

## Liberty School District



### COVID-19: CDPH Guidance:

Please see the following guidance provided by CDPH.  
Liberty School District will be utilizing the guidelines from  
CDPH and SCPH during the 2022-2023 school year.



By [Kristin Lindgren](#) © [July 6, 2022](#)

# CDPH issues new K-12 COVID-19 guidance





On June 30, the California Department of Public Health issued new [COVID-19 guidance for K-12 schools](#). The guidance, which became effective July 1 and will remain effective until withdrawn or revised by CDPH, includes both required and recommended actions by local educational agencies. Below are highlights of the requirements and recommendations:

### Requirements

- **Masking**
  - Develop and implement protocols to provide masks to students who forget to bring a mask but wish to wear one.
  - LEAs may not prevent any student or staff member from wearing a mask as a condition of participation in an activity or entry into a school, unless wearing a mask would pose a safety hazard (e.g., sports like swimming and diving).
- **Vaccines**
  - The guidance does not list any new vaccine requirements, but it refers to the existing [State Public Health Officer Order](#) requiring school employees either get vaccinated or test for COVID in its list of “related materials.” On this basis, LEAs should continue to follow that order.
- **Managing individuals with symptoms**
  - LEAs must provide statutory supplemental COVID-19 paid sick leave through Sept. 30, 2022.
- **Reporting to local health authorities**
  - Schools should continue to follow existing regulations for reporting COVID-19 cases to local health agencies. Specifically, Title 17, California Code of Regulations section 2508 requires that “it shall be the duty of anyone in charge of a public or private school, kindergarten, boarding school, or day nursery to report at once to the local health officer the presence or suspected presence of any of the communicable diseases.” COVID-19 is included in the list of “communicable diseases” that must be reported.

### Recommendations

- **Masking**

- Follow CDPH masking guidance for the general public, unless otherwise directed by local health departments or the LEA decides to maintain greater masking requirements. (NOTE: while this is listed as a recommendation, LEAs must follow masking guidance set out by local authorities, to the extent it exists.)
- Vaccines
  - Review statutory requirements for non-COVID-19 vaccinations for students as students may have fallen behind in other vaccinations during the pandemic.
  - All eligible individuals receive vaccinations and remain up to date with vaccine boosters.
- Testing
  - Use antigen testing as the primary option for COVID-10 testing.
  - Testing of students and staff prior to return to school from major breaks (e.g., summer, winter, spring.)
- Managing students exposed to COVID
  - Notify students who spent more than a cumulative total of 15 minutes in a 24-hour period in shared, indoor airspace (e.g., a classroom) with someone with COVID-19.
  - Consider providing general notifications to the entire school community during times of elevated community transmission of COVID-19 in lieu of individual exposure notifications.
  - Students should follow [CDPH recommendations](#) for the general public when exposed (see Table 2 at the link).
- Managing students with symptoms
  - LEAs are encouraged to develop standard criteria for managing students who develop symptoms of infectious diseases.
  - Students with new, unexplained symptoms should be excluded from campus until its clear symptoms are mild and improving or are due to noninfectious cause (e.g., allergies), including waiting 24 hours after resolution of fever to return to campus.
  - Students with symptoms that might be caused by COVID-19 should wear a mask and test immediately.
  - Avoid policies that incentivize coming to school sick (e.g., 100 percent



attendance awards).

- Managing students diagnosed with COVID-19
  - Students should follow [CDPH recommendations](#) for the general public when diagnosed with/testing positive for COVID-19 (see Table 1 at the link).
- Cleaning facilities
  - Routine cleaning is sufficient to remove the virus that causes COVID-19, but LEAs should use asthma-safe products.
  - Drinking fountains may be reopened and used by students and staff.

The guidance provides additional, helpful information. We have sought to highlight items that are important, including all requirements listed, but recommend that LEAs review the entire guidance for the recommendations made by CDPH.

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State of California—Health and Human  
Services Agency  
**California Department of  
Public Health**



June 30, 2022

**TO:** All Californians

**SUBJECT:** COVID-19 Public Health Guidance for K–12 Schools to Support Safe In-Person Learning, 2022–2023 School Year

**RELATED MATERIALS:** Safe Schools for All Hub | Guidance for the Use of Face Masks | Guidance for Individuals Infected with or Exposed to COVID-19 | COVID-19 Outbreak Definitions | COVID-19 Testing at Schools | State Public Health Officer Order regarding School Workers

## Preamble

This guidance is intended to support safe, in-person learning in K-12 schools and mitigate the spread of COVID-19. Disease management strategies in K–12 schools are guided by the principle that safe, in-person learning is critical to student well-being and development.

COVID-19 is here to stay, but we have learned methods and gained tools to decrease its impact on our health and well-being. California's schools can manage this disease in sustainable and adaptive manners. In alignment with the state's SMARTER plan, California will continue to provide resources—including COVID-19 tests and personal protective equipment—to support these goals and prevent broad disruption to in-person learning.

Additionally, many of the strategies used to address COVID-19 can protect school communities from other diseases and support healthy learning environments. In alignment with the CDC, California schools should consider the approaches described below as potential methods to also safeguard students and staff from other airborne pathogens, allergens, and pollutants (e.g., wildfire smoke).

The guidance is based on current scientific knowledge and anticipated trends. It is subject to change, as COVID-19 conditions can shift rapidly and our response in schools must remain nimble and responsive to dynamic challenges.

## General Considerations:

1. The guidance is effective July 1, 2022, unless otherwise stated, and will continue to be reviewed regularly by the California Department of Public Health (CDPH).
2. For ease of reference, the guidance includes information about certain relevant requirements outside of CDPH authority. See the linked sources noted within Required Actions below for more details.



3. California affirms the authority of local health departments and local educational agencies to maintain or establish additional guidance, including required actions, for K–12 school settings in their respective jurisdictions. When making a determination of whether additional measures are warranted to mitigate in-school transmission of COVID-19, CDPH recommends local health and education officials confer and review this guidance, relevant local considerations, and CDC guidance.
4. In workplaces, employers are subject to the Cal/OSHA COVID-19 Emergency Temporary Standards (ETS) or in some workplaces the Cal/OSHA Aerosol Transmissible Diseases Standard, and should consult those regulations for additional applicable requirements.
5. When applying this guidance, consideration should be given to the direct school population and the surrounding community. Factors include:
  - CDC community level indicators of COVID-19 and their trajectory;
  - COVID-19 vaccination coverage in the community and among students, teachers, and staff;
  - local COVID-19 outbreaks or transmission patterns;
  - indoor air quality at relevant facilities;
  - availability and accessibility of resources, including masks and tests;
  - ability to provide therapeutics in a timely and equitable manner as they become available;
  - equity considerations, including populations disproportionately impacted by and exposed to COVID-19;
  - local demographics, including serving specialized populations of individuals at high risk of severe disease and immunocompromised populations; and
  - community input, including from students, families, and staff.
6. It is recommended that schools communicate to students, parents, staff, and the broader school community about the measures in place to safeguard health and well-being. This can include direct dissemination of safety plans (e.g., via email), providing information for students to take home to their families, and/or posting plans on a school's website or around campus. Communication should be cognizant of languages spoken and literacy levels of community members.

