



Liebert Cassidy Whitmore

Workplace Violence Restraining Orders: A Critical Tool for Campus Safety

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Agenda

- Workplace Violence Restraining Orders
 - What are they?
 - When should you obtain one?
 - How do you obtain one?
 - Other considerations?
- Workplace Violence Prevention Plans



Workplace Violence Restraining Orders



TRO vs. WVRO

- **TRO** = Temporary Restraining Order
 - Also sometimes called a **preliminary injunction**
 - Also sometimes called a protective order
- **PRO** = Permanent Restraining Order (the WVRO)
 - Also sometimes called a **permanent injunction**
 - Also sometimes called an order after hearing

Code of Civil Procedure 527.8

- Any employer, whose employee has suffered **harassment, unlawful violence** or a **credible threat of violence** from any individual
- **That can reasonably be construed to be carried out or to have been carried out at the workplace**
- On behalf of an employee, and at the discretion of the court, any number of other employees of the employer

Who Can Obtain a WVRO

- **Employers or collective bargaining representatives** on behalf of an **employee or employees**
- The individual employee *cannot* get a Workplace Violence Restraining Order on their own
 - The employee *can* get other types of restraining orders on their own against the same person (i.e., Civil Harassment)

Who Can Obtain a WVRO (Cont.)

- Effective January 1, 2026, **public postsecondary educational institutions** will be able to obtain WVROs on behalf of **students** who have suffered on or off-campus unlawful violence or a credible threat of violence, with the written consent of the student

Who Can Obtain a WVRO (Cont.)

- **Employer = Petitioner**
 - The employer controls the process, including whether or not to pursue the petition
 - Corporate employers *must* be represented by counsel – only attorney can petition
- **Employee(s) = Protected Person(s)**
- **Person to be Restrained = Respondent**
 - Can be anyone
 - Does not have to be a current or former employee
 - Must be against only one person, not a group. Individual due process rights

Burden of Proof (TRO)

- **“Reasonable proof” of credible threat of violence OR Unlawful violence OR “clear and convincing evidence” of harassment**
AND
- **Irreparable harm**
- **Demonstrated via declarations and exhibits**

Burden of Proof (Cont.)

- **Credible threat of violence** = A knowing and willful statement or course of conduct that would place a **reasonable person** in fear for his or her safety, or the safety of his or her immediate family, and **that serves no legitimate purpose**
- **Unlawful violence** = Any assault or battery, or stalking as prohibited in Penal Code section 646.9.
 - Shall not include lawful acts of self-defense or defense of others

Burden of Proof (Cont.)

- **Harassment** = a **knowing and willful course of conduct** directed at a specific person that seriously alarms, annoys, or harasses the person, and that **serves no legitimate purpose**. The course of conduct must be that which would cause a **reasonable person to suffer substantial emotional distress**, and must actually cause substantial emotional distress

Common Issues

- Will the employee have to testify?
 - Probably
- What if the Respondent still works here or goes to school here?
 - Active discipline may have impact
- Will the Respondent show up in court?
 - Maybe

Case Study

The Financial Aid Director has received several emails from a student who is upset about the amount of aid he received. In the emails, the student threatens to “do a Sandy Hook” at the District. The Director is afraid, but she does not want to pursue a WVRO in fear of retaliation. Specifically, she does not want the student to have her home address.

How should the District respond?

Communicating Within the District

- Loop in campus or local police early in the process
- If respondent is a student, coordinate with Student Services and Psychological Services/Behavioral Intervention Team
 - Consider FERPA and patient confidentiality rights
- Responding to student/employee inquiries

Additional Protections

- Consider additional ways to protect campus community
 - Penal Code section 626.4 Notice of Withdrawal of Consent to Remain on Campus
 - Applies to all persons
 - Penal Code section 626.6 directing persons to leave campus
 - Not applicable to students or employees
- Could bolster Petition for WVRO
 - Especially if Notice violated

Additional Protections (Cont.)

- Stay-Away Orders
 - Enforced by the District, not law enforcement
 - Not necessary if TRO/WVRO is granted, so it is an internal interim measure, or alternative in the event court denies TRO/WVRO
- No-Contact Orders/Directives
 - Internally enforced
 - Available under Title IX as supportive measure or informal resolution (34 C.F.R. § 106.44(g)(1) and (k)(5)(i))
 - Available pursuant to district policy and procedure, usually as interim or supportive measure
 - E.g., pending investigation or informal resolution
 - But consider, First Amendment limitations

Getting the TRO Granted



Declarations

- You will need one from the employee who is listed as the protected person
- Helpful to have “supporting” declarations from witnesses, but not required
 - If they have not directly seen/heard any conduct that would bolster the credible threat of violence, no need to include it

Exhibits to Declarations

- Photos
- Screenshots
- Social media posts
- Text messages
- Emails
- Maps/Diagrams
- Anything that could be helpful to the Court

TRO Granted or Denied

- The judge will sign the TRO within 1-3 days of filing and set the hearing date, usually within 21 days of the orders
 - Granted in full
 - Denied in full
 - Partially granted
- You *can* CCP 170.6 the judge, but limited timeframe
 - You will not find out who the hearing officer is until the TRO is granted or denied

