



IN-DEPTH DISCUSSION

California Department of Public Health Issues COVID-19 Employer Playbook for a Safe Reopening

By Cassidy Veal, Melissa Peters, and Alka Ramchandani-Raj on July 31, 2020

On July 24, 2020, the California Department of Public Health issued its most recent [guidance](#) for employers. According to the Department, the COVID-19 Employer Playbook for a Safe Reopening provides businesses with “the tools to open safely and mitigate risks associated with COVID-19.” The following are 10 takeaways from the guidance:

Managing the Outbreak: If an employee tests positive for COVID-19 or has symptoms, they should be separated from other workers and sent home immediately. Employers can work with the local health department (LHD) to comply with guidance regarding isolation or quarantine, possible testing, and return-to-work protocols for affected employees.

The guidance suggests that an employer’s plan to identify COVID-19 outbreaks in the workplace include designating an infection prevention coordinator, ensuring sick leave policies are generous and flexible, and instructing symptomatic workers, those awaiting test results, and anyone who has been diagnosed with COVID-19, to stay home. Employers should work with their LHD to track suspected and confirmed cases and notify the LHD when there is a known or suspected case of COVID-19 in the workplace. It is important to note that this guidance does not apply to industries where the California Aerosol Transmissible Diseases (ATD) standard applies, such as healthcare and congregate living settings.

Preventing Further Spread in the Workplace: After a positive case of COVID-19 has been identified, employers are advised to work closely with the LHD to contain the virus and prevent potential spread. The LHD will work with employers to develop testing and contact tracing strategies, which should include processes for interviewing close contacts and instructing them on how to correctly quarantine at home. In addition to speaking with close contacts, employers are

encouraged to utilize alternative methods for identifying exposed workers, such as checking employment records to verify shifts worked during the infectious period to identify workers who may have worked with the individual diagnosed with COVID-19.

Limitations on Identifying COVID-19-Positive Individuals: While an employer has a duty to inform all close contacts at a worksite that they may have been exposed to a COVID-19-positive co-worker, employers should never reveal the identity of the infected individual to them. While it may be tempting to update workers on the status of a sick employee, any communication about an employee's health status, including confirmation of same, constitutes an unlawful disclosure of health information.

Returning to Work: In addition to following the CDC's most recent guidance, employers should consult the LHD to determine when an employee who is confirmed to have COVID-19 is cleared to return, as the criteria differs for symptomatic and asymptomatic workers. Asymptomatic employees working in critical infrastructure industries who have been in close contact with a COVID-positive individual may return to work immediately if (a) the employer has implemented additional measures including mandatory face coverings and temperature and health screenings; and (b) the essential operations of the workplace would be compromised if the worker quarantines and no other staff can perform the same role. As always, employers should check local guidance to ensure they are operating in accordance with city and county requirements.

Enforcing Mask Requirements: The guidance recommends that employers train workers on how to handle situations where coworkers or customers are not wearing face coverings. Workers should maintain a six-foot distance and avoid individuals who are not wearing face coverings and raise the concern with their supervisor. The playbook emphasizes the importance of minimizing workplace violence and training workers on how to employ de-escalation methods to safely handle situations where a member of the public or another worker refuses to wear a face covering.

Recording Cases of COVID-19: California employers must record illnesses that are work-related and result in either death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, loss of consciousness, or a significant injury or illness diagnosed by a physician or other licensed health care professional. If a worker contracts COVID-19 at work and meets the criteria above, covered employers in California must record the case in their Cal/OSHA Log 300.

Reporting Cases of COVID-19: In the playbook, the state makes clear that every employer must follow the LHD's cluster reporting requirements when an employee is diagnosed with COVID-19. Additionally, employers are required to report the case to the LHD in the county where the COVID-19 positive employee resides. Under these requirements, when an employee who, for example,

works in LA County and lives in Orange County receives a positive diagnosis, their employer must report the case to both the LA County and Orange County health departments. Further, if a positive case meets the definition of a serious illness under CA Labor Code and Title 8 CA Code of Regulations, the employer must also report the case to Cal/OSHA.

Enforcement and Compliance: In the playbook, the California Governor's Office of Emergency Services established the COVID-19 Enforcement Task Force to monitor and enforce violations of California statutes and orders. The state agencies in the task force are the Department of Alcoholic Beverage Control (ABC), Department of Consumer Affairs, Department of Industrial Relations, including Cal/OSHA, and the Division of Labor Standards Enforcement ("the Division"). Employers can request technical assistance or answers to questions about COVID-19 statutes and orders from the ABC, the Division, and Cal/OSHA.

Job-Protected Leave and Paid Sick Leave: Employees may have job-protected leave under the California Family Rights Act. COVID-19 qualifies as a serious health condition where it necessitates inpatient care or continuing treatment or supervision by a healthcare provider. Employees may also be entitled to paid sick leave under federal, state, or local law. Employees who may not be eligible for paid sick leave benefits may be eligible for state disability insurance. Additionally, employees may be eligible for partial wage replacement benefits if they have lost their job, business, or have had their hours reduced. Finally, employees who contracted COVID-19 at work may be eligible for workers' compensation benefits.

Worker Education: The playbook emphasizes the importance of workers' protecting themselves at work and at home. At work, physical distancing should be enforced. When sick, workers should stay home unless they are obtaining medical care and must be reminded to inform their supervisor if they, or their colleagues, develop symptoms of COVID-19. The importance of wearing face coverings, frequently washing hands, and avoiding direct physical contact with others, where possible, must be reinforced. At home, workers who share their household should follow CDC-recommended home guidelines.

The playbook offers practical guidance on how to maintain a safe work environment and mitigate risks as employers continue to reopen their businesses in California. Because this publication is intended for a much wider audience, however, it only highlights the key takeaways from the playbook. An analysis of what steps an employer should take to foster a safe and healthy work environment that complies with Cal/OSHA regulations and state and local health department standards must be performed on a case-by-case basis.

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