## **Mitigation Strategies**

### **Staying Up to Date on Vaccinations:**

Vaccinations prevent illness by working with the body's natural defenses to help safely develop immunity to disease. Not only do vaccinations provide individual-level protection, but high vaccination coverage reduces the burden of disease in schools and communities and may help protect individuals who are not vaccinated or those who may not develop a strong immune response from vaccination.

#### **1. Recommended Actions:**

- a. California strongly recommends that all eligible individuals get vaccinated against COVID-19 and remain up-to-date to protect oneself and reduce transmission of the virus.

b. Additionally, children have fallen behind on receiving other vaccines over the course of pandemic, placing them and their communities at increased risk of falling ill from other vaccine-preventable illnesses. Schools should review statutory requirements for vaccination requirements for entry into K–12 schools and visit Shots for School for information.

## Optimizing Indoor Air Quality:

The risk of getting COVID-19 is greater in indoor settings with poor air quality. Effective ventilation and filtration can curb the spread of COVID-19 and other infectious diseases. It may also protect students and staff from exposure to wildfire smoke and other airborne allergens and pollutants.

### 1. Recommended Actions:

- a. Follow CDPH recommendations to improve indoor air quality to mitigate against COVID-19 in K–12 schools. Facility maintenance staff may also review technical considerations (PDF).
- b. In circumstances where outdoor air quality is poor (such as from wildfire smoke), schools are encouraged to confer with local health officials to determine the best approach forward. Considerations include access to the following:
  - air filtration strategies that do not rely on outdoor air sources (e.g., portable air cleaners);
  - higher quality facemasks (e.g., N95, KN95, or KF94 respirators);
  - alternative spaces with better air quality to host in-person learning
  - alternative ways to commute to/from school; and
  - local COVID-19 epidemiologic factors (i.e., vaccination coverage status, community case rates).

For more information, see resources and guidance from the California Department of Education and the California Air Resources Board.

## Using Facemasks:

Masks, particularly high-quality and well-fitting masks (PDF), remain highly effective, inexpensive, and dynamic tools to protect oneself and mitigate transmission of COVID-19 and other respiratory pathogens.

### 1. Required Actions:

- a. No person can be prevented from wearing a mask as a condition of participation in an activity or entry into a school, unless wearing a mask would pose a safety hazard (e.g., watersports).
- b. Schools must develop and implement local protocols to provide masks to students who inadvertently fail to bring a face covering to school and desire to use one.

### 2. Recommended Actions:



- a. Unless otherwise directed by local health departments or local educational agencies, students and staff should follow CDPH masking guidance for the general public, as well as masking guidance for specific situations referenced below (e.g., when having symptoms, being infected, or exposed).

## Getting Tested for COVID-19:

Testing remains a key mitigation layer to detect and curb transmission of COVID-19. Schools are encouraged to ensure access to COVID-19 testing for students and staff, particularly for vulnerable communities. Schools should review support and resources offered by the California COVID-19 Testing Task Force, as well as those available through healthcare insurers, local, and federal sources.

### 1. Recommended Actions:

- a. CDPH recommends that antigen tests be considered the primary option for detecting COVID-19 in schools, compared to PCR tests. For more information, see the Preliminary Testing Framework for K-12 Schools.
- b. Due to the increased travel and social interactions that often occurs during school-breaks, it is recommended that students and staff get tested for COVID-19 prior to returning to school following major breaks (e.g., summer, winter, spring).
- c. Additional testing recommendations are referenced in relevant sections below.

## Maintaining Clean Hands:

Hand hygiene can prevent the spread of infectious diseases, including COVID-19.

### 1. Recommended Actions:

- a. Schools should teach and reinforce proper handwashing to lower the risk of spreading viruses, including the virus that causes COVID-19.
- b. Schools should ensure adequate supplies to support hand hygiene behaviors, including soap, tissues, no-touch trashcans, and hand sanitizers with at least 60 percent alcohol for staff and children who can safely use hand sanitizer. Hand sanitizers should be stored up, away, and out of sight of younger children and should be used only with adult supervision for children ages 5 years and younger.
- c. Schools should teach and reinforce covering coughs and sneezes to help keep individuals from getting and spreading infectious diseases, including COVID-19.

## Managing Individuals with Symptoms:

Staying home when sick can lower the risk of spreading infectious diseases, including COVID-19, to other people.

### 1. Required Actions:

a. California requires employers to provide COVID-19 supplemental paid sick leave for most workers through September 30, 2022. This includes circumstances in which workers are experiencing symptoms of COVID-19 and seeking a medical diagnosis, attending a vaccine appointment for themselves or for a family member, and/or if a worker's child is isolating due to COVID-19 infection.

## **2. Recommended Actions:**

- a. K-12 schools are encouraged to develop standard criteria for managing students who develop symptoms of infectious diseases, including COVID-19. In most situations, any student who develops new, unexplained symptoms should not return to campus until it is clear that symptoms are mild and improving or are due to a non-infectious cause (e.g., allergies). This includes waiting until 24 hours have passed since resolution of fever without the use of fever-reducing medications.
- b. Additionally, if symptoms are concerning for COVID-19, it is strongly recommended that students wear a mask and get tested immediately. Students should also follow CDPH recommendations for retesting and/or isolating if results are positive.
- c. Schools should avoid policies that incentivize coming to school while sick.

## **Reporting COVID-19 disease burden to local health authorities:**

Notifying local health authorities of the disease burden in schools can expedite deployment of additional strategies and resources to manage illness and contain transmission and outbreaks.

### **1. Required Actions:**

- a. K-12 schools should refer to California Code of Regulations (CCR) Title 17, §2500 and §2508 for reporting requirements. Note that 17 CCR §2500 has been temporarily modified by the State Public Health Officer Order of February 10th, 2022.
- b. As workplaces, schools are subject to COVID-19 workplace outbreak reporting requirements stipulated in AB 685 and Cal/OSHA Emergency Temporary Standards.

## **Managing Students Diagnosed with COVID-19:**

Prompt management of students with COVID-19 can prevent further spread and, in some cases, allow for early treatment.

