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Legislative, Safety, and Security Updates for June 2021

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Agenda

- Federal OSHA Update
- New Mexico OSHA Update
- Cal-OSHA Update
- Emergency Management
 - Workplace Violence Prevention
- Questions

Fed OSHA Update

- Emergency Temporary Standard (ETS) only for Healthcare
- “Guidance” on Mitigating and Preventing Spread of COVID-19 in the workplace for all other industries

Fed OSHA Update- ETS

- Aimed at protecting workers in healthcare settings where suspected or confirmed COVID-19 patients are treated
 - Hospitals
 - Nursing homes
 - Assisted living facilities
 - Emergency responders
 - Home healthcare workers
 - Ambulatory care facilities where suspected or confirmed patients are treated

Fed OSHA Update - ETS (Healthcare)

Key Requirements

- Hazard assessment
- COVID-19 Plan
- Patient screening and management
- Standard and transmission-based precautions
- Personal protective equipment
- Aerosol-generating procedures
- Physical distancing
- Physical barriers
- Cleaning and disinfecting
- Ventilation
- Health screening and medical management
- Vaccination
- Anti-retaliation
- No cost to employees
- Recordkeeping/Reporting
- “Mini” respiratory protection program

Fed OSHA Update – Guidance (All Employers)

- “Guidance” on Mitigating and Preventing Spread of COVID in the workplace
 - General Duty Clause
 - CDC Interim Public Health Recommendations for Fully Vaccinated People
 - Schools should continue to follow CDC Guidance “Operational Strategy for K-12 Schools through Phased Prevention”
 - Steps to Protect Unvaccinated or Otherwise At Risk Individuals

Fed OSHA Update – Guidance (All Employers)

- Steps to Protect Unvaccinated or Otherwise At Risk Individuals
 - Paid time off for vaccinations
 - Stay home- infected, close contact, symptomatic
 - Physical distancing
 - Face coverings
 - Train workers
 - Suggest unvaccinated customers, visitors or guests wear face coverings
 - Maintain ventilation systems
 - Routine cleaning and disinfecting
 - Record and report COVID-19 infections and deaths
 - Implement protections from retaliation
 - Follow all other applicable mandatory OSHA standards

NM OSHA Update

- NM Environment Dept (NM OSHA)
 - 30 Day window to adopt ETS
 - Rapid Response Emergency Amendment Refiled 12/3/20
 - Must report positive cases within 4 hours
 - Online <https://nmgov.force.com/rapidresponse/s/>
 - Available 24/7
 - Multiple reports can be filed at one time
 - Enhanced record management capabilities

Cal/OSHA Update

Background:

November 30, 2020: Cal/OSHA implements COVID-19 Prevention Emergency Temporary Standards (ETS)

May 2020: CDC provides updated guidance on masks for vaccinated vs non vaccinated individuals and this creates confusion for employers in CA regarding current ETS and guidance from CDC

Effective June 17, 2021 by Governor Newsom Executive Order:

- **Vaccinated employees are not required to wear masks while indoors, except for the places where California still requires masks to be worn by all people**
- **Unvaccinated employees must still wear face masks in indoor settings**
- **Face masks are not required for vaccinated and unvaccinated workers while outdoors**

Cal/OSHA ETS Updates (Effective 6/17/21)

- Fully vaccinated employees without symptoms do not need to be tested or quarantined after close contacts with COVID-19 cases unless they have symptoms.
- No face covering requirements outdoors (except during outbreaks), regardless of vaccination status, though workers should be trained on CDPH recommendations for outdoor use of face coverings.
- **Employers "may allow" fully vaccinated employees not to wear face coverings indoors but must document their vaccination status.**
 - Exception - in outbreaks, all employees must wear face coverings indoors and outdoors when six-foot physical distancing cannot be maintained, regardless of vaccination status.
 - May require all employees to wear a face covering instead of having a documentation process
- **Upon request**, employers must provide unvaccinated employees with approved respirators for voluntary use when working indoors or in a vehicle with others.

