

Questions and Answers

WEBINAR 3/15/2023

**Changes to Cal/OSHA COVID-19
Regulations and Why California
Businesses Should Be Concerned**

CLEARED4 

Optimizing Health & Productivity™

1 Space/Close Contacts

- ✓ With all the new square footage numbers, what is the guidance for employers to assure safe workspaces as to the minimum square footage when housing more than one employee in one work space (i.e. cubicles or enclosed offices) vs. identifying smaller cubicles and enclosed offices as “individual occupancy”?
What is the cutoff in sq. ft. between individual workspaces and multiple person workspaces?
The new guidelines don’t provide a minimum distance for close contacts when the square footage is less than 400,000 square feet in total. From a best practices standpoint, using the 6 feet apart rule that has been in place since 2020 is probably adequate.
- ✓ If an employer has multiple buildings, do all cases need to be in the same building to be considered an outbreak?
Yes. Each building would be considered a distinct space, provided the employees aren’t gathering in a central shared location, such as a company cafeteria.
- ✓ When identifying distinct spaces, do we need to consider if offices (with floor to ceiling walls) have open doors or closed doors?
If the doors are open, then they are not considered to be distinct spaces.
- ✓ For < 400,000 cubic feet, does the person have to be spending time around a particular group or is it just that the person was in the general office areas for 15+ minutes? I thought it was anyone in the office for 15+ minutes the day the COVID+ person was present.
If the space is less than 400,000 cubic feet the regulation states that a close contact to a positive case would occur if the individual spent more than 15 minutes in the area over a 24 hour period.
- ✓ For employers with 400,00 SQFT or more with shared airspace (cubicles only) are they required to send notices to all employees or only those who were within 6 feet?
Notices should be sent to all employees that there was a positive case in the building, however the close contacts would only be those who were within 6 feet of the positive case for more than 15 minutes over a 24 hour period.

2 How Do Regulations Apply When In CA?



If we have drivers driving in to CA and out same day and only stopping to pick up product, are they required to be in compliance with these requirements?

The Cal/OSHA rules apply to all employees working in California with the following exceptions:

1. Work locations where there is only one employee who does not have contact with other people.
2. Employees who are working from home.
3. Employees who are covered by the Aerosol Transmissible Diseases regulation (Cal. Code Regs., title 8, § 5199) (section 5199).
4. Employees working from a location chosen by the employee that is not under the control of the employer (for instance, an employee teleworking from a café or a friend's home). In this instance it would depend upon whether or not the driver has actual contact with other people during the course of picking up product. If they are interacting with others, then they would be subject to the Cal/OSHA guidelines



Can you speak to if an non-CA employee visits CA for a work event or conference will these requirements still be enforced?

The Cal/OSHA rules apply to all employees working in California. So yes, if the non-California employee is working in California at an event or conference controlled by the employer, the rules apply.



What would you advise for multi-state companies that only have small numbers of employees in CA?

You still need to follow the Cal/OSHA COVID-19 guidelines for those employees in California



Do the updated regulations apply to all employers in California? Or, only employers of certain size, industry, location, etc.?

They apply to all employers with limited exceptions noted above.



What advice would you give to a national contractor who is located in a few California employers regarding following these CalOSHA requirements? (regardless to the size of the location and employee numbers)

You still need to follow the Cal/OSHA COVID-19 guidelines for those employees in California

3 Contact Tracing



How are many companies complying with Cal/OSHA's contact tracing and associate notification requirements, especially given the recently expanded "close contact" definition?

Some are trying to do this on their own, using manual processes and limited technology. Others have chosen to engage a company such as CLEARED4 which is set up to automate most, if not all, of the requirements for compliance.



Do employers need to continue to do contact tracing?

Yes, contact tracing is a key component of the new Cal/OSHA Guidelines.

4 Training



It states "training of employees on COVID-19 hazards and the requirements of the regulation." Can you elaborate more on this requirement?