### **1. Recommended Action:**

- a. Students diagnosed with COVID-19 should follow recommendations listed in Table 1 (Persons with COVID-19) of CDPH's guidance for the general public, including staying home for at least 5 days and wearing a well-fitting mask around others for a total of 10 days, especially in indoor settings.



## Managing Students Exposed to COVID-19:

Prompt notification to students and families regarding exposure to infectious diseases, including COVID-19, can allow for rapid testing, early treatment, and prevention of further spread.

### 1. Recommended Actions:

- a. It is recommended that families notify schools if their child has COVID-19 and was on school grounds during their infectious period, and that schools in turn notify students who spent more than a cumulative total of 15 minutes (within a 24-hour time period) in a shared indoor airspace (e.g., classroom) with someone with COVID-19 during their infectious period.
- b. In lieu of individual exposure notifications, schools should consider providing a general notification to the entire school community during times of elevated community transmission of COVID-19. This communication can alert all to the increased potential of being exposed to COVID-19 due to a rise in cases among school and community members, and remind all to monitor for symptoms and get tested.
- c. All students with known exposure to persons with COVID-19 should follow recommendations listed in Table 2 (Asymptomatic Persons Who are Exposed to Someone with COVID-19) of CDPH's guidance for the general public. If they remain without symptoms, students may continue to take part in all aspects of K–12 schooling including sports and extracurricular activities. As recommended in Table 2, they should wear a well-fitting mask around others for a total of 10 days and get tested 3–5 days after last exposure.

## Managing COVID-19 Outbreaks:

CDPH will continue to support local health and education officials in managing suspected or confirmed outbreaks of COVID-19.

### 1. Recommended Actions:

- a. Broad disruptions to in-person learning, such as temporary school or classroom closures, due to COVID-19 should remain a last resort and considered only after all available resources have been exhausted, and only after conferring with local health officials.
- b. Local public health officials are encouraged to contact CDPH to learn more about consultation, testing and vaccination resources to support management of COVID-19 outbreaks.

## Cleaning Facilities:

In general, routine cleaning is enough to sufficiently remove the virus that causes COVID-19 from surfaces. If

disinfectants are used, use asthma-safer products.

**1. Recommended action:**

- a. Drinking fountains may be open and used by students and staff. Routine cleaning is recommended.

## Additional Considerations

- 1. Considerations to address student mental and behavioral health:** Schools are encouraged to implement strategies to address student mental and behavioral health. Schools should review guidance and resources available to support social and emotional learning and mental health resources for youth, including California's Healthy Minds, Thriving Kids Project.
- 2. Considerations for students with disabilities or other health care needs:** When implementing this guidance, schools should carefully consider how to address the legal requirements related to provision of a free appropriate public education and requirements to reasonably accommodate disabilities, which continue to apply. For additional recommendations for students with disabilities or other health care needs, refer to guidance provided by the American Academy of Pediatrics.
- 3. Considerations for higher risk activities:** Certain activities that involve increased and forceful exhalation can pose increased risk for getting and spreading COVID-19, particularly if conducted indoors, in poorly ventilated settings, and/or without the use of masks. Accordingly, schools may consider implementing additional measures to mitigate transmission in these settings, including screening testing and vaccination, particularly during COVID-19 outbreaks or surges.
- 4. Considerations for large events at K–12 schools:** Particularly during surges of COVID-19, school dances, large assemblies, and other school-based crowded events, especially those held indoors, all have the potential to cause substantial spread of COVID-19 within and beyond the school community. Prior to hosting large events, schools are encouraged to review the Safe and SMART Events Playbook (PDF) for mitigation strategies that should be considered.
- 5. Considerations for visitors to K–12 schools:** Schools should not limit access for essential direct service providers who comply with school visitor policies due to a concern about mitigating spread of COVID-19.
- 6. Considerations for boarding schools and programs that may operate residential components:** Participants in activities with a residential component are at increased risk of getting and spreading COVID-19 to one another. Accordingly, they should consider all the layered mitigation strategies described in this guidance, especially recommendations to get vaccinated and undergo testing for COVID-19 prior to returning to school following major breaks (e.g., summer, winter, spring).

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State of California—Health and Human  
Services Agency  
**California Department of  
Public Health**



August 11, 2021

**TO:** All Californians

**SUBJECT:** Vaccine Verification for Workers in Schools

**Related Materials:** Vaccine Verification for Workers in Schools - Q&A

**State Public Health Officer Order of August 11, 2021**

The COVID-19 pandemic remains a significant challenge in California. COVID-19 vaccines are effective in reducing infection, serious disease, hospitalization, and death. At present, 63% of Californians 12 years of age and older are fully vaccinated with an additional 10% partially vaccinated. Children under the age of 12 are not currently eligible for any authorized vaccines.

California is currently experiencing the fastest increase in COVID-19 cases during the entire pandemic with 22.7 new cases per 100,000 people per day, with case rates increasing tenfold since early June. The Delta variant, which is two times more contagious than the original virus, is currently the most common variant causing new infections in California.

Unvaccinated persons are more likely to get infected and spread the virus, which is transmitted through the air. Most current hospitalizations and deaths are among unvaccinated adults. Almost all K-6th graders are unvaccinated and will not be eligible for vaccines at the outset of the 2021-22 school year. Additionally, although some 7-12th grade students will be fully vaccinated by the start of the school year, many will not. As of August 10, 2021, less than 41% of Californians 12 to 17 years old were fully vaccinated.

California is committed to safe, full, in-person learning for all in K-12 schools, following strong public health science. For example, California has implemented a universal masking requirement in all K-12 schools, as well as recommendations around testing strategies for K-12 schools, to support the successful return to full in-person instruction at the outset of the school year, as well as minimizing missed school days.

Vaccination against COVID-19 is the most effective means of preventing infection with the COVID-19 virus, and subsequent transmission and outbreaks. Current CDPH K-12 guidance strongly recommends vaccination for all eligible individuals, thereby reducing COVID-19 rates throughout the community, including in schools, and creating a wrap-around safety layer for unvaccinated students. This Order, consistent with this recommendation,

requires verification of vaccination status among eligible K-12 school workers, and establishes diagnostic screening testing of unvaccinated workers to minimize the risk that they will transmit while on K-12 school campuses, where a majority of students are not vaccinated and younger students are not yet eligible for vaccines.

Schools may use funds received from multiple sources to address costs associated with employee vaccination verification and COVID-19 diagnostic screening testing, including Elementary and Secondary School Emergency Relief Fund (ESSER) I, II, and III; Governor's Emergency Education Relief Fund (GEER) I and II; and In-Person Instruction Grants (AB 86). Additionally, the California Department of Public Health provides access to subsidized COVID-19 testing for schools through specified partners.

For these reasons, in order to prevent the further spread of COVID19 in K-12 schools, the following temporary and limited public health measures are necessary at this time.

