

California's Injury and Illness Prevention Plans: New Rules on Employee Access

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California's Occupational Safety and Health Standards Board adopted a [new safety rule](#) on January 16, 2020, requiring employers to provide employees with access to their written Injury and Illness Prevention Plan (IIPP) within five days of an employee's request. The new rule is scheduled to take effect on January 1, 2021. California's Occupational Safety and Health Division (Cal/OSHA) frequently cites employers for failing to maintain an IIPP that complies with the detailed requirements set forth in Cal/OSHA's IIPP rule at 8 CCR § 3203. In addition to verifying that their IIPP complies with those requirements, employers will want to ensure that their IIPPs comply with this new access requirement by determining—and documenting—how requests for access can be made and how employees will be provided access to the IIPP.

Cal/OSHA requires employers with 10 or more employees to develop a written IIPP. 8 CCR § 3203(a). However, there was previously no requirement that employers share or make those plans available to employees. This new rule requires employers to provide “access” to the IIPP within five business days of receiving a request from an employee or the employee's designated representative for the IIPP. Employers have two options as to how to comply with this access rule – by providing a printed or electronic copy of the plan, or, instead of providing a copy of the plan, by providing access to the plan through a server or website.

If the employer decides to provide a copy of the IIPP, the employer must provide the requester a printed copy unless the employee agrees to receive an electronic copy. 8 CCR § 3203(a)(8)(B)(1)(a). One printed copy must be provided free of charge. If the employee requests additional copies of the IIPP within one year of the previous request, and the IIPP has not been updated during that time, then the employer can charge reasonable copying costs for the additional copies. 8 CCR § 3203(a)(8)(B)(1)(b).

Alternatively, an employer can satisfy the requirement to provide access to an IIPP if the employer provides “unobstructed access” through a company server or website, which allows an employee to review, print, and email the electronic IIPP. 8 CCR § 3203(a)(8)(B)(2). “Unobstructed access” means

“that the employee, as part of his or her regular work duties, predictably and routinely uses the electronic means to the community with management or coworkers.” *Id.*

Employers are also required to communicate the right to request access to its IIPP and the procedure for requesting access to all employees. 8 CCR § 3203(a)(8)(E).

Cal/OSHA’s requirement for employers to maintain an IIPP is unique and does not have an identical counterpart under the federal Occupational Safety and Health Act of 1970. Citations for failure to maintain a complete IIPP are common. In addition to updating the IIPP to address this new access issue and training management personnel on this new standard, employers should review the detailed requirements for these written safety plans and ensure their plans comply.

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