compliance. But there are two more imposed on the administrative department responsible for implementing this area of law. Cal-OSHA must “propose, no later than December 1, 2025, and the standards board [must] adopt, no later than December 31, 2026, standards regarding the plan required by the bill, as specified.”

SB 553 was a “placeholder” bill, designed to get something on the books quickly because of the urgent need, but to be superseded or supplemented at a later time by guidance from the state’s health-and-safety agency.

The only good news regarding the employer deadline just a bit over three months away is that Cal-OSHA has been busy at work, particularly since September 30, 2023, producing a raft of helpful resource and guidance materials, some of it issued just a few days ago.

See, first:

- [Cal/OSHA Workplace Violence Prevention Guidance and Resources](#) (March 13, 2024). This is the current home page with links to selected documents.

“California Senate Bill 553 (SB 553) amended California Labor Code section 6401.7 and created section 6401.9 and the new requirements found in those Labor Code sections will be in effect and enforceable on July 1, 2024. Cal/OSHA is currently working on the development of a workplace violence prevention standard for general industry (Non-Health Care settings) which the Occupational Safety and Health Standards Board (OSHSB) is required to adopt the standard no later than December 31, 2026.”

Then see, most particularly:

- [Cal/OSHA Workplace Violence Prevention for General Industry \(Non-Health Care Setting\)](#) (March 19, 2024): This outstanding resource explains the new law in great detail, providing valuable instruction and guidance.
- [Workplace Violence Prevention in General Industry \(Non-Health Care Settings\) Fact Sheet for Employers](#)
- [Workplace Violence Prevention in General Industry \(Non-Health Care Settings\) Fact Sheet for Workers](#)

By far the best nugget, though, in this welcome deluge of documents is a model Workplace Violence Prevention Plan template posted earlier this month. It is “available for use by employers as a resource guide” including as the basis, in whole or in part, of an employer’s WVPP.

- [Cal/OSHA’s Model written Workplace Violence Prevention Plan for General Industry \(Non-Health Care settings\)](#), which is “available for use by employers as a resource guide” but not in any way mandatory.

Conclusion

The [Ethena](#) team have a countdown on their website. Today’s banner is: “100 days left to comply with the new California Workplace Violence Prevention law.”

In developing the required WVPP, they advise covered employers to “...create trainings, and identify individuals who will implement the plan and will be responsible for maintaining the plan going forward.”

They caution as well: “Recognize that the employee involvement requirement is unlike other current California regulations. Begin to ask how your workplace will actively involve employees in the plan development and training. This may involve surveys or other company-wide initiatives.”

– Linda J. Rosenthal, J.D., FPLG Information & Research Director