**I, as State Public Health Officer of the State of California, order:**

I. This Order applies to the following facilities: public and private schools serving students in transitional kindergarten through grade 12, inclusive, except that it does not apply to home schools. Further, it does not apply to child care or to higher education.

II. All schools identified in this Order must verify vaccine status of all workers.

A. Pursuant to the CDPH Guidance for Vaccine Records Guidelines & Standards, only the following modes may be used as proof of vaccination:

1. COVID-19 Vaccination Record Card (issued by the Department of Health and Human Services Centers for Disease Control & Prevention or WHO Yellow Card) which includes name of person vaccinated, type of vaccine provided and date last dose administered);  
OR
2. a photo of a Vaccination Record Card as a separate document; OR
3. a photo of the client's Vaccination Record Card stored on a phone or electronic device; OR
4. documentation of COVID-19 vaccination from a health care provider; OR
5. digital record that includes a QR code that when scanned by a SMART Health Card reader displays to the reader client name, date of birth, vaccine dates and vaccine type; OR
6. documentation of vaccination from other contracted employers who follow these vaccination records guidelines and standards.

In the absence of knowledge to the contrary, a school may accept the documentation presented as valid.

B. Schools must have a plan in place for tracking verified worker vaccination status. Records of vaccination verification must be made available, upon request, to the local health jurisdiction for purposes of case investigation.

C. Workers who are not fully vaccinated, or for whom vaccine status is unknown or documentation is not provided, must be considered unvaccinated.



### III. Testing requirements:

A. Asymptomatic **unvaccinated** or incompletely vaccinated workers are **required to undergo** diagnostic screening testing.

B. Workers may be tested with either antigen or molecular tests to satisfy this requirement, but unvaccinated or incompletely vaccinated workers must be tested **at least once weekly** with either PCR testing or antigen testing. Any PCR (molecular) or antigen test used must either have Emergency Use Authorization by the U.S. Food and Drug Administration or be operating per the Laboratory Developed Test requirements by the U.S. Centers for Medicare and Medicaid Services.

C. Unvaccinated or incompletely vaccinated workers must also observe all other infection control requirements, and are not exempted from the testing requirement even if they have a medical contraindication to vaccination, since they are still potentially able to spread the illness. Previous history of COVID-19 from which the individual recovered more than 90 days earlier, or a previous positive antibody test for COVID-19, **do not** waive this requirement for testing.

D. Schools with workers required to undergo workplace diagnostic screening testing should have a plan in place for tracking test results and conducting workplace contact tracing, and must report results to local public health departments. There are IT platforms available that can facilitate these processes for schools.

### IV. Definitions: For purposes of this Order, the following definitions apply:

A. "Fully Vaccinated" means individuals who are considered fully vaccinated for COVID-19: two weeks or more after they have received the second dose in a 2-dose series (Pfizer-BioNTech or Moderna or vaccine authorized by the World Health Organization), or two weeks or more after they have received a single-dose vaccine (Johnson and Johnson [J&J]/Janssen). COVID-19 vaccines that are currently authorized for emergency use:

1. By the US Food and Drug Administration (FDA) , are listed at the FDA COVID-19 Vaccines webpage
2. By the World Health Organization (WHO), are listed at WHO COVID-19 Vaccines webpage

B. "Incompletely vaccinated" means persons who have received at least one dose of COVID-19 vaccine but do not meet the definition of **fully vaccinated**.

C. "Transitional Kindergarten" means the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate.

D. "Unvaccinated" means persons who have not received any doses of COVID-19 vaccine or whose status is unknown.

E. "WHO Yellow Card" refers to the original World Health Organization International Certificate of Vaccination or Prophylaxis issued to the individual following administration of the COVID-19 vaccine in a foreign country.

F. "Worker" refers to all paid and unpaid adults serving in the school settings described in Section I. Workers include, but are not limited to, certificated and classified staff, analogous staff working in private school settings, and volunteers who are on-site at a school campus supporting school functions.

V. The Terms of this Order supersede any conflicting terms in any other CDPH orders, directives, or guidance.

VI. Except to the extent this Order provides otherwise, all other terms in my Order of June 11, 2021 remain in effect and shall continue to apply statewide.

VII. This Order shall take effect on August 12, 2021, at 12:01 am. Facilities must be in full compliance with the Order by October 15, 2021.

VIII. This Order is issued pursuant to Health and Safety Code sections 120125, 120140, 120175, 120195 and 131080 and other applicable law.



Tomás J. Aragón, MD, DrPH

Director and State Public Health Officer



California Department of Public Health

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## Subchapter 7. General Industry Safety Orders

### Introduction

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## §3205. COVID-19 Prevention.

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### (a) Scope.

(1) This section applies to all employees and places of employment, with the following exceptions:

(A) Work locations with one employee who does not have contact with other persons.

(B) Employees working from home.

(C) Employees with occupational exposure as defined by section 5199, when covered by that section.

(D) Employees teleworking from a location of the employee's choice, which is not under the control of the employer.

(2) Nothing in this section is intended to limit more protective or stringent state or local health department mandates or guidance.

### (b) Definitions. The following definitions apply to this section and to sections 3205.1 through 3205.4.

(1) "Close contact" means being within six feet of a COVID-19 case for a cumulative total of 15 minutes or greater in any 24-hour period within or overlapping with the infectious period defined by this section, regardless of the use of face coverings, unless close contact is defined by regulation or order of the CDPH. If so, the CDPH definition shall apply.

EXCEPTION: Employees have not had a close contact if they wore a respirator required by the employer and used in compliance with section 5144, whenever they were within six feet of the COVID-19 case during the infectious period.

(2) "COVID-19" (Coronavirus Disease 2019) means the disease caused by SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2).

(3) "COVID-19 case" means a person who:



- (A) Has a positive COVID-19 test; or
- (B) Has a positive COVID-19 diagnosis from a licensed health care provider; or
- (C) Is subject to a COVID-19-related order to isolate issued by a local or state health official; or
- (D) Has died due to COVID-19, in the determination of a local health department or per inclusion in the COVID-19 statistics of a county.

(4) "COVID-19 hazard" means potentially infectious material that may contain SARS-CoV-2, the virus that causes COVID-19. Potentially infectious materials include airborne droplets, small particle aerosols, and airborne droplet nuclei, which most commonly result from a person or persons exhaling, talking or vocalizing, coughing, or sneezing, or from procedures performed on persons which may aerosolize saliva or respiratory tract fluids.

(5) "COVID-19 symptoms" means fever of 100.4 degrees Fahrenheit or higher, chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or diarrhea, unless a licensed health care professional determines the person's symptoms were caused by a known condition other than COVID-19.