Training should occur for all new hires at the time of hire. We also recommend annual training much like your other trainings, such as sexual harassment.

5 Employee Leave and Benefits Pay



We are currently allowing every Employee who tests positive for COVID to submit a test and use the original 80 hours of COVID sick leave, until they have used up those 80 hours. They bank the 80 hours and once the bank is exhausted, they must use their own PTO/sick leave. It requires some bookkeeping on our part but feel it is fair to our Employees across the board. We have just under 100 Employees and they all work remotely from their homes all over the United States.

Is there any issue with this policy?

As long as you are treating all employees in the same manner you should be fine.

5 Cont. Employee Leave and Benefits Pay



Is there a requirement for employers to provide paid time off for COVID?

The requirement to provide exclusion pay ended on December 31, 2022, however in certain instances Worker's Comp may be required. Additionally if there are any other sick pay or related benefits offered by the company, these would need to be explained to the employee, and provided.



Are there any specific compliance matters in regards to leave and accommodation in relation with COVID?

The requirement to provide exclusion pay ended on December 31, 2022, however in certain instances Worker's Comp may be required. Additionally if there are any other sick pay or related benefits offered by the company, these would need to be explained to the employee, and provided.



How is time off for COVID handled by others in regards to attendance policies?

An employee who tests positive is required to be removed from the workplace for a minimum of 5 days. We suggest whatever policy you set regarding pay and benefits be fair and applied in a nondiscriminatory manner. Additionally if there are any other sick pay or related benefits offered by the company, these would need to be explained to the employee, and provided.



What is the requirement to provide time off relative to COVID?

An employee who tests positive is required to be removed from the workplace for a minimum of 5 days. We suggest whatever policy you set regarding pay and benefits be fair and applied in a nondiscriminatory manner. Additionally if there are any other sick pay or related benefits offered by the company, these would need to be explained to the employee, and provided.



Are there time off requirements for specific cities within CA (i.e. San Francisco)?

Individual cities may have different requirements from the State of California. CLEARED4 would be happy to provide you with a consulting agreement for Managed Services to help manage rules by city.

6 Leave and Benefits Pay

-  **Will we be able to clarify the standard of testing that must be provided? (i.e. lab collected PCR, OTC Antigen, Point of Care Antigen - are all accepted or just one?) Can results be self reported by employer/employee?**
All of these testing methods are acceptable. The only key provision is that the test be time and date stamped. Results may be self reported by the employee.
-  **What if someone tests positive for over 10 days?**
If an employee has a fever, isolation must continue and the employee may not return to work until 24 hours after the fever resolves. If an employee's symptoms other than fever are not improving, they may not return to work until their symptoms are resolving or until after day 10. Also note, employees who test positive must wear face coverings around others for a total of 10 days.
-  **EE tests positive for COVID. Nine days later, 2nd EE tests positive after being out of town. Second EE's roommate (also an EE) tests positive a day after 2nd EE tested positive. First & 2nd EES claim they were in the same office common area only a few mins and maintained about 10 ft distance. Bottom line: do these cases need to be recorded (no official tests were conducted, only home test, self administered) and/or reported to Cal/OSHA?**
Recording and tracking all COVID-19 cases with the employee's name, contact information, occupation, location where the employee worked, date of last day at the workplace and date of positive COVID-19 test should be required. The information must be provided to the local health department, Cal/OSHA, the Department of Public Health, and the National Institute for Occupational Safety and Health immediately upon request. Depending on the work location for these 3 EE's, this could be considered an outbreak.
-  **Do you have suggestions of where to buy PCR tests in bulk?**
sales@cleared4.org can engage our appropriate partner network for Covid tests.

