

Workplace Violence Prevention

Workplace violence is a serious safety and health issue. While no federal law currently addresses violence in the workplace, several laws impose a duty on employers to maintain a safe workplace.

The Occupational Safety and Health Act (OSH Act) imposes a general duty on all employers to provide employees with a workplace that is free from hazards. Federal civil rights laws also require employers to keep the workplace free from threats of violence and federal workers' compensation laws hold employers responsible for injuries sustained by employees while performing job-related duties. In addition to federal requirements, Pennsylvania law also places a duty on employers to provide employees with a safe workplace.

This Employment Law Summary provides a high-level overview of workplace safety, details Pennsylvania's laws and court decisions addressing workplace safety and suggests items to include in a workplace violence plan for employees.

WORKPLACE VIOLENCE DESCRIBED

The National Institute for Occupational Safety and Health (NIOSH) defines workplace violence as "violent acts (including physical assaults and threats of assaults) directed toward persons at work or on duty." The Occupational Safety and Health Administration (OSHA) recognizes four different types of workplace violence:

- **Criminal Acts:** Violent acts by people, employees or former employees who enter the workplace with the intention to commit a crime;
- **Customers/Clients/Patients:** Violent acts directed at employees by individuals who enter the employer's premises to obtain some type of service;
- **Co-Worker Conflict:** Violence directed at co-workers, supervisors or managers by a current or former employee, supervisor or manager; and
- **Personal:** Violence in the workplace by someone who does not work there, but who is known to, or has a personal relationship with, an employee.

Workplace violence is a particularly prevalent issue in healthcare and social service settings as well as late-night retail establishments.

EMPLOYER'S OBLIGATION TO PROVIDE A SAFE WORKPLACE UNDER PENNSYLVANIA LAW

Pennsylvania's General Safety Law requires that all employers provide a workplace that is safe for employees. Employers have a legal obligation to adopt policies and processes that are reasonably adequate to ensure that the workplace remains safe.

Additionally, employers must take all steps necessary to protect the life, limb, health, safety and morals of their employees and all visitors on the employer's premises. If an employer discovers any hazards or conditions in the workplace that may fail to protect employees or visitors against workplace violence, the employer is obligated to correct the issue to ensure workplace safety.

Pennsylvania courts impose further obligations on employers to provide employees with a safe work environment by requiring employers to hire, train and supervise their employees properly. According to the Pennsylvania Supreme Court in *Dempsey v. Walso Bureau, Inc.*, an employer does not meet its duty to its customers when the employer negligently hires, trains, supervises or retains its employees.

This guide is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. It is provided for general informational purposes only. It broadly summarizes state statutes and regulations generally applicable to private employers, but does not include references to other legal resources unless specifically noted. Readers should contact legal counsel for legal advice.

Workplace Violence Prevention

This means that, in the event an employer does not adequately hire, train or supervise its employees, the employer may be sued for negligence if the employer knew or should have known the employee would subject a coworker, customer or other third party to an unreasonable risk of harm.

WORKPLACE VIOLENCE PLAN IMPLEMENTATION FOR EMPLOYERS

Although Pennsylvania does not have a statute or regulation explicitly governing workplace violence, employers are still required to keep employees free from harm in the workplace. Employers may be liable for incidents of workplace violence under both federal and state law for failure to provide employees with a safe workplace.

Employers can create a workplace violence plan to outline policies and processes that can help prevent workplace violence. If an employer elects to have a workplace violence plan, the plan will be most effective if it is tailored to the individual needs and circumstances of the employer. It should take into account the resources available to the employer to enact and maintain the program.

A workplace violence policy may include the following items:

- A statement summarizing the employer's workplace violence policy and its relation to other policies the employer has enacted;
- Standard practices to address workplace violence or threats of violence;
- Designation and training of an incident response team;
- Clearly stated disciplinary procedures designed to prevent violent behavior in the workplace;
- Procedures for workplace violence that will handle all levels of violence;
- Reference to sources outside of the workplace that employees may consult to deal with workplace violence; and
- An effective training program to inform employees of the workplace violence policy.

PENNSYLVANIA CONCEAL AND CARRY LAW

A Pennsylvania conceal and carry law grants Pennsylvania residents the right to carry concealed weapons in the state of Pennsylvania. While Pennsylvania law generally requires individuals to obtain a permit in order to legally carry a concealed weapon, employers should note that certain exceptions exist for employees in specific industries. Employees of common carriers, banks or business firms whose duties require them to protect money, valuables and other property may carry a concealed weapon without a permit while in the discharge of these duties.

Employers may choose to prohibit employees from possessing firearms on business property or while in the discharge of the employee's duties. Any policy adopted regarding firearms should be clearly and explicitly stated in the employer's workplace violence prevention policy. Additionally, if applicable, employers may post a notice indicating that weapons are not allowed on the premises.

MORE INFORMATION

Please contact Power Kunkle Benefits Consulting for more information on workplace violence in Pennsylvania.