(6) "COVID-19 test" means a test for SARS-CoV-2 that is:

(A) Cleared, approved, or authorized, including in an Emergency Use Authorization (EUA), by the United States Food and Drug Administration (FDA) to detect current infection with the SARS-CoV-2 virus (e.g., a viral test); and

(B) Administered in accordance with the authorized instructions.

(C) To meet the return to work criteria set forth in subsection (c)(10), a COVID-19 test may be both self-administered and self-read only if another means of independent verification of the results can be provided (e.g., a time-stamped photograph of the results).

(7) "Exposed group" means all employees at a work location, working area, or a common area at work, where an employee COVID-19 case was present at any time during the infectious period. A common area at work includes bathrooms, walkways, hallways, aisles, break or eating areas, and waiting areas. The following exceptions apply:

(A) For the purpose of determining the exposed group, a place where persons momentarily pass through while everyone is wearing face coverings, without congregating, is not a work location, working area, or a common area at work.

(B) If the COVID-19 case was part of a distinct group of employees who are not present at the workplace at the same time as other employees, for instance a work crew or shift that does not overlap with another work crew or shift, only employees within that distinct group are part of the exposed group.

(C) If the COVID-19 case visited a work location, working area, or a common area at work for less than 15 minutes during the infectious period, and the COVID-19 case was wearing a face covering during the entire visit, other people at the work location, working area, or common area are not part of the exposed group.

Note: An exposed group may include the employees of more than one employer. See Labor Code sections 6303 and 6304.1.

(8) "Face covering" means a surgical mask, a medical procedure mask, a respirator worn voluntarily, or a tightly woven fabric or non-woven material of at least two layers that completely covers the nose and mouth and is secured to the head with ties, ear loops, or elastic bands that go behind the head. If gaiters are worn, they shall have two layers of fabric or be folded to make two layers. A face covering is a solid piece of material without slits, visible holes, or punctures, and must fit snugly over the nose, mouth, and chin with no large gaps on the outside of the face. A face covering does not include a scarf, ski mask, balaclava, bandana, turtleneck, collar, or single layer of fabric.

This definition includes clear face coverings or cloth face coverings with a clear plastic panel that otherwise meet this definition and which may be used to facilitate communication with people who are deaf or hard-of-hearing or others who need to see a speaker's mouth or facial expressions to understand speech or sign language respectively.

(9) "Infectious period" means the following time period, unless otherwise defined by CDPH regulation or order, in which case the CDPH definition shall apply:

(A) For COVID-19 cases who develop COVID-19 symptoms, from two days before they first develop symptoms until all of the following are true: it has been 10 days since symptoms first appeared; 24 hours have passed with no fever, without the use of fever-reducing medications; and symptoms have improved.

(B) For COVID-19 cases who never develop COVID-19 symptoms, from two days before until 10 days after the specimen for their first positive test for COVID-19 was collected.

(10) "Respirator" means a respiratory protection device approved by the National Institute for Occupational Safety and Health (NIOSH) to protect the wearer from particulate matter, such as an N95 filtering facepiece respirator.

(11) "Returned case" means a COVID-19 case who returned to work pursuant to subsection (c)(10) and did not develop any COVID-19 symptoms after returning. A person shall only be considered a returned case for 90 days after the initial onset of COVID-19 symptoms or, if the person never developed COVID-19 symptoms, for 90 days after the first positive test. If a period of other than 90 days is required by a CDPH regulation or order, that period shall apply.

(12) "Worksite," for the limited purposes of sections 3205 through 3205.4 only, means the building, store, facility, agricultural field, or other location where a COVID-19 case was present during the infectious period. It does not apply to buildings, floors, or other locations of the employer that a COVID-19 case did not enter, locations where the worker worked by themselves without exposure to other employees, or to a worker's personal residence or alternative work location chosen by the worker when working remotely.

Note: The term worksite is used for the purpose of notice requirements in subsections (c)(3)(B)3. and 4. only.

(c) Written COVID-19 Prevention Program. Employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the employer's Injury and Illness Prevention Program required by section 3203, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program shall include:



(1) System for communicating. The employer shall do all of the following in a form readily understandable by employees:

(A) Ask employees to report to the employer, without fear of reprisal, COVID-19 symptoms, possible close contacts, and possible COVID-19 hazards at the workplace.

(B) Describe how employees with medical or other conditions that put them at increased risk of severe COVID-19 illness can request accommodations.

(C) Provide information about access to COVID-19 testing as described in subsection (c)(5)(I) when testing is required under this section, section 3205.1, or section 3205.2.

(D) In accordance with subsection (c)(3)(B), communicate information about COVID-19 hazards and the employer's COVID-19 policies and procedures to employees and to other employers, persons, and entities within or in contact with the employer's workplace.

Note: See subsection (c)(3)(C) for confidentiality requirements for COVID-19 cases.

(2) Identification and evaluation of COVID-19 hazards.

(A) The employer shall allow for employee and authorized employee representative participation in the identification and evaluation of COVID-19 hazards.

(B) The employer shall develop and implement a process for screening employees for and responding to employees with COVID-19 symptoms. The employer may ask employees to evaluate their own symptoms before reporting to work. If the employer conducts screening indoors at the workplace, the employer shall ensure that face coverings are used during screening by both screeners and employees and, if temperatures are measured, that non-contact thermometers are used.

(C) The employer shall develop COVID-19 policies and procedures to respond effectively and immediately to individuals at the workplace who are a COVID-19 case to prevent or reduce the risk of transmission of COVID-19 in the workplace.

(D) The employer shall conduct a workplace-specific identification of all interactions, areas, activities, processes, equipment, and materials that could potentially expose employees to COVID-19 hazards. Employers shall treat all persons, regardless of symptoms or negative COVID-19 test results, as potentially infectious.

1. This shall include identification of places and times when people may congregate or come in contact with one another, regardless of whether employees are performing an assigned work task or not, for instance during meetings or trainings and including in and around entrances, bathrooms, hallways, aisles, walkways, elevators, break or eating areas, cool-down areas, and waiting areas.

2. This shall include an evaluation of employees' potential workplace exposure to all persons at the workplace or who may enter the workplace, including coworkers, employees of other entities, members of the public, customers or clients, and independent contractors. Employers shall consider how employees and other persons enter, leave, and travel through the workplace, in addition to addressing stationary work.

(E) For indoor locations, the employer shall evaluate how to maximize ventilation with outdoor air; the

highest level of filtration efficiency compatible with the existing ventilation system; and whether the use of portable or mounted High Efficiency Particulate Air (HEPA) filtration units, or other air cleaning systems, would reduce the risk of COVID-19 transmission.

