

WEBINAR

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

**CLEARED4** 

Optimizing Health & Productivity™



Santa Barbara City College



Polsinelli Law Firm

# Managing Cal/OSHA's COVID-19 Regulations

## Ashley John Heather

President & COO  
CLEARED4



# Managing Cal/OSHA's COVID-19 Regulations

## Housekeeping

- Please keep your line/video muted
- Use the chat for any comments
- Session will be recorded and shared
- Presentation deck will also be provided
- Playbook survey [cleared4.org/survey](https://cleared4.org/survey)

# 100+ Clients

Automating Health and Safety for over 3,000,000+ users across Business, Education, and Government



***"CLEARED4 reduces the need for People Operations to manage Health and Safety protocols by over 80%."***



*"CLEARED4 technology simply automates our compliance team's efforts."*



*"We integrated CLEARED4 with our HRIS system for real-time continuity with dashboards and reporting options"*

*"Makes it easy for hybrid employees to stay compliant when they come to our events, offices, and work from home"*



*"Flexible testing options to ensure events are safe with the ability to automate contact tracing for exposed individuals"*

# Webinar Agenda

## Moderator

Ashley John Heather, CLEARED4 Co-Founder, President & COO

## Presenters:

Lindsay L. Ryan, Polsinelli LLP, Principal

Michele Jones, California COVID-19 Compliance Officer

Lisa Lopez, Santa Barbara City College, COVID Response Coordinator

Dr. Soumi Eachempati, CLEARED4 Co-Founder, CEO & CMO



# Managing Cal/OSHA's COVID-19 Regulations

**Lindsay L. Ryan**

Polsinelli LLP  
Principal



# Managing Cal/OSHA's COVID-19 Regulations

## Lindsay L. Ryan

Polsinelli LLP  
Principal



### Status of Cal/OSHA COVID-19 Regulations

**Good News:** Regulations will not be changing all the time anymore.

- Cal/OSHA Emergency Temporary Standard (ETS) is no longer in effect.
- BUT, a new “permanent” Cal/OSHA COVID-19 regulation was approved and became effective February 3, 2023.

**Not as Good News:** Regulations are here to stay (for a couple of years).

- Will remain in effect for two (2) years – until **February 3, 2025**.
- Certain recordkeeping obligations remain in effect until **February 3, 2026**.

# Managing Cal/OSHA's COVID-19 Regulations



## What is No Longer Required?

### No more daily screenings.

- No requirement to conduct daily symptom checks.
- BUT employees should still be encouraged to report COVID-19 symptoms and stay home when ill.

### No more exclusion pay!

- Employers no longer need to maintain earnings/benefits when employee is excluded due to COVID-19.
- *Note:* Other laws, company policies, or CBAs may still provide for paid time off in certain circumstances.



# Managing Cal/OSHA's COVID-19 Regulations



## What *is* Required by the Cal/OSHA Regulation?

- **Injury & Illness Prevention Program (IIPP):** COVID-19 must be addressed as a “workplace hazard” in IIPP.
- **Training:** With COVID-19 as a new “hazard” under IIPP, employers should provide training on new requirements to all employees.
- **Testing:** Must make COVID-19 tests available at no cost to employees who had close contact at work (except for “returned cases”).
- **Exclusion and Return-to-Work Requirements (Based on CDPH Guidance):**
  - Must exclude during order to isolate, quarantine or exclude by local or state health official.
  - Must exclude COVID-19 cases during period recommended by CDPH (dependent on symptoms).
  - Must exclude COVID-19 close contacts based on CDPH guidance. Currently:
    - Asymptomatic close contacts: No exclusion if test 3-5 days after close contact.
    - Symptomatic close contacts: Exclude and test. If not tested, exclude for 10 days from last close contact.

# Managing Cal/OSHA's COVID-19 Regulations



## What *is* Required by the Cal/OSHA Regulation?

### Notice Requirements:

- Must still notify employees and ICs who had a close contact, and employers of employees who had a close contact “as soon as possible.”
- Must still provide notice of COVID-19 cases and close contacts to employee representatives (labor unions).
- **Note:** AB 2693 now authorizes employers to display workplace notice in lieu of individual notice within 1 business day; must be posted for 15 days.

### Face Coverings:

- All COVID-19 case must wear face coverings for 10 days post-symptom onset/first positive test.
- Close contacts must wear face coverings until 10 days have passed since close contact.