Cal/OSHA ETS Updates

- Employers may not retaliate against employees from wearing face coverings.
- No physical distancing or barrier requirements regardless of employee vaccination status with the following exceptions:
 - Employers must evaluate whether it is necessary to implement physical distancing and barriers during an outbreak (3 or more cases in an exposed group of employees)
 - Employers must implement physical distancing and barriers during a major outbreak (20 or more cases in an exposed group of employees)
- Employers must evaluate ventilation systems to maximize outdoor air and increase filtrations efficiency, and evaluate the use of additional air cleaning systems

Cal/OSHA ETS Updates

- **Unvaccinated Employees** and face coverings – are required indoors and in vehicles with the following exceptions:
 - Alone in a room or Vehicle;
 - Eating/Drinking
 - Face coverings are recommended for unvaccinated persons outdoors where six feet of physical distancing cannot be maintained.
 - Employers must provide face coverings to unvaccinated persons and make them available to vaccinated persons upon request.
- Testing – Employers must offer testing at no cost to employees during paid time to:
 - Symptomatic unvaccinated employees, regardless of whether there is a known exposure - new requirement
 - Unvaccinated employees after an exposure
 - Vaccinated employees after an exposure, if they develop symptoms.
 - Unvaccinated employees in an outbreak.
 - All employees in a major outbreak.

Ca/OSHA ETS

- Employee Training – new requirements
 - How to access COVID-19 vaccination
 - The fact that vaccination is effective at preventing COVID-19, protecting against both transmission and serious illness or death.
 - Conditions under which face coverings must be worn at the workplace
 - Face coverings recommended outdoors for people who are not fully vaccinated if six feet of distance between people cannot be maintained
 - Separate training requirements for employees who wear an N-95 respirator (voluntary & non-voluntary use) <https://www.dir.ca.gov/title8/5144.html>

What requirements from the November 2020 ETS will remain in place?

- An effective written COVID-19 Prevention Program.
- Providing effective training and instruction to employees on the employer's prevention plan and their rights under the ETS.
- Providing notification to public health departments of outbreaks.
- Providing notification to employees of exposure and close contacts.
- Requirements to offer testing after potential exposures.
- Requirements for responding to COVID-19 cases and outbreaks.
- Quarantine and exclusion pay requirements.
- Basic prevention requirements for employer-provided housing and transportation.

<https://www.dir.ca.gov/dosh/coronavirus/Revisions-FAQ.html>

Other Considerations

- **Effective – June 15, 2021**

- <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>
- Masks are **not required for fully vaccinated individuals**, except in the following settings where masks are required for everyone, regardless of vaccination status:
 - On public transit (examples: airplanes, ships, ferries, trains, subways, buses, taxis, and ride-shares) and in transportation hubs (examples: airport, bus terminal, marina, train station, seaport or other port, subway station, or any other area that provides transportation)
 - Indoors in K-12 schools, childcare and other youth settings.
 - Note: This may change as updated K-12 schools guidance is forthcoming, pending updates for K-12 operational guidance from the CDC.
 - Healthcare settings (including long term care facilities)
 - State and local correctional facilities and detention centers
 - Homeless shelters, emergency shelters and cooling centers
- Masks are **required for unvaccinated individuals** in indoor public settings and businesses (examples: retail, restaurants, theaters, family entertainment centers, meetings, state and local government offices serving the public).