(F) The employer shall review applicable orders and guidance from the State of California and the local health department related to COVID-19 hazards and prevention. These orders and guidance are both information of general application, including Interim guidance for Ventilation, Filtration, and Air Quality in Indoor Environments by CDPH, and information specific to the employer's industry, location, and operations.

(G) The employer shall evaluate existing COVID-19 prevention controls at the workplace and the need for different or additional controls. This includes evaluation of controls in subsections (c)(4), (c)(6), and (c)(7).

(H) The employer shall conduct periodic inspections as needed to identify unhealthy conditions, work practices, and work procedures related to COVID-19 and to ensure compliance with employers' COVID-19 policies and procedures.

(3) Investigating and responding to COVID-19 cases in the workplace.

(A) Employers shall have an effective procedure to investigate COVID-19 cases in the workplace. This includes procedures for seeking information from employees regarding COVID-19 cases and close contacts, COVID-19 test results, and onset of COVID-19 symptoms, and identifying and recording COVID-19 cases.

(B) The employer shall take the following actions when there has been a COVID-19 case at the place of employment:

1. Determine the day and time the COVID-19 case was last present and, to the extent possible, the date of the positive COVID-19 test(s) and/or diagnosis, and the date the COVID-19 case first had one or more COVID-19 symptoms, if any were experienced.
2. Determine who may have had a close contact. This requires an evaluation of the activities of the COVID-19 case and all locations at the workplace which may have been visited by the COVID-19 case during the infectious period.

Note: See subsection (c)(9) for exclusion requirements for employees after a close contact.

3. Within one business day of the time the employer knew or should have known of a COVID-19 case, the employer shall give written notice, in a form readily understandable by employees, that people at the worksite may have been exposed to COVID-19. The notice shall be written in a way that does not reveal any personal identifying information of the COVID-19 case, and in the manner the employer normally uses to communicate employment-related information. Written notice may include, but is not limited to, personal service, email, or text message if it can reasonably be anticipated to be received by the employee within one business day of sending. The notice shall include the cleaning and disinfection plan required by Labor Code section 6409.6(a)(4). The notice must be sent to the following:

- a. All employees who were on the premises at the same worksite as the COVID-19 case during the infectious period. If the employer should reasonably know that an employee has not received the notice, or has limited literacy in the language used in the notice, the



employer shall provide verbal notice, as soon as practicable, in a language understandable by the employee.

b. Independent contractors and other employers on the premises at the same worksite as the COVID-19 case during the infectious period.

4. Within one business day of the time the employer knew or should have known of the COVID-19 case, the employer shall:

a. provide the notice required by Labor Code section 6409.6(a)(2) and (c) to the authorized representative, if any, of the COVID-19 case and of any employee who had a close contact; and

b. provide the notice required by Labor Code section 6409.6(a)(4) to the authorized representative, if any, of any employee who was on the premises at the same worksite as the COVID-19 case during the infectious period.

5. Make COVID-19 testing available at no cost, during paid time, to all employees of the employer who had a close contact in the workplace and provide them with the information on benefits described in subsections (c)(5)(B) and (c)(9)(C).

Exception to subsection (c)(3)(B)5.: The employer is not required to make COVID-19 testing available to returned cases.

6. Investigate whether workplace conditions could have contributed to the risk of COVID-19 exposure and what could be done to reduce exposure to COVID-19 hazards.

(C) Personal identifying information of COVID-19 cases or persons with COVID-19 symptoms, and any employee medical records required by this section or by sections 3205.1 through 3205.4, shall be kept confidential unless disclosure is required or permitted by law. Unredacted information on COVID-19 cases shall be provided to the local health department, CDPH, the Division, and NIOSH immediately upon request, and when required by law.

(4) Correction of COVID-19 hazards. Employers shall implement effective policies and/or procedures for correcting unsafe or unhealthy conditions, work practices, policies and procedures in a timely manner based on the severity of the hazard. This includes, but is not limited to, implementing controls and/or policies and procedures in response to the evaluations conducted under subsections (c)(2) and (c)(3) and implementing the controls required by subsections (c)(6) and (c)(7).

(5) Training and instruction. The employer shall provide effective training and instruction to employees that includes the following:

(A) The employer's COVID-19 policies and procedures to protect employees from COVID-19 hazards, and how to participate in the identification and evaluation of COVID-19 hazards under subsection (c)(2)(A).

(B) Information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws. This includes any benefits available under legally mandated sick and vaccination leave, if applicable, workers' compensation law, local governmental requirements, the employer's own leave policies, leave guaranteed by contract, and this section.



(C) The fact that COVID-19 is an infectious disease that can be spread through the air when an infectious person talks or vocalizes, sneezes, coughs, or exhales; that COVID-19 may be transmitted when a person touches a contaminated object and then touches their eyes, nose, or mouth, although that is less common; and that an infectious person may have no symptoms.

(D) The fact that particles containing the virus can travel more than six feet, especially indoors, so physical distancing, face coverings, increased ventilation indoors, and respiratory protection decrease the spread of COVID-19, but are most effective when used in combination.

(E) The employer's policies for providing respirators, and the right of employees to request a respirator for voluntary use as stated in this section, without fear of retaliation and at no cost to employees. Whenever respirators are provided for voluntary use under this section or sections 3205.1 through 3205.4, the employer shall provide effective training and instruction to employees regarding:

1. How to properly wear the respirator provided;
2. How to perform a seal check according to the manufacturer's instructions each time a respirator is worn, and the fact that facial hair interferes with a seal.

(F) The importance of frequent hand washing with soap and water for at least 20 seconds and using hand sanitizer when employees do not have immediate access to a sink or hand washing facility, and that hand sanitizer does not work if the hands are soiled.

(G) Proper use of face coverings and the fact that face coverings are not respiratory protective equipment. COVID-19 is an airborne disease. N95s and more protective respirators protect the users from airborne disease while face coverings primarily protect people around the user.

(H) COVID-19 symptoms, and the importance of not coming to work and obtaining a COVID-19 test if the employee has COVID-19 symptoms.

(I) Information on the employer's COVID-19 policies; how to access COVID-19 testing and vaccination; and the fact that vaccination is effective at preventing COVID-19, protecting against both transmission and serious illness or death.

(J) The conditions under which face coverings must be worn at the workplace and that employees can request face coverings from the employer at no cost to the employee and can wear them at work, regardless of vaccination status, without fear of retaliation.

(6) Face coverings.

(A) Employers shall provide face coverings and ensure they are worn by employees when required by orders from CDPH.

(B) Employers shall ensure that required face coverings are clean and undamaged, and that they are worn over the nose and mouth. Face shields are not a replacement for face coverings, although they may be worn together for additional protection.