**Ventilation:** Must still develop and implement effective methods (e.g., supply outside air, filter air, etc.).

# Managing Cal/OSHA's COVID-19 Regulations



## What *is* Required by the Cal/OSHA Regulation?

### Recordkeeping/Reporting Requirements

- No longer need to report COVID-19 cases and outbreaks to local public health departments (unless required by dep't).
- BUT must now report major outbreaks to Cal/OSHA.
- Must track and keep a record of all COVID-19 cases (e.g., name, contact, occupation, location, relevant dates, etc.) – 2 years.
- Must retain records of notice of COVID-19 cases – 3 years.
- Personal identifying information of COVID-19 cases or employees with symptoms (and medical records) must be kept confidential.
- **Note:** The ADA requires that employers maintain medical records confidentially and separate from personnel files.

# Managing Cal/OSHA's COVID-19 Regulations



## What *is* Required by the Cal/OSHA Regulation?

### Outbreak Protocols

- Must make immediate testing available to employees in exposed group (and weekly thereafter) during outbreak.
- Mandate twice weekly testing during major outbreak.
- Must use HEPA filters in indoor areas occupied by employees for extended periods, where ventilation is inadequate.
- Requirements apply until there are “one or fewer” new COVID-19 cases detected in exposed group for a 14-day period.

# Managing Cal/OSHA's COVID-19 Regulations

**Michele Jones**

CLEARED4

COVID Compliance Officer



# Managing Cal/OSHA's COVID-19 Regulations



## Michele Jones

CLEARED4

COVID Compliance Officer

### Summary of the New Cal/OSHA COVID Regulations Changes

- Penalties
- How is Close Contact Defined
- Contact Tracing Requirements
- 5 Key Takeaways
- Changes to Return to Work Rules \*NEW as of March 13, 2023

# Managing Cal/OSHA's COVID-19 Regulations



## Penalties

Effective January 17, 2023, workplace health and safety violations increased by 7.7%  
Penalties are now:

- \$15,625 for each “serious” violation
- \$156,259 for each “willful” or “repeat” violation, can compound into the millions
- Adjusted for inflation by 6.2% on January 1st of each year
- Large employers with complex operations and multiple worksites are most vulnerable
- Be aware of potential whistleblowers in your organization

# Managing Cal/OSHA's COVID-19 Regulations



## How is Close Contact Defined?

The regulations define “close contact” as follows:

- In indoor spaces of **400,000 or fewer cubic feet per floor**, a close contact is defined as sharing the same indoor airspace as a COVID-19 case for a cumulative total of 15 minutes or more over a 24-hour period during a COVID-19 case's infectious period.
- In large indoor spaces **greater than 400,000 cubic feet per floor**, a close contact is defined as being within 6 feet of the COVID-19 case for a cumulative total of 15 minutes or more over a 24-hour period during the COVID-19 case's infectious period.

Offices, suites, rooms, waiting areas, break or eating areas, bathrooms or other spaces that are separated by floor-to-ceiling walls are considered distinct indoor airspaces



# Managing Cal/OSHA's COVID-19 Regulations



## Contact Tracing Requirements

The cornerstone of the updated regulations are the need to exclude a positive case from the workplace, and to make sure that contact tracing takes place.

- Notify employees of COVID-19 cases in the workplace.
- Exclude from the workplace COVID-19 cases until they are no longer an infection risk and meet return to work criteria.
- Notify close contacts, and make sure they also meet the exclusion requirements, and the return to work criteria
- Make testing available at no cost to employees.
- Date and time stamp for tests

# Managing Cal/OSHA's COVID-19 Regulations



## 5 Key Takeaways

- Recordkeeping requirements can be onerous for a business, including investigation of positive cases, maintaining records on the timing of notifications, documentation of hazard corrections and training records.
- You need a written Injury and Illness Prevention Program including COVID-19 policies and procedures, and it needs to be available upon request.
- Tracking an Outbreak and a Major Outbreak may be one of the biggest challenges due to rolling dates and maintaining records for notifications and testing. These are different than just dealing with one positive case in the workplace.
- There is a difference between following the permanent guidelines, and best practices.
- Much of the rules and regulations require thorough understanding of the nuances. Hire professionals to assist with the process.

