
Workers' Compensation Toolkit



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Workers' Compensation Overview

Workers' compensation insurance is a “no fault” insurance system for on-the-job injuries and is viewed as a mandatory “bargain” between employers and employees – employers are liable for work-related injuries and illnesses, but employees are limited in the damages they may pursue in civil court.

All eligible employees and subcontractor employees are entitled to workers' compensation benefits for any *work-related* injury or illness – whether physical or mental in nature – as long as it is medically substantiated. If an employee has a valid workers' compensation claim, they may be entitled to temporary and/or permanent disability benefits, medical expenses, and vocational rehabilitation services.

There are two types of workers' compensation injuries:

- **Specific Injury:** involves a single traumatic event that has caused the injury or disability. The date of the specific injury is very important in determining benefits. *For example, if an employee falls off a roof and breaks a leg, this would be a specific injury.*
- **Cumulative Trauma Injury:** involves multiple events or micro-trauma occurring over time, which has caused the injury or disease. The date of this injury is the date the employee last suffered the exposure or obtained knowledge that they have suffered a cumulative trauma injury or suffered disability. *For example, if an employee develops asthma over time due to working with a pollutant, this would be a cumulative trauma injury.*

Employees are entitled to workers' compensation benefits without regard to their race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, medical condition, military and veteran status, national origin, ancestry, disability, genetic information, age, or any other protected status.

It is important for employers to understand their responsibilities to address workplace injuries and illnesses, and navigate the workers' compensation process when a claim arises. This Tool Kit provides information to assist employers in managing workers' compensation insurance.

The Workers' Compensation Tool Kit is not intended as, nor is it a substitute for, legal advice, and any employer contemplating adopting a new policy, changing an existing policy, or applying their policies to employees located in states outside of California, should consult with its own legal counsel.

Employer Notice Requirements

Employers are obligated to provide written notice to their employees regarding workers' compensation rights, as outlined below:

- ☐ Post the **“Notice to Employees – Injuries Caused by Work”** form in a conspicuous area in your workplace. You can access the notice [here](#). (Labor Code section 3550). If you ordered an all-in-one poster from CEA, this notice is already included in that poster. Make sure you have the current year's poster. Order yours from the [CEA Store](#). If you are an Ultimate Member, you should have automatically received your all-in-one poster for the current year. If you have not, please contact us at 800.399.5331 or CEAinfo@employers.org.
 - In the notice, you must state the name of your current compensation insurance carrier, or whether the employer is self-insured.
 - If you have Spanish speaking employees, you must provide notice in English and Spanish.
- ☐ Provide the **Workers' Compensation Rights and Benefits Brochure** and **Pre-designation Form** at the time of hire. (Labor Code section 3551)
 - You may order the brochures through CEA, as part of our [New Hire Packet](#), or you may download the [Time of Hire](#) brochure directly from the Department of Industrial Relations (DIR), or get it through your insurance provider.
 - The pre-designation form is often included in the brochure and allows employees the right to designate a personal physician, chiropractor, and acupuncturist, as long as the employee pre-designates the provider, and the provider agrees to be designated, before injury or illness occurs. There are stand-alone [pre-designation forms](#) on the Department of Industrial Relations' website.
 - If you have Spanish speaking employees, you must provide the brochure and form in Spanish.

Steps after Injury/Illness Occurs

Once you are on notice of an employee's injury or illness, follow the steps below. Provide immediate access to or referral to medical care. Call 911 for emergencies.

Step One: Medical Care & Initial Assessment

- ☐ Determine if injury requires only first aid or care beyond first aid.

First Aid includes:

- Using non-prescription medications at non-prescription strength.
- Administering tetanus immunizations.
- Cleaning, flushing, or soaking wounds on the skin surface.
- Drinking fluids to relieve heat stress

- Drilling fingernail/toenail to relieve pressure, or drain fluids from blisters.
- Using hot or cold therapy
- Using wound coverings, such as bandages, gauze pads, etc., or using or butterfly bandages.
- Using eye patches
- Using finger guards
- Using any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc.
- Using temporary immobilization devices while transporting an accident victim (splints, slings, neck collars, or back boards).
- Using simple irrigation or a cotton swab to remove foreign bodies not embedded in or adhered to the eye.
- Using irrigation, tweezers, cotton swab or other simple means to remove splinters or foreign material from areas other than the eye.