Timeline – TRO to Hearing

Generally **21** days from TRO (either granted or denied) to hearing

- Time to serve Respondent/prepare for hearing
- Time to file CCP 170.6 if needed
- Continuances are permitted in certain circumstances, but not typical
- The timeline is short

Preparing Witnesses for Hearing

- Different than a full evidentiary hearing
 - Hearings are “self-contained” expedited trials
- Respondent or Court may ask questions
- Respondent may have an attorney
- Respondent may not show up at all
 - If Respondent in jail, could impact Court’s ability to proceed

Respondent's Due Process Rights

- Respondent has a right to **notice**
 - Third party over 18 must serve, e.g. campus police/safety cannot serve orders
- Right to **respond**
- Right to **cross-examine**
 - Reversible error if failure to afford Respondent right to cross. (***CSV Hospitality Management LLC v. Lucas*** (2022) 84 Cal.App.5th 117.)

The WVRO Hearing



Burden of Proof (At Hearing)

- If the judge finds by **clear and convincing evidence** that the respondent engaged in harassment or unlawful violence, or made a credible threat of violence, an order shall issue prohibiting further harassment/unlawful violence/threats of violence
- If the respondent is a current employee (or student) of the entity, the judge shall receive evidence concerning the entity's decision to retain, terminate, or otherwise discipline the respondent

Case Study

Two classified employees—Sarah and Alma—have a poor working relationship. Sarah and Alma only interact with one another about once per semester, but when they do, it's explosive. In 2024, Sarah called Alma a “lazy b***h” within earshot. In July 2025, during an argument about a work project, Sarah told Alma to “catch these hands” and stormed out of a meeting.

Now, Alma comes to you, the HR Director, and tells you she's given it some thought and wants a restraining order against Sarah.

Would Alma's conduct meet the burden of proof for a WVRO?

Court Orders

- WVRO denied
- WVRO granted in full (not to exceed 3 years)
- WVRO granted with modifications (1 year, 50 yards, etc.)
- If Respondent is there, no further service needed
- Employer should keep a copy on file
- Employee should keep a copy for themselves

After the Hearing



Next Steps

- If Order is granted:
 - Notify campus security and police
 - Provide Respondent's description/photo and copy of WVRO to points of access
 - Provide protected persons with a physical and digital copy of WVRO
- If Order is denied, can petition again for new conduct

Respondent Can Appeal

- The Respondent can appeal within 60 days
- Orders are still in effect pending appeal
- Standard of Appellate Review:
 - The appellate court must affirm the trial court's findings if they are based on **substantial evidence**. In deciding whether there is substantial evidence supporting the trial court's findings, the appellate court interprets the evidence in favor of the prevailing party

Summary of TRO/WVRO Process



Summary of TRO/WVRO Process

1. Contact District/local law enforcement and legal counsel
2. Prepare and file TRO/WVRO packet, including declarations from protected persons and witnesses
3. Prepare PPs and witnesses to testify at hearing
4. Hearing before the Court (~21 days from filing)
5. If granted, distribute copies to campus security, points of entry, and PPs

Workplace Violence Prevention Plans



WVPP – General Information

- Purpose is to prevent workplace violence by establishing procedures and protocol to identify, evaluate and correct hazards and respond to and prevent incidents
- Scope – Covers all employees and all workplaces under the employer's control unless explicitly exempted under law
- Effective Date- July 1, 2024
- Employers must review WVP Plan for effectiveness and train employees annually

Definitions – Workplace Violence

- **“Workplace Violence”** means:
 - Any act of violence or Threat of Violence that occurs in a place of employment
 - The threat or use of physical force against an employee that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury
 - An incident involving a threat or use of a firearm or other dangerous weapon, including the use of common objects as weapons, regardless of whether the employee sustains an injury
- **“Workplace Violence”** does not include lawful acts of self-defense or defense of others

Definitions – Threats of Violence

- **“Threat of Violence”** means:
 - Any verbal or written statement
 - Including, but not limited to, texts, electronic messages, social media messages, or other online posts, or any behavioral or physical conduct
 - Conveys an intent, or that is reasonably perceived to convey an intent, to cause physical harm or to place someone in fear of physical harm
 - Serves no legitimate purpose

Reporting Workplace Violence Incidents

- Employees may report an incident of workplace violence directly to law enforcement
 - Call 911 during an incident or emergency
- Employees may also report an incident to any supervisor, the WVPP Coordinator or to Human Resources staff
 - Employees may report workplace violence verbally or in writing
 - Employees may report workplace violence without fear of retaliation

Violent Incident Log

- Every Workplace Violence incident will be recorded In the Violent Incident Log
- Recorded information will be based on information from the employees who experienced the Workplace Violence, witnesses, and investigation findings
- Employees main obtain a copy of the Log by requesting a copy from the WVPP Coordinator

Case Study

An employee yells “You better watch your back. You are going to be sorry for leaving me with all this work!” to his coworker who is leaving for vacation.

***Is this workplace violence?
Could this constitute grounds for a TRO/WVRO?***

Questions?



Thank You!

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