



OSHA Checklist

What To Do When Faced With a Serious Workplace Injury

It is always a difficult and stressful time when a workplace accident causes death or serious injury or illness to employees. Quite often, employers faced with this situation become overwhelmed with ensuring the safety and well-being of their employees, calming anxious co-workers and providing information to distraught family members. Addressing these issues diverts employer attention from complying with OSHA requirements. This checklist can help employers in these situations to protect their own interests as well as those of their employees.

OSHA's Reporting Requirements

OSHA regulations require employers to report to OSHA all work-related accidents or illnesses that result in the death of an employee, the in-patient hospitalization of one or more employees, all work-related amputations and all work-related losses of an eye. Employers must report to OSHA (a) work-related fatalities within 8 hours of a work-related incident and (b) in-patient hospitalization, amputation, or eye loss that occur as a result of a work-related incident within 24 hours. Notwithstanding the foregoing, employers must report employee fatalities to OSHA within 30 days of a work-related incident in the event the employee's death does not occur immediately during or following the incident. Employers may report to OSHA by calling the nearest OSHA Area Office or OSHA's toll-free telephone number (800.321.OSHA (6742)). In addition to phoning OSHA, OSHA will also be issuing an Electronic Reporting Form for employers that will be available online beginning in 2015. The report must include the employer name, the location and time of the incident, the number of fatalities or hospitalized employees, the names of the employees who suffered the event, a contact person and telephone number and a brief description of the incident.

Securing the Site

Secure the incident scene and the equipment. Do not disturb the area unless an imminent hazard exists.

Internal Investigation

With the assistance, if possible, of legal counsel, conduct an internal investigation as soon as possible. The investigation should include:

- Site maps, sketches and/or diagrams of the scene that are carefully labeled to show locations of victims, witnesses (including line of vision) and equipment involved.
- Photos of the scene and equipment.
- Witness lists. Witnesses should be interviewed as soon as possible, when memories are fresh and untainted by other sources. Witnesses who saw the incident, as well as witnesses who were present before the incident and those who arrived at the site shortly after the incident, should be interviewed.
- Gather as much information about the equipment involved, including name, descriptions and identifying numbers as well as copies of purchase records and operating manuals.

Police Involvement

Establish a working relationship with the responding officers and follow up with them.

- Collect their business cards.
- Obtain copies of all police reports.
- Request copies of witness statements.
- Request the autopsy report, if applicable.

OSHA Involvement

Establish a working relationship with the OSHA representative and follow up with him/her.

- Collect his or her business card.

Opening Conference

Employer consent or a valid warrant is required for OSHA to enter the worksite for the opening conference. Employers may wish to consult legal counsel before demanding a valid warrant or consenting to access to the worksite. During

the conference, the OSHA representative will review the purpose of the visit, the scope of the inspection and applicable standards.

Inspection

The employer representative should remain with the OSHA representative during the entire inspection. An employee representative may also join the inspection - even if the employees are not represented by a union. The inspection will most likely involve the following:

- Observations, photos, sound recordings and samplings, if appropriate
- Facility tour - not necessarily limited to the incident area
- Review of working conditions
- Witness interviews (management and non-management alike); The OSHA representative may preclude the employer from being present during interviews of non-management employees.
- Review of pictures, maps, sketches and diagrams of the incident scene
- Overall compliance review of record keeping and postings

The following documents and information will be needed for the inspection:

- OSHA logs
- Safety program and training records
- OSHA poster
- Employer federal tax ID number
- Equipment manuals, manufacturer name and address, model type and number and serial number

Closing Conference

After the inspection has concluded, the OSHA representative will conduct a closing conference. During the conference, the OSHA representative should:

- Discuss problems/needs of the worksite.

- Discuss potential penalties and corrective action needed.
- Provide you with an OSHA 3000 booklet, Employer Rights and Responsibilities Following an OSHA Inspection.
- Discuss your appeal rights.

Scope of Citation

Citations and penalties may be issued.

- Employers may be cited for the following types of violations: De Minimis, Other than Serious, Serious, Willful and Repeat. Fines of up to \$70,000 may be imposed per violation.
- Employers convicted in criminal actions of willful violations causing the death of an employee may be subjected to fines of up to \$250,000 per individual, \$500,000 per corporation and/or imprisonment for up to six months.
- Failures to correct previous violations by the prescribed abatement date may result in fines of up to \$7,000 per day until corrected.

Contesting the Outcome

To contest a citation, abatement period or proposed penalty, a Notice of Contest must be filed with the OSHA Area Director within 15 working days of receipt of the Citation and Notification of Penalty. The failure to do so will result in the Citation and Notification of Penalty becoming final and not appealable. Requesting an informal settlement conference with OSHA does not postpone the time to file a Notice of Contest.

Notification

Employers should also report workplace injuries and accidents to their workers' compensation and general liability carriers.



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