



## Workplace tragedy

### What an employer should do if an employee dies at work

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There is no greater tragedy for a company than when an employee dies at the workplace. Though these occurrences are rare, every employer should establish protocols so that they know what to do when it happens and what steps to take to support the employee's family and co-workers. The employer's communication and response are critical to the outcome of this dramatic situation.

Most states require employers to purchase workers' compensation coverage so that employees injured at work receive compensation if they cannot work due to injury. The same insurance, depending on the policy, provides death benefits to the employee's family if the death is deemed work related.

While not all workplace deaths are work related, it is important to understand the implications of a work-related death. If a person dies as a result of someone else's negligence or misconduct, his or her survivors may be able to file a wrongful death claim. The value of these claims can be catastrophic, so contact your broker immediately. For instance, in California, "willful" safety violations causing death (labor code 6425) may result in felony charges against corporations and individuals such as supervisors.

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There are 10 things you'll need to do if an employee dies at work.

(See page 2 for details.)



Fines can be in the millions of dollars in addition to victim restitution. “Willful” refers to conduct (no knowledge of illegality is necessary) AND causation as long as it was a “substantial factor” (contributory negligence of others or of the deceased is not a defense). In other words, the employer is responsible to protect the life, safety and health of their employees.

In the event a death occurs at work, our recommendations are as follows:

- 1. Call 911.**
- 2. Notify management and human resources.**
- 3. Designate one person as the main contact to notify the employee’s emergency contact person, if designated or known.**
- 4. Contact your broker and insurance carrier.**
- 5. Notify OSHA within eight hours as required of all US companies. Answer the inspector’s questions, but keep it short and to the point.**
- 6. Share important information with your employees as it becomes available, including funeral arrangements and family wishes.**
- 7. Plan for counseling for employees through your employee assistance program or local crisis services—your broker can help.**
- 8. Consider time off for employees, especially those who may have witnessed the incident. Be flexible and allow co-workers to attend the funeral/memorial service.**
- 9. Investigate the cause of the death. Even though it happened at work, it may not be a work-related death claim. (e.g., stroke, heart attack, drugs, alcohol, suicide). It is very important to contact your broker and have the right investigation performed to determine cause of death.**
- 10. Obtain the police report and coroner report and discuss with your broker, carrier and investigative team.**

## After the Funeral and Follow up:

### Final Wages/Benefits Processing:

- ❖ Schedule time to meet with beneficiaries, if possible.
- ❖ Locate beneficiary designations for all benefits.
- ❖ Confirm state law regarding final pay for deceased employees and associated tax issues, and comply promptly with all rules. Consult with tax advisors if necessary.
- ❖ Treat accrued but unused vacation, sick or paid time off in accordance with state law. If no state law exists, follow company policy, or treat similar to wages if no other guidance is available.
- ❖ Determine how many certified death certificates will be needed to process benefits paperwork including life insurance.
- ❖ Accidental death and dismemberment, if applicable.
- ❖ Pension/401(k).
- ❖ Workers Compensation death benefits, if applicable.
- ❖ Terminate health insurance according to policy as of date of death.
- ❖ Determine balance of health care flexible spending account for health expenses prior to date of death notify family of procedure.
- ❖ Handle COBRA paperwork for dependents.



### Other Considerations:

- ❖ Follow normal termination checklist to ensure all equipment, such as keys and credit cards, are returned and security issues are addressed.
- ❖ Arrange for packing and delivery of personal belongings (ask the family how they want this handled); offer to do it for them, if preferred. A close colleague or supervisor is the best choice if family prefers not to be involved.
- ❖ Keep in touch with the family as appropriate.

It's never pleasant when there is a death in the workplace. It has far reaching effects on company morale, production and finances. With proper planning, the company fallout from a sudden workplace death can be minimized. The goal for any company is to ensure a safe work environment and also to be proactive by having response plans in place before tragedy strikes.



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