

LABOR & EMPLOYMENT ALERT

Workplace Violence: Is Your Company Prepared?

With the recent tragic shooting at Sandy Hook Elementary School in Connecticut, employers are reminded that violence in the workplace is an unfortunate reality in our society. Regrettably, no workplace is immune from the possibility of such violence. In fact, workplace violence has become a daily occupational risk and hazard for many workers. According to the Occupational Safety and Health Administration (“OSHA”), workplace violence is one of the leading causes of job-related deaths. Workplace violence includes both violence and the threat of violence against workers and can range from verbal threats and abuse to physical assaults and homicide. However it manifests itself, workplace violence is a growing concern for employers and employees nationwide. Recent statistics show that over two million workers are victims of workplace violence in the United States each year.

Certain states require employers to have workplace violence prevention programs in place. A number of states, including California, Connecticut, Illinois, Maine, New Jersey, New York, Oregon, Washington and West Virginia, require that employers in the health care industry implement workplace violence prevention programs. New York also requires public employers to have workplace violence prevention programs in place. Other states, such as Arizona, Arkansas, California, Colorado, Georgia, Indiana, Nevada, North Carolina, Rhode Island, and Tennessee have enacted laws providing standing to employers to seek temporary restraining orders on behalf of employees (or the employer itself) where there is a credible threat of workplace violence.

What Can Employers Do To Help Protect Their Employees? The best protection employers can offer their employees is to establish a zero-tolerance policy toward workplace violence. In doing so, employers should establish a workplace violence prevention program and incorporate the information regarding the program into an employee handbook or manual of standard operating procedures. It is essential for employers to ensure that all employees are familiar with the workplace violence policy and to understand that all claims of workplace violence will be investigated and remedied promptly. Employees should be encouraged to report all incidents and threats of workplace violence immediately.

In addition, employers should train all employees on workplace violence so they know what conduct is not acceptable, what to do if they witness or are subjected to workplace violence, and how to protect themselves. As part of the training, all employees should learn how to report incidents of violent, intimidating, threatening and other disruptive behavior. Employees should also be provided with telephone numbers for quick reference during a crisis or an emergency. In addition, workplace violence prevention training for employees should include topics such as: an explanation of the employer’s workplace violence policy; encouragement to report incidents; ways of preventing or diffusing volatile situations or aggressive behavior; how to deal with hostile persons; ways of managing anger; techniques and skills to resolve conflicts; stress management and relaxation techniques; security procedures such as the location and operation of alarm systems; and personal security measures.

Violence often arises from frustration and miscommunication. Employers should work to establish a culture where open dialogue is encouraged. Having an appropriate outlet to vent the mental and physical effects of frustration can prevent the kind of emotion that can ultimately lead to violent outbursts. Maintaining “open door” policies and providing employees with access to employee assistance programs or hotlines that both employees and supervisors can call if the need arises can be effective tools in combating workplace violence.

Employers should also consider securing the workplace by installing video surveillance, extra lighting, alarm systems, and minimizing access by outsiders through use of identification badges, electronic keys, and/or security guards. Employers may also want to instruct employees not to enter any location where they feel unsafe, introduce a “buddy system” or provide an escort service or security/police assistance in the evening or in potentially dangerous situations.

Can an Employer Identify Potentially Violent Employees? No one can accurately predict all human behavior and there is no specific profile of a potentially dangerous individual. However, indicators of increased risk of violent behavior have been identified by the Federal Bureau of Investigation's National Center for the Analysis of Violent Crime, Profiling and Behavioral Assessment Unit in its analysis of past incidents of workplace violence. Some of the indicators include:

- Direct or veiled threats of harm expressed verbally, in writing, or electronically;
- Intimidating, belligerent, harassing, bullying, or other inappropriate and aggressive behavior;
- Numerous conflicts with supervisors and other employees;
- Bringing a weapon to the workplace, brandishing a weapon in the workplace, making inappropriate references to guns, or fascination with weapons;
- Statements showing fascination with incidents of workplace violence, statements indicating approval of the use of violence to resolve a problem, or statements indicating identification with perpetrators of workplace homicides;
- Statements indicating desperation (over family, financial, and other personal problems) to the point of contemplating suicide or threatening to hurt someone;
- Drug/alcohol abuse; and
- Extreme changes in behaviors.

Disruptive behavior should not be tolerated. This includes, among other things, yelling, profanity, waving arms and fists, verbally abusing and refusing reasonable requests from a supervisor to cease such acts. Threatening physical actions, short of actual contact, such as moving closer to the person, oral or written threats or comments like “you’ll be sorry”, should also not be tolerated. Violent behavior is when a person physically assaults another person, with or without weapons. People prone to violence may throw things, pound on desks or doors, destroy property, and may threaten to do bodily harm to others. Each of these behaviors is a clear sign that something is wrong and none of these behaviors should be ignored.