☐ If an employee reports a minor work injury or illness requiring only first aid treatment, the supervisor should refer the employee to the designated company representative, fill out the [Report of Injury](#) form, and submit to the appropriate company representative (HR or Safety Officer). Complete this form within **24 hours** of the injury/illness.

☐ The designated company representative should follow-up to determine if there was treatment provided beyond first aid.

☐ If injury is Beyond First Aid, proceed to **Step 2: Reporting & Notification**.

Treatment beyond First Aid Includes:

- Lost time away from work beyond date of injury of one hour or more on any one occasion
- Physical therapy or chiropractic care is provided
- Any fracture or severe strain/sprain is sustained
- Treatment beyond one office visit is required
- Any diagnostic tests other than X-rays are provided
- Potential surgery
- Permanent disability

Step Two: Reporting & Notification

If you determine the employee needs care beyond first aid, but the employee refuses professional medical treatment, have the employee complete and sign the [EE Declination of Med Treatment Form](#). Here is a link to the [Spanish version](#), as well. Keep a copy in the employee's separate, confidential medical file.

☐ If the injury appears to be serious, **call 911 immediately**. Determine whether the injured employee should receive care from a clinic or a hospital. Check the employee's health record to determine if they have a valid **Physician or Chiropractor Pre-Designation** on

file. If they do, you must allow them to be seen by the physician or chiropractor that they pre-designated. Make sure the employee gets medical treatment.

- ☐ Notify the employee's emergency contacts as soon as possible, if the employee is unable to do so.
- ☐ Provide the injured employee the [Employee's Claim for Worker's Compensation Form – DWC 1](#), within **one working day** of finding out about the injury or illness (requiring treatment beyond first aid). You must provide this claim form personally or via first class mail.
- ☐ Provide the injured employee the Workers' Compensation Rights and Benefits Brochure (this brochure is described above in the "Employer Notice Requirements" section).
- ☐ Follow up with the employee's treating physician and obtain the [Form 5021 – Doctor's First Report of Occupational Injury or Illness](#).
- ☐ File **Form 5021** and the [Employer's Report of Occupational Injury or Illness – Form 5020](#), within **five (5) calendar days** of the employer's knowledge of illness or injury (requiring treatment beyond first aid). (*Insured employers file Forms 5020 and 5021 directly with their insurance carrier, while a self-insured employer files the forms electronically with the Department of Industrial Relations*). Please see the **Cal/OSHA Record & Reporting Obligations** section later in the toolkit for detailed requirements specific to Cal/OSHA.
 - **IMPORTANT:** Every serious injury, illness, or death must be reported immediately to Cal/OSHA, as described below. If Form 5021 is filed and that employee subsequently dies as a result the initial injury or illness, the employer must file an amended 5020 Form indicating death within five (5) calendar days of knowledge of the death.
 - Forms 5020 and 5021 are important because they put your insurance company on notice of the work-related injury/illness.
- ☐ Determine if the employee is eligible for leaves or a reasonable accommodation, such as FMLA, CFRA, leave or modified duty under the ADA/FEHA. For guidance regarding leaves of absence documentation, refer to CEA's [Leave of Absence Tool Kit](#).
 - **Pro Tip:** Returning the employee to full or modified duty reduces payments that the workers' compensation carrier makes to the employee and, therefore, may reduce your future insurance premiums.
- ☐ Proceed to **Step Three: Conducting an Investigation**.