# Managing Cal/OSHA's COVID-19 Regulations

## Changes to Return to Work Rules **\*NEW as of March 13, 2023**

On March 13, 2023 the California Department of Public Health (CDPH) made changes to their guidelines for Return to Work after a positive COVID case.

These changes are incorporated by reference in the Cal/OSHA Guidelines



# Managing Cal/OSHA's COVID-19 Regulations

**Lisa Lopez**

Santa Barbara City College  
COVID Response Coordinator



# Managing Cal/OSHA's COVID-19 Regulations

## Lisa Lopez

Santa Barbara City College

COVID Response Coordinator

**CLEARED4 Technology Partner**



- SPRING SEMESTER PLAN 2023: Vaccine Mandate lifted
- Masking strongly recommended
- Tier system (low, moderate, high) based on CA Department of Public Health/Cal-OSHA/Santa Barbara County Public Health agencies
- Develop Student and Employee Zones in CLEARED4
- Cost-free PCR testing continues for students and employees
- Free Antigen Tests & masks continue to be offered
- PCR results automatically integrated with CLEARED4 whereas Positive Home Antigen Tests are required to be uploaded by the user

# Managing Cal/OSHA's COVID-19 Regulations



## New February 4, 2023 Cal/OSHA Requirements

- Pivot from all student and employee reporting to employee only reporting in CLEARED4
- Two Zones - Student and Employees
- New messaging and communications
- Develop the required 2-3 year reporting plan to store and access PII employee information
  - Work with CLEARED4 to automate archiving of positive cases and capture of medical notes
  - Work with CLEARED4 to develop Contact Tracing protocols to meet new regulations

# Managing Cal/OSHA's COVID-19 Regulations



## Key Lessons and Takeaways

- Identify a technology partner to execute and automate the plan
- Identify Key Departments
  - IT
  - Health/Wellness
  - Emergency Ops
  - HR and Risk Mgmt
  - Security
- Identify Key Players and Decision Makers and get their buy-in and support early on
- Create a flexible COVID Plan to satisfy changing regulations
- Identify CLEARED4 Experts and Streamline Admin Users to oversee campus operations
- Integration, Automation and Automation is the key to your SUCCESS

# Managing Cal/OSHA's COVID-19 Regulations

## Dr. Soumi Eachempati

CLEARED4

Co-Founder, CEO & CMO

Former Professor of Surgery and Public Health

Weill Cornell Medical College

Weekly guest with Laura Coates Sirius radio





# Managing Cal/OSHA's COVID-19 Regulations

## Dr. Soumi Eachempati

CLEARED4



### The Importance of Keeping Employees Safe during the transition from Pandemic to Endemic:

- The ongoing impact of COVID today
- Consistently 300-500 deaths/day & 25,000 hospitalizations
- 11% currently have Long COVID (Kaiser Family Foundation, 2023)
- Maintaining productivity in a challenging environment where hybrid workforce may differ everyday

# Managing Cal/OSHA's COVID-19 Regulations



## Employers Have an Enormous Responsibility in Maintaining Employee Health and Safety

- Threat to physical, emotional, and mental health all more complex with the pandemic
- Certain environments can be more challenging in this regard (tight, high-risk workspaces, call centers, loading docks, factories, or situations requiring extra travel)
- Extra costs for employers multifold and can involve physical protections as well as increased financial allocations for insurance claims

# Managing Cal/OSHA's COVID-19 Regulations



## Preparing for the Future

- Maintain accurate, up-to-date information on variety of potential areas
- Monitor all aspects of employee health
- Continue the company business mission while retaining, mentoring, and educating employees to optimize productivity
- Keeping track of compliance and regulatory burdens

<https://www.forbes.com/sites/forbesbusinesscouncil/2022/12/05/how-the-pandemic-has-elevated-the-importance-of-employee-health/?sh=34ee35c32909>

# Q&A

# Question 1

**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?**

## Question 2

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

## Question 3

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

## Question 4

**We have just 20 employees in CA, can you confirm whether each rule goes by company size or in CA?**



# Next Steps

## All Webinar Attendees Will Receive:

- Write up to recap all questions asked
- Link of the recording, whitepaper, presentation
- Playbook Survey reminder to get your industry basement report
- Invitation to our next session - **Thursday, March 23rd 3pm EST**
  - CLEARED4 Platform Demonstration
  - Q & A
  - **[cleared4.org/demo](https://cleared4.org/demo)**

# Thank You & Follow Up Contacts

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