(C) When employees are required to wear face coverings under this section or sections 3205.1 through 3205.4, the following exceptions apply:

1. When an employee is alone in a room or vehicle.

2. While eating or drinking at the workplace, provided employees are at least six feet apart and outside air supply to the area, if indoors, has been maximized to the extent feasible.
3. Employees wearing respirators required by the employer and used in compliance with section 5144.
4. Employees who cannot wear face coverings due to a medical or mental health condition or disability, or who are hearing-impaired or communicating with a hearing-impaired person.
5. Specific tasks which cannot feasibly be performed with a face covering. This exception is limited to the time period in which such tasks are actually being performed.

(D) Employees exempted from wearing face coverings pursuant to subsection (c)(6)(C)4. due to a medical condition, mental health condition, or disability shall wear an effective non-restrictive alternative, such as a face shield with a drape on the bottom, if their condition or disability permits it. If their condition or disability does not permit a non-restrictive alternative, the employee shall be tested at least weekly for COVID-19 during paid time and at no cost to the employee.

(E) Any employee not wearing a face covering, pursuant to the exception in subsection (c)(6)(C)5. shall be tested at least weekly for COVID-19 during paid time and at no cost to the employee. Employers may not use the provisions of subsection (c)(6)(E) as an alternative to face coverings when face coverings are otherwise required by this section.

(F) No employer shall prevent any employee from wearing a face covering when not required by this section, unless it would create a safety hazard, such as interfering with the safe operation of equipment.

(G) When face coverings are not required by this section or by sections 3205.1 through 3205.4, employers shall provide face coverings to employees upon request, regardless of vaccination status.

(H) Employers shall implement measures to communicate to non-employees the face coverings requirements on their premises.

(7) Other engineering controls, administrative controls, and personal protective equipment.

(A) For buildings with mechanical or natural ventilation, or both, employers shall maximize the quantity of outside air provided to the extent feasible, except when the United States Environmental Protection Agency (EPA) Air Quality Index is greater than 100 for any pollutant or if opening windows or maximizing outdoor air by other means would cause a hazard to employees, for instance from excessive heat or cold.

(B) To protect employees from COVID-19 hazards, the employer shall evaluate its handwashing facilities, determine the need for additional facilities, encourage and allow time for employee handwashing, and provide employees with an effective hand sanitizer. Employers shall encourage employees to wash their hands for at least 20 seconds each time. Provision or use of hand sanitizers with methyl alcohol is prohibited.

(C) Personal protective equipment.

1. Employers shall evaluate the need for personal protective equipment to prevent exposure to COVID-19 hazards, such as gloves, goggles, and face shields, and provide such personal protective equipment as needed.



2. Upon request, employers shall provide respirators for voluntary use in compliance with subsection 5144(c)(2) to all employees who are working indoors or in vehicles with more than one person. Whenever an employer makes respirators for voluntary use available, under this section or sections 3205.1 through 3205.4, the employer shall encourage their use and shall ensure that employees are provided with a respirator of the correct size.

3. Employers shall provide and ensure use of respirators in compliance with section 5144 when deemed necessary by the Division through the Issuance of Order to Take Special Action, in accordance with title 8, section 332.3.

4. Employers shall provide and ensure use of eye protection and respiratory protection in compliance with section 5144 when employees are exposed to procedures that may aerosolize potentially infectious material such as saliva or respiratory tract fluids.

NOTE: Examples of work covered by subsection (c)(7)(C)4. include, but are not limited to, certain dental procedures and outpatient medical specialties not covered by section 5199.

(D) Testing of symptomatic employees. Employers shall make COVID-19 testing available at no cost to employees with COVID-19 symptoms, during employees' paid time.

(8) Reporting, recordkeeping, and access.

(A) The employer shall report information about COVID-19 cases and outbreaks at the workplace to the local health department whenever required by law, and shall provide any related information requested by the local health department. The employer shall report all information to the local health department as required by Labor Code section 6409.6.

(B) The employer shall maintain records of the steps taken to implement the written COVID-19 Prevention Program in accordance with section 3203(b).

(C) The written COVID-19 Prevention Program shall be made available at the workplace to employees, authorized employee representatives, and to representatives of the Division immediately upon request.

(D) The employer shall keep a record of and track all COVID-19 cases with the employee's name, contact information, occupation, location where the employee worked, the date of the last day at the workplace, and the date of a positive COVID-19 test.

(9) Exclusion of COVID-19 cases and employees who had a close contact. The purpose of this subsection is to limit transmission of COVID-19 in the workplace.

(A) Employers shall ensure that COVID-19 cases are excluded from the workplace until the return to work requirements of subsection (c)(10) are met.

(B) Employers shall review current CDPH guidance for persons who had close contacts, including any guidance regarding quarantine or other measures to reduce transmission. Employers shall develop, implement, and maintain effective policies to prevent transmission of COVID-19 by persons who had close contacts.

(C) For employees excluded from work under subsection (c)(9), employers shall continue and maintain an employee's earnings, wages, seniority, and all other employee rights and benefits, including the employee's right to their former job status, as if the employee had not been removed from their job.



Employers may use employer-provided employee sick leave for this purpose to the extent permitted by law. Wages due under this subsection are subject to existing wage payment obligations and must be paid at the employee's regular rate of pay no later than the regular pay day for the pay period(s) in which the employee is excluded. Unpaid wages owed under this subsection are subject to enforcement through procedures available in existing law. If an employer determines that one of the exceptions below applies, it shall inform the employee of the denial and the applicable exception.

Exception 1: Subsection (c)(9)(C) does not apply where the employee received disability payments or was covered by workers' compensation and received temporary disability.

Exception 2: Subsection (c)(9)(C) does not apply where the employer demonstrates that the close contact is not work related.

(D) Subsection (c)(9) does not limit any other applicable law, employer policy, or collective bargaining agreement that provides for greater protections.

(E) At the time of exclusion, the employer shall provide the employee the information on benefits described in subsections (c)(5)(B) and (c)(9)(C).

(10) Return to work criteria. The following return to work criteria shall apply to COVID-19 cases and employees excluded under sections 3205.1 and 3205.2. The employer must demonstrate it has met the applicable requirements below:

(A) COVID-19 cases, regardless of vaccination status or previous infection, who do not develop COVID-19 symptoms or whose COVID-19 symptoms are resolving, shall not return to work until:

1. At least five days have passed from the date that COVID-19 symptoms began or, if the person does not develop COVID-19 symptoms, from the date of first positive COVID-19 test;
2. At least 24 hours have passed since a fever of 100.4 degrees Fahrenheit or higher has resolved without the use of fever reducing medications; and
3. A negative COVID-19 test from a specimen collected on the fifth day or later is obtained; or, if unable to test or the employer chooses not to require a test, 10 days have passed from the date that COVID-19 symptoms began or, if the person does not develop COVID-19 symptoms, from the date of first positive COVID-19 test.