Step Three: Conducting an Investigation

- ☐ The injured employee's supervisor must complete the [Supervisor's Accident Investigation Report](#) and forward it to the designated company representative within 24 hours of the incident. The supervisor should investigate the following:
 - Facts about the circumstances of the injury and sequence of events
 - Witnesses
 - Timeliness of employee reporting injury
 - Causes of injury/illness
 - How to prevent similar incidents
- ☐ The designated company representative should also investigate the circumstances surrounding the work-related injuries/illness. Document the investigation.
- ☐ Provide details on description of injury, body parts involved, cause(s) of injury, and the names of any witnesses to your workers' compensation insurance carrier. See CEA's [Initial Investigation Questions for Managers](#) fact sheet for information your carrier may request.
- ☐ The designated representative should identify preventative actions, if any, that will avoid injury/illness reoccurrence, in accordance with your Injury and Illness Prevention Program (IIPP). Take corrective action as appropriate.
- ☐ Proceed to **Step Four** regarding Claim Handling.

Step Four: Claim Handling

- ☐ Stay involved and maintain an open dialogue with the employee to make sure they are receiving necessary medical treatment and attending appointments – do not assume the claims administrator is taking care of everything.
- ☐ Periodically follow-up with your claims administrator to ensure that the recovery process is moving forward. The carrier should make regular contact with the treating doctor and injured employee.

Most claims will close after a brief period of medical treatment, during which the employee is typically off work or participating in modified duty. These claims do not involve long-term impact on the employee's health.

Permanent and Stationary

For claims involving more serious injury or chronic conditions, the medical authorities will, at some point, determine that the employee's condition will not get better or worse. This is often referred to as a "Permanent and Stationary" or "P&S" status. **See Step Five: Return to Work Authorization, below.**

Pro Tip: a "P&S" employee may still be qualified for a position with your organization, it does not mean the employee can never work again.

For a glossary of common Workers' Compensation terms, including "Permanent and Stationary," please see CEA's [Workers' Comp Glossary](#).

Typically, if an employee has a P&S status, their claim will often resolve via:

- A Stipulation with Request for Award Settlement Document, which provides future medical services; or
 - A lump sum known as a "Compromise and Release" Settlement Document which closes out the claim entirely.
- ☐ Ask your claims administrator for copies of any settlement document or award. Your insurance carrier should serve you with these documents, in any event.
 - ☐ Should a future injury/illness arise regarding the *same employee*, provide all settlement documents to your claims administrator at the time of the new injury.

Proceed to **Step Five** regarding Return to Work Authorization. Note that "Step 5" may happen at any time, including immediately following the injury and/or long before the claim is resolved, and even if employee is classified as "permanent and stationary."

Step Five: Return to Work Authorization

- ☐ Provide the employee's physician with a job description regarding the essential functions of the employee's position.
- ☐ Remind employee of the return to work policy in the Leaves section of your Employee Handbook.

If the employee is not authorized by their physician to return to "Regular Work," engage in an interactive process to determine whether you can return the employee to a "Modified Position" – such as a reduced work schedule – or an "Alternative Position," such as another position for which the employee is qualified.

See CEA's [Providing Modified Duty](#) fact sheet for some examples of modified duty. For a more comprehensive overview of the interactive process, refer to our [Reasonable Accommodations Tool Kit](#). Document all efforts, proposals, and employee responses when engaging in the interactive process.

- ☐ When an employee is released to return to work with or without work restrictions, they must report to their immediate supervisor and the designated company representative with a copy of the doctor's release prior to the beginning of their work shift. This should be stated in your Employee Handbook in the *Leaves* section.

Cal/OSHA Record & Reporting Obligations

Record-keeping for Cal/OSHA compliance is a separate issue from the reports and records you must maintain for workers' compensation insurance. **Pro Tip:** recording an incident does *not* indicate liability.

Employers must only record injuries or illnesses if they are work-related. Work-related injuries and illnesses may include incidents away from the workplace if the employee was elsewhere because of a work-related activity or while engaged in a work-related activity arising out of or in the course of business. Injuries that occur while commuting to and from work are generally excluded. However, an injury that occurs while an employee is traveling on company business or picking up supplies or lunch for the office is often considered work-related, unless the employee is engaged in purely personal activities during the travel.

