

Protecting Temporary Agency Employees

Temporary agency employees work for a “host employer” but are on the payroll of a “primary employer.” A primary employer can be either:

1. A temporary (temp) agency that hires workers and sends them to work for a host employer, or
2. A professional employer organization (PEO) that puts a host employer’s employees on the PEO’s payroll as its own employees.

In these dual-employer situations, both the primary employer and the host employer must protect employees from safety and health hazards and comply with Cal/OSHA regulations.

The primary employer issues the employee’s paycheck, administers workers’ compensation insurance, and may maintain hiring and firing authority. The host employer (also called the “secondary employer”) contracts for the worker’s services and supervises the employee at the host employer’s worksite.

Note: Dual-employer situations, where an employee has two employers at the same time, are different from multi-employer worksites, where two or more employers have workers present, like at a construction site. It is possible, however, to have a dual-employer situation at a multi-employer worksite. For more information about multi-employer worksites, refer to [Title 8 of the California Code of Regulations \(T8 CCR\), section 336.10](#).

A Real Case of Fatality

A temporary worker died from being entangled with the exposed rotating shaft of a mixer while mixing industrial adhesive. Had the host employer identified and safeguarded the worker against the hazards of working near the mixer, he would be alive today.

Primary employers must do the following:

- Take reasonable steps to evaluate conditions at the host employer’s worksite by doing periodic inspections.
- Ensure their employees are covered by an effective Injury and Illness Prevention Program (IIPP) and other safety programs required by the assigned work, and ensure they are properly trained and provided necessary personal protective equipment.
- Inform the employees that if they are assigned work they reasonably believe to be dangerous, they may refuse to do that work and may return to the primary employer for reassignment to other work without penalty.

[Cal/OSHA](#) recommends that the primary employer and host employer specify in their contract their respective responsibilities for complying with applicable Cal/OSHA regulations. However, such a contract does not eliminate each employer’s legal obligation to protect the employees.

Requirements for Employers

Both the primary employer and host employer must follow all applicable California labor laws and Cal/OSHA standards in [T8 CCR](#). Primary employers, like other employers in California, must have a written, effective, and fully implemented Injury and Illness Prevention Program ([IIPP](#)) that protects employees.



Employer Responsibility

Who is responsible for temporary agency employees?

Both the primary employer and the host employer are responsible for temporary agency employees.



The primary employer and host employer must implement specific safety programs as required by Cal/OSHA regulations, depending on the work environment and the type of work being performed.

Selected Topics for Primary Employers

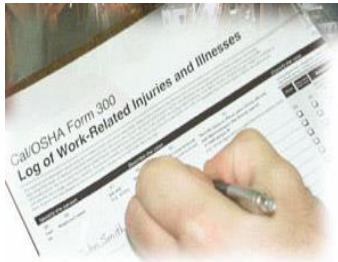
Employers must train their employees to perform their jobs safely. The training must include hazard recognition, exposure prevention, and safe work practices. Employees should be directed to follow manufacturers' instructions and informed about the importance of following Cal/OSHA regulations.



In general, the primary employer must ensure that employees receive proper training. However, even when the primary employer has provided basic training, the host employer must provide the site-specific training appropriate to the employees' particular tasks and working conditions. In such situations, the primary employer must make sure the host employer's training adequately addresses all potential hazards.

Recordkeeping

Recordkeeping regulations in [T8 CCR 14300-14300.48](#) require California employers to record work-related fatalities, injuries and illnesses of their employees.



In cases where the primary employer exercises day-to-day supervision over employees, the primary employer is responsible for injury and illness records. In cases where the primary employer and host employer share the supervisory role, the two employers should reach an agreement regarding recordkeeping. And in cases where the host employer has full supervisory control over employees, the host employer is responsible for maintaining injury and illness records. Recordkeeping requirements for dual-employer situations are in [T8 CCR 14300.31](#).

Note: Only one employer's log should contain a record of injuries and illnesses of the employees. However, both primary employers and host employers must report serious work injuries and illnesses to Cal/OSHA as required by [T8 CCR 342](#), subsection (a).

Safe Work Practices for Primary Employers

Below are some common safe work practices that can help primary employers fulfill their responsibility to keep employees safe and healthy at a host employer's worksite:

- Be aware of the workplace hazards at the host employer's worksite. Come to agreement with the host employer as to who will be responsible for providing necessary training for employees.
- Partner with the host employer to identify areas of the workplace that pose a risk to the employees, ensure appropriate controls are in place to protect employees, and ensure that Cal/OSHA standards are being followed.
- Stay in touch with the employees and monitor their safety and health at work on a regular basis.
- Be deeply involved in investigations of accidents affecting the employees to find root causes, not just resulting problems. Be present during investigations, and assist host employers in taking meaningful corrective action.
- Remember that the employees may work with different tools and equipment. Employees should be informed of the need to be trained on the manufacturer's and host employer's instructions for using the specific tools and equipment.
- Provide the training and education needed by the employees to maintain licenses or certifications required by the host employer.



Contacting Cal/OSHA Consultation Services

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This document is not meant to be either a substitute for or a legal interpretation of the occupational safety and health regulations. Readers should refer directly to Title 8 of the California Code of Regulations and to the Labor Code for detailed information regarding the scope, specifications, and exceptions of a particular regulation and for other requirements that may be applicable to their operations.