By identifying the problem and dealing with it appropriately, employers may be able to prevent violence from happening. Employers should designate certain members of management such as human resources personnel, to assist supervisors and other employees in dealing with such situations. Some behaviors require immediate police or security involvement. Others constitute actionable misconduct and require disciplinary action, and others indicate an immediate need for an employee assistance program referral, if available.

What Should an Employer do if an Incident of Workplace Violence does Occur? If a violent incident does occur, an employer must act quickly and calmly. Immediate decisions will need to be made in order to respond to and manage the incident safely and effectively, protect the physical safety and emotional well-being of victims, employees and other persons, and to prevent or minimize injury, damage and disruption. The first step is to contact the police department and/or call 911. The victims should be offered prompt medical evaluation and treatment. Employers may also need to help victims, their families and other employees deal with the press.

Following the incident, employers should address the circumstances of the situation with employees and offer stress debriefing sessions and post-traumatic counseling services to help workers recover.

Employers should be diligent in investigating all violent incidents and threats, monitoring trends in violent incidents by type or circumstance, and instituting corrective actions when appropriate.

Top 10 Ways to Prevent Workplace Violence. Each organization is unique, so when designing a plan to address workplace violence issues, employers should consider the organization's culture, history, size, industry, and workforce. While there is no single method for reducing workplace violence, the following 10 suggestions are drawn from the results of employer surveys as well as experts on this issue. Of course, the suggestions should be modified to best fit the unique needs of the organization.

1. Set up a crisis plan – Employers should develop a crisis plan for dealing with violent incidents. The plan should include details about how to report the incident, which key internal managers and external authorities should be alerted, how to maintain the safety of unaffected workers, and security precautions to prevent further trouble. Companies should also arrange to provide individual crisis counseling and support groups for affected employees soon after an incident occurs.
2. Implement security programs that protect employees – Employers have a variety of methods for ensuring workers' safety such as full-time or after-hours security guards, high-tech monitoring systems, emergency warning systems, limited access key cards, strict visitor sign-in policies, new employee background screening, and safety awareness and training. Companies should regularly evaluate their security programs to determine if they are meeting company and employee needs. Also, employers need to make sure employees are aware of and understand existing security policies and procedures.
3. Train supervisors how to recognize signs of a troubled employee – One way to reduce the potential for workplace violence is to intervene before an incident reaches a flash point. Supervisors should be given training about how to recognize signs and symptoms of a potentially violent employee, such as threatening behavior or preoccupation with violence. Also, supervisors should be instructed about how to be sensitive to signs of possible abuse among employees, such as frequent absences or depression.
4. Train supervisors and employees how to resolve conflicts – Conflict on the job can be reduced by developing employees' skills in negotiating, communicating effectively, team building and dispute resolution. Programs that encourage respect for diversity can also help to lessen interpersonal conflicts in the workplace.
5. Establish procedures for handling grievances – Employees need to understand grievance procedures for reporting complaints of unfair treatment, discrimination or harassment, believe those procedures will be followed, and feel confident concerns will be addressed promptly and confidently.

6. Provide job counseling for employees who have been laid off or fired – Because a job is often closely tied to one’s identity and self-esteem, being laid off can be traumatic. Employee counseling and support services can help workers develop job-seeking skills, learn how to cope with life changes, and personally and financially prepare for the future. These services also help existing employees feel the company cares about them. It is helpful to train supervisors to sensitively communicate layoffs and firings.
7. Provide personal counseling through an employee assistance program – Family, marital, financial and other personal issues can have a profound impact on employees’ work performance, as well as their social interaction at work. An employee assistance program provides employees with a free, easily accessible and confidential resource for addressing personal concerns. In addition, supervisors can be trained how to document and address work performance and attitude problems and refer employees for help. If a violent or threatening incident occurs at work, support services should be made available to help employees cope with their fears and concerns.
8. Develop effective policies to protect employees from harassment – While all companies strive to build a culture devoid of harassment and discrimination, they should also have systems in place to address infractions. A company harassment policy should clearly denounce harassment and state unequivocally it will not be tolerated. A complete policy defines harassment, specifies how to report it, explains how complaints will be investigated, and presents the consequences.
9. Provide employee safety education programs – In addition to making workers aware of company safety policies and employee support services, employers should provide educational materials and seminars about ways to maximize safety at work.
10. Foster a supportive, peaceful work environment – Creating a culture of mutual respect can help reduce hostility in the workplace. In such a culture, employers strive to communicate openly, give employees adequate control in their work, and provide them with support and recognition. Conflict and stress are lower when employees feel empowered to work independently and are motivated to work cooperatively.

See generally, Fear and Violence in the Workplace: A Survey Documenting the Experience of American Workers. October 1993. Northwestern National Life Insurance.

In short, every employer should have a crisis plan in place in the event of a violent incident. Our Labor and Employment team stands ready to assist your company with these needs and with ongoing changes in the law. Please contact us at (404) 658-5386.

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