Emergency Management in the News

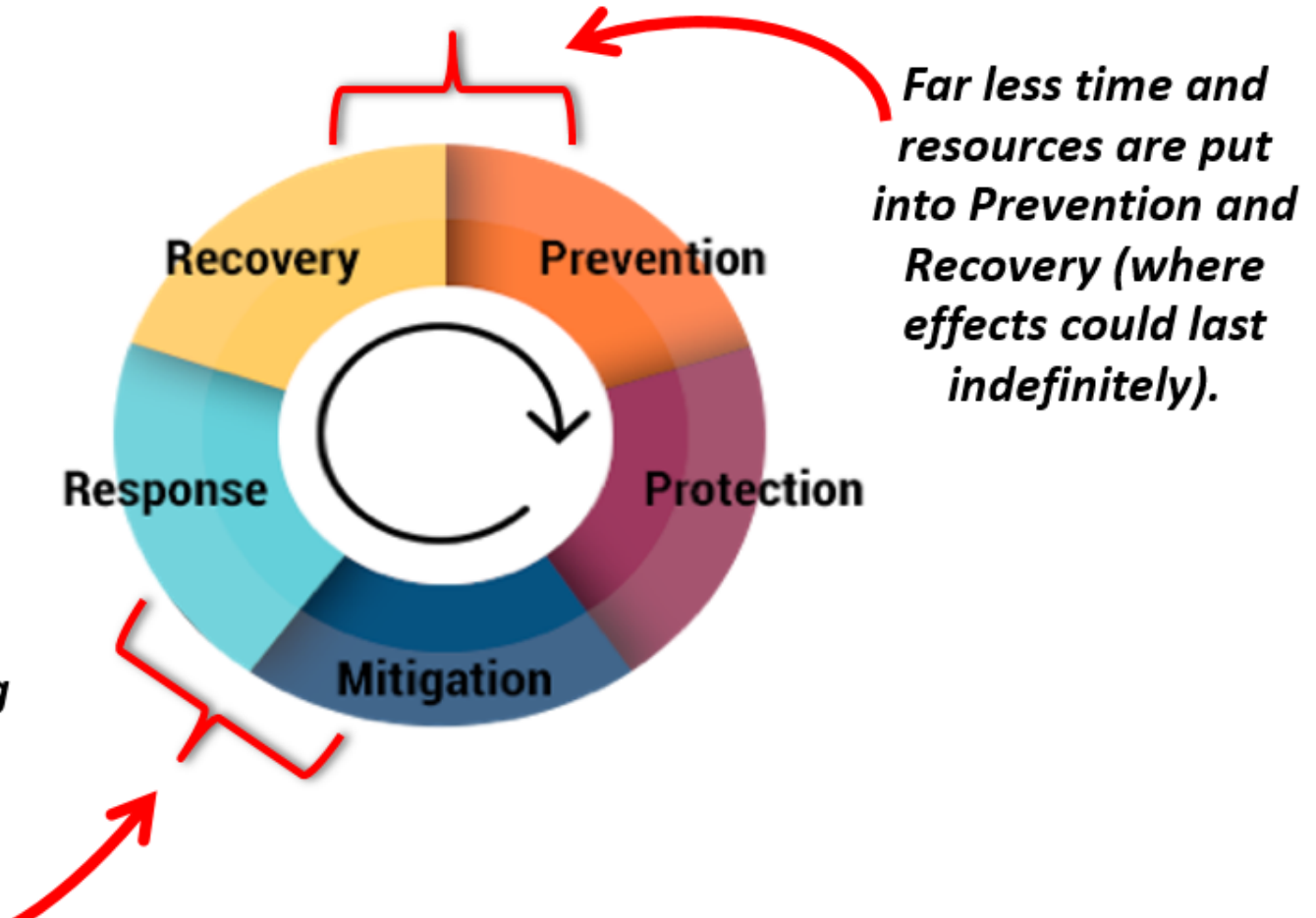
- Wildfires
- Earthquakes
- COVID-19 Pandemic
- Civil Unrest
- Workplace Violence

Emergency Management at Work

- Fire Prevention Plans
- Emergency Response Plan
- Emergency Evacuation
- AED Programs
- CPR
- Workplace Violence Prevention

Mission Areas of Emergency Management

Planning should occur in every area of emergency management.



OSHA General Duty Clause

- **29 U.S.C. § 654, 5(a)1:** *Each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees."*
- **29 U.S.C. § 654, 5(a)2:** Each employer shall comply with occupational safety and health standards promulgated under this act.
- **29 U.S.C. § 654, 5(b):** Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.