(B) COVID-19 cases, regardless of vaccination status or previous infection, whose COVID-19 symptoms are not resolving, may not return to work until:

1. At least 24 hours have passed since a fever of 100.4 degrees Fahrenheit or higher has resolved without the use of fever-reducing medication; and
2. Symptoms are resolving or 10 days have passed from when the symptoms began.

(C) Regardless of vaccination status, previous infection, or lack of COVID-19 symptoms, a COVID-19 case shall wear a face covering in the workplace until 10 days have passed since the date that COVID-19 symptoms began or, if the person did not have COVID-19 symptoms, from the date of their first positive COVID-19 test.

(D) The requirements in subsections (c)(10)(A) and (c)(10)(B) apply regardless of whether an employee

has previously been excluded or other precautions were taken in response to an employee's close contact or membership in an exposed group.

(E) If an order to isolate, quarantine, or exclude an employee is issued by a local or state health official, the employee shall not return to work until the period of isolation or quarantine is completed or the order is lifted. If no period was specified, then the period shall be in accordance with the return to work periods in subsection (c)(10).

(F) If no violations of local or state health officer orders for isolation, quarantine, or exclusion would result, the Division may, upon request, allow employees to return to work on the basis that the removal of an employee would create undue risk to a community's health and safety. In such cases, the employer shall develop, implement, and maintain effective control measures to prevent transmission in the workplace including providing isolation for the employee at the workplace and, if isolation is not feasible, the use of respirators in the workplace.

Note: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3, 144.6 and 6409.6, Labor Code.

### HISTORY

1. New section filed 11-30-2020 as an emergency; operative 11-30-2020. Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20) (Register 2020, No. 49). A Certificate of Compliance must be transmitted to OAL by 10-1-2021 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 74, No. 43.

2. Governor Newsom issued Executive Order N-84-20 (2019 CA EO 84-20), dated December 14, 2020, which suspended certain provisions relating to the exclusion of COVID-19 cases from the workplace.

3. Editorial correction of punctuation errors in subsections (b)(1), (c)(3)(D), (c)(10)(C) and (c)(10)(E) (Register 2021, No. 24).

4. New section refiled with amendments 6-17-2021 as an emergency; operative 6-17-2021 pursuant to Executive Order N-09-21 (Register 2021, No. 25). Exempt from the APA pursuant to Government Code sections 8567, 8571 and 8627 (Executive Order N-09-21). Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20). A Certificate of Compliance must be transmitted to OAL by 1-13-2022 or emergency language will be repealed by operation of law on the following day.

5. New section, including amendments, refiled 1-5-2022 as an emergency; operative 1-14-2022 (Register 2022, No. 1). A Certificate of Compliance must be transmitted to OAL by 4-14-2022 or emergency language will be repealed by operation of law on the following day.

6. Editorial correction of History 5 (Register 2022, No. 9).

7. Emergency filed 1-5-2022 extended an additional 21 calendar days pursuant to Executive Order N-5-22. A Certificate of Compliance must be transmitted to OAL by 5-5-2022 or emergency language will be repealed by operation of law on the following day.

8. New section, including amendments, refiled 5-5-2022 as an emergency pursuant to EO N-23-21; operative 5-5-2022 pursuant to EO N-23-21 (Register 2022, No. 18). Pursuant to EO N-23-21, a Certificate of Compliance must be transmitted to OAL by 12-31-2022 or emergency language will be repealed by operation of law on the following day.

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## §3205.1. Multiple COVID-19 Infections and COVID-19 Outbreaks.

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### (a) Scope.

(1) This section applies to a workplace covered by section 3205 if three or more employee COVID-19 cases within an exposed group, as defined by section 3205(b), visited the workplace during their infectious period at any time during a 14-day period.

(2) This section shall apply until there are no new COVID-19 cases detected in the exposed group for a 14-day period.

### (b) COVID-19 testing.

(1) The employer shall make COVID-19 testing available at no cost to its employees within the exposed group, during employees' paid time, except:

(A) Employees who were not present at the workplace during the relevant 14-day period(s) under subsection (a).

(B) For returned cases who did not develop COVID-19 symptoms after returning to work pursuant to subsection 3205(c)(10), no testing is required.

(2) COVID-19 testing shall consist of the following:

(A) Immediately upon being covered by this section, the employer shall make testing available to all employees in the exposed group, regardless of vaccination status, and then again one week later. Negative COVID-19 test results of employees with COVID-19 exposure shall not impact the duration of any quarantine, isolation, or exclusion period required by, or orders issued by, the local health department.

(B) After the first two COVID-19 tests required by subsection (b)(2)(A), employers shall make COVID-19 testing available once a week at no cost, during paid time, to all employees in the exposed group who remain at the workplace, or more frequently if recommended by the local health department, until this section no longer applies pursuant to subsection (a)(2).

(C) Employees who had close contacts shall have a negative COVID-19 test taken within three and five days after the close contact or shall be excluded and follow the return to work requirements of subsection 3205(c)(10) starting from the date of the last known close contact.

(c) Employers shall make additional testing available at no cost to employees, during employees' paid time, when deemed necessary by the Division through the Issuance of Order to Take Special Action, in accordance with title 8, section 332.3.

(d) The employer shall continue to comply with all applicable provisions of section 3205, and shall also do the following:

(1) Employees in the exposed group shall wear face coverings when indoors, or when outdoors and less than six feet from another person, unless one of the exceptions in subsection 3205(c)(6)(C) applies.

(2) Employers shall give notice to employees in the exposed group of their right to request a respirator for voluntary use under subsection 3205(c)(7)(C)2.

(3) Employers shall evaluate whether to implement physical distancing of at least six feet between persons or, where six feet of physical distancing is not feasible, as much distance between persons as feasible.

(e) COVID-19 Investigation, review and hazard correction. The employer shall immediately perform a review of potentially relevant COVID-19 policies, procedures, and controls and implement changes as needed to prevent further spread of COVID-19. The investigation and review shall be documented and include:

(1) Investigation of new or unabated COVID-19 hazards including the employer's leave policies and practices and whether employees are discouraged from remaining home when sick; the employer's COVID-19 testing policies; insufficient outdoor air; insufficient air filtration; and lack of physical distancing.

(2) The review shall be updated every 30 days that this section continues to apply, in response to new information or to new or previously unrecognized COVID-19 hazards, or when otherwise necessary.

(3) The employer shall implement changes to reduce the transmission of COVID-19 based on the investigation and review required by subsections (e)(1) and (e)(2). The employer shall consider moving indoor tasks outdoors or having them performed remotely, increasing outdoor air supply when work is done indoors, improving air filtration, increasing physical distancing as much as feasible, requiring respiratory protection