Types of Injuries Employers are Required to Record

Employers should record work-related injuries and illnesses for the following:

- Medical treatment beyond first aid
- Restricted work activity or job transfer,
- Days away from work

- Loss of consciousness
- Death

Should one of these incidents apply, follow the recording steps below.

Recording Steps

- ☐ Complete the *individual's incident report, Illness and Injury Incident Report – Form 301 (see below)*, as follows:
 - Record the incident and case number within **seven (7) calendar days** of being notified.
 - Separate records must be kept for each establishment.
 - Attribute the incident to the location where it occurred, even if the employee normally works at another location.
 - At the employee's request, the employee's name can be omitted and instead you can insert the phrase "privacy case" if the injury or illness involves:
 - an intimate body part or to the reproductive system
 - an incidence of sexual assault
 - mental illness
 - infection with HIV, hepatitis, or tuberculosis
 - a needle stick injury or cut from a sharp object that is contaminated with blood or other potentially infectious material
 - any other injuries or illnesses if the employee independently and voluntarily requests their name not be entered on the log.
 - Note: Keep a separate log that identifies the employee by case number. You can use discretion when describing the nature of the injury. You must be able to produce this log, also known as a privacy case list, upon request by Cal/OSHA.
- ☐ Transfer the information from Form 301 to the **Work-Related Injuries and Illnesses Log – Form 300**. This is your *current log for all employees'* work-related injuries/illnesses.
- ☐ Prepare a separate **Summary of Work-Related Injuries and Illnesses – Form 300A** for each establishment. This is an archived log of the previous year's incidents for all employees. This annual summary must be certified by one of the following people:
 - An owner
 - A corporate officer
 - The highest ranking person at the establishment
 - The immediate supervisor of the highest ranking person at the establishment
- ☐ Each year, post your 300A Form from **February 1 to April 30**, in a conspicuous place where you normally post employee posters. Form 300A cannot be altered, defaced or covered by other material. At the end of the 3-month posting period, the form may be taken down but it must be kept on file for a period of five years.
- ☐ Some employers are required to electronically file their 300A form(s) with OSHA annually. Generally, these are employers with 250 or more employees (in certain industries) or employers of any size that are in high-risk industries. Please see [OSHA's reporting](#)

[requirements](#) to determine if you are required to file electronically. The deadline is usually March 2nd of the year following the calendar year in which the injury or injuries occurred.

- Forms 300, 301, and 300A, and instructions are available [here](#).

Note: *Employers with fewer than 10 employees or whose organization is classified in a specific, low hazard category are exempt from these recording requirements above.*

Reporting Obligations

This section applies to **ALL** employers:

- ☐ Immediately report to Cal/OSHA all incidents of **serious** injury or illness or death (no later than 8 hours after the incident/death). A “serious” injury or illness is defined as:
 - Death
 - Inpatient hospitalization, other than for observation or diagnostic testing
 - Amputation, loss of eye, or serious disfigurement

Follow [Cal/OSHA’s reporting instructions](#) for serious illnesses and injuries.

- **Note:** Employers are required to report a serious injury or death immediately by calling or using an online mechanism created by Cal/OSHA. Until Cal/OSHA develops this online Mechanism, employers can still make the report by calling or emailing. Check the status of the online mechanism [here](#).

You must also submit the incident report when you receive an annual survey form from the Bureau of Labor Statistics or a specific request from Cal/OSHA.

Maintaining Records

You must keep the following records for five (5) years after the end of the year that the records cover:

- Work-Related Injuries and Illnesses Log - Form 300
- The privacy case list, if one was created for that year
- Injury and Illness Incident Report - Form 301
- Summary of Work-Related Injuries and Illnesses - Form 300A

During this five-year period, you must update the Form 300 to include any newly discovered recordable injuries or illnesses. You need not update the other forms.

Injury and Illness Reporting Deadlines

CEA has compiled a chart to help you determine which forms/notices are due for each type of injured worker case. Please use the [Workers’ Comp Reporting Chart](#) for reference.