
EMPLOYMENT LAW ALERT

CAL/OSHA REVISES COVID-19 EMPLOYER STANDARDS

On Thursday June 17, 2021, Cal/OSHA adopted proposed revisions to the previously issued COVID-19 Emergency Standards in order to bring the standards in line with the Governor's lifting of mask requirements and distancing protocols. Gov. Newsom signed an executive order allowing the revisions to take immediate effect. Here is a list of the major changes (from the California Department of Industrial Relations website):

- Fully vaccinated employees without symptoms do not need to be tested or quarantined after close contacts with COVID-19 cases.
- No face covering requirements outdoors (except during outbreaks), regardless of vaccination status, though workers should be trained on Dept. of Public Health recommendations for outdoor use of face coverings.
- Employers may allow fully vaccinated employees not to wear face coverings indoors, but must document their vaccination status. There are some settings where the Department of Public Health requires face coverings regardless of vaccination status. In outbreaks, all employees must wear face coverings indoors and outdoors when six-foot physical distancing cannot be maintained, regardless of vaccination status.
- Employers must provide unvaccinated employees with approved respirators for voluntary use when working indoors or in a vehicle with others, upon request.
- Employers may not retaliate against employees for wearing face coverings.
- No physical distancing or barrier requirements regardless of employee vaccination status with the following exceptions:
 - ~ Employers must evaluate whether it is necessary to implement physical distancing and barriers during an outbreak (3 or more cases in an exposed group of employees)
 - ~ Employers must implement physical distancing and barriers during a major outbreak (20 or more cases in an exposed group of employees)
- No physical distancing requirements whatsoever in the employer-provided housing and transportation regulations.
- Where all employees are vaccinated in employer-provided housing and transportation, employers are exempt from those regulations.
- Employers must evaluate ventilation systems to maximize outdoor air and increase filtrations efficiency, and evaluate the use of additional air cleaning systems.

The following employer requirements, implemented in November 2020, remain in effect:

- An effective written COVID-19 Prevention Program.
- Providing effective training and instruction to employees on the employer's prevention plan and their rights under the Standards.
- Providing notification to public health departments of outbreaks.
- Providing notification to employees of exposure and close contacts.
- Requirements to offer testing after potential exposures.
- Requirements for responding to COVID-19 cases and outbreaks.
- Quarantine and exclusion pay requirements.
- Basic prevention requirements for employer-provided housing and transportation.

The general physical distancing and barrier requirements have been eliminated. However, employers are still required to assess potential workplace hazards, and to implement necessary controls, which may include the use of physical distancing and barriers. Also, physical distancing and barriers are required in workplaces that suffer a major outbreak (20 or more employees in an exposed group) regardless of vaccination status.

Face coverings are still required indoors for unvaccinated employees. Vaccinated employees must document proof of vaccination in order to work indoors without face coverings. An employer cannot force an employee to demonstrate proof of vaccination, but is required to treat as “unvaccinated” employees who decline to state their vaccination status.

Employers must offer testing at no cost to employees during paid time to employees who develop symptoms; unvaccinated employees in an outbreak; and all employees in a major outbreak.

If you need assistance, please contact us or your designated employment counsel.



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