7 Outbreaks and Major Outbreaks

- ✓ **How do you define an Outbreak vs. a Major Outbreak?**
- An Outbreak is defined as 3 or more COVID-19 cases among employees in an “exposed group” within a 14-day period.
 - A Major Outbreak is defined as 20 or more COVID-19 cases in an “exposed group” within a 30-day period.
 - To exit Major Outbreak, there are fewer than 3 COVID-19 cases in the exposed group for a 14-day period (which is Outbreak).
 - To exit Outbreak, there are 1 or fewer new COVID-19 cases detected in the exposed group for a 14-day period.

- ✓ **What is the definition of a “serious” violation?**
- Examples include inadequate training, missing or inadequate record keeping, lack of notification to employees regarding potential exposure. This includes failure to abate as well.

8 Isolation and Quarantine

- ✓ **Will the new CDPH guidelines for isolation be included with CalOSHA-- including the 2 sequential negative tests with one day in between to be able to remove their face covering prior to 10 days**
- Yes
- ✓ **CDPH updated their isolation and quarantine protocols. Can we start following those guidelines?**
- Yes

9 Notices and Recordkeeping

- ✓ To clarify contact tracing requirements. Are we still required to notify all employees in the workplace of a covid case in the workplace? In addition to direct notification to employees who were exposed/close contact?

Yes, here is the rule:

Provide written notification to all employees (and, if applicable, their union representatives) and independent contractors who were at the worksite at the same time as the COVID-19 case during the infectious period of any potential exposures within one business day (and notifying any other employer who has potentially exposed employees in the workplace).

- ✓ Do email communications meet the requirement for record keeping if they include all needed information?

No, your email platform is most likely not HIPAA compliant. Here is the recordkeeping rule: Recording and tracking all COVID-19 cases with the employee's name, contact information, occupation, location where the employee worked, date of last day at the workplace and date of positive COVID-19 test should be required. The information must be provided to the local health department, Cal/OSHA, the Department of Public Health, and the National Institute for Occupational Safety and Health immediately upon request. Otherwise, medical information must be kept confidential unless disclosure is required or permitted by law.

- ✓ Can we only have 1 notification?

Yes, there is not a requirement for more than 1 notification.

- ✓ Referencing AB2693 - can you provide an example notice?

"We have been notified that one of our employees has been diagnosed with COVID-19. As such, employees working at [location] on these [dates] may have been exposed to this virus. Contact [Name and/or contact info] for information regarding COVID-19 related benefits and protections."

- ✓ You said that employers must provide positive contact notices to contractors. If the company you work for is the contractor, would the contractor also be obligated to provide positive case notice to the client and then the employer would be responsible for the notice/posting?

Yes

- ✓ Do we have to leave up the previously required "symptoms" posters (e.g. do not enter if you have COVID symptoms)?

No, however it could be part of your COVID-19 training and prevention program.

10 Miscellaneous

- ✓ **I don't see that Cal Osha has any information in the non-emergency regulation that daily screening has ended? Could you provide this information to me?**

Employee Screening: Employers are no longer required to develop and implement a process for screening employees for COVID-19 symptoms (such as a temperature check or symptom questionnaire). The Permanent Standard, effective Feb 3, 2023, simply states that employers must (1) effectively identify and respond to persons with COVID-19 symptoms at the workplace and (2) encourage employees to report COVID-19 symptoms and to stay home when ill.

- ✓ **Should employers accept religious or medical exemptions regarding the vaccination?**

There is no longer any vaccination requirements for employees. What each individual employer chooses to do within their own workplace is up to them. I suggest that any requirements for vaccinations be conducted on a nondiscriminatory basis across all employees. Please check with your employment attorney for further guidance as this is out of the scope of the permanent Cal/OSHA guidelines.

From pandemic response planning to disease management to real-time mass communication systems, CLEARED4 can customize a solution to meet the unique needs of each organization to protect against a wide variety of health crises. CLEARED4 has become the most trusted health verification platform for managing COVID-19 related safety and compliance.

Contact sales@cleared4.org to engage our solution experts.

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