NOTE: The DOL, OSHA, and Courts have interpreted OSHA's general duty clause to mean that an employer has a legal obligation to provide a workplace free of conditions or activities that may be hazardous and that cause, or are likely to cause, death or serious physical harm to employees when there is a feasible method to abate the hazard. ***These hazards include harassment, bullying, and workplace violence.***

Cal/OSHA Injury and Illness Prevention Program (IIPP)

- A system for ensuring that employees comply with safe and healthy work practices, including ensuring that all employees, including supervisors and managers, comply with work practices designed to make the workplace more secure and do not engage in threats or physical actions which create a security hazard to other employees, supervisors or managers in the workplace, ----- 3203(a)(2).
- A system for communicating with employees about workplace security hazards, including a means that employees can use to inform the employer of security hazards at the worksite without fear of reprisal, ----- 3203(a)(3).
- Procedures for identifying workplace security hazards including scheduled periodic inspections to identify unsafe conditions and work practices whenever the employer is made aware of a new or a previously unrecognized hazard, ----- 3203(a)(4)(C).
- Procedures for investigating occupational injury or illness arising from a workplace assault or threat of assault, ----- 3203(a)(5).
- Procedures for correcting unsafe conditions, work practices and work procedures, including workplace security hazards, and with attention to procedures for protecting employees from physical retaliation for reporting threats, ----- 3203(a)(6).
- Training and instruction about how to recognize workplace security hazards, measures to prevent workplace assaults and what to do when an assault occurs, including emergency action and post-emergency procedures, ----- 3203(a)(7).

What is Workplace Violence?

A spectrum of behaviors, including overt acts of violence, threats, and other conduct that generates a reasonable concern for safety from violence, where a nexus exists between the behavior and the physical safety of employees from any internal or external relationship.

- *ASIS Standard WPVI AA-2020*

Who Are Your Threats?

Categories are based on relationship of offender to victim:

- 1. Criminal Activity**
(85% of all W/P Homicides)
- 2. Customer-Client Relationship**
(Teacher/Student, Healthcare/Patient)
- 3. Employment Relationship**
(7% of all WP Homicides)
- 4. Intimate Partner Violence**

Jobs with High Risk Factors for Workplace Violence

- Exchanging money with the public;
- Working alone or in isolated areas;
- Working where alcohol is served;
- Working late at night;
- Working in areas with high crime rates;
- Providing services and care;
- Working with volatile, unstable people.

Internal Threats – Spectrum of Behaviors

- Violence
- Discrimination
- Harassment
- Bullying
- Incivility and Disrespect



WPV Policy Considerations

Workplace violence prevention programs should...

- Confirm **management commitment** to an environment that places as much importance on worker safety, security and health as on serving products or clients;
- Outline a **comprehensive plan for maintaining security** in workplace;
- Establish and distribute a **clear zero-tolerance policy** on all forms of workplace violence – workers should know the policy;

WPV Policy Considerations (cont.)

- Encourage workers to **promptly report** incidents, while **ensuring confidentiality** of such reporting;
- **Ensure no** worker who reports, or experiences workplace violence faces **reprisal**;
- Assign responsibility and authority for the program to individuals or teams with appropriate training and skills.
- Utilize Cal/OSHA's IIPP elements to address occupational exposures along with HR policies regarding WPV prevention.

Remember: Action Always Beats Reaction

Remember: Once initiated, Active Violence is dynamic & unpredictable

- It will be the worst hazard in your EOP.
- The attacker always has the initial tactical advantage – It's an Ambush!
- The “announcement” is usually gunfire.
- Attacks begin in seconds and end in minutes.
- Every second counts: Options-Based training is necessary for all employees to increase survivability.

Training and Practice

- Written policies or procedures never practiced are doomed to fail.
- Who, how, and what you train will make the difference.
- **Everyone** should receive training.
- Security Staff, Threat Assessment or Crisis Intervention Teams should get additional specialized training.
- Safety during training is vital – both **physical & psychological.**
- Train consistently and realistically.

Follow Official Sources for Accurate Information

- ASIS Standard – *Workplace Violence and Active Assailant – Prevention, Intervention, and Response (ASIS WVPI AA-2020)*
 - <https://store.asisonline.org/workplace-violence-prevention-and-intervention-standard-softcover.html>
- OSHA Laws & Regulations
 - <https://www.osha.gov/laws-regs/oshact/section5-duties>
- Cal/OSHA Model IIPP for WPV
 - https://www.dir.ca.gov/dosh/dosh_publications/iipsecurity.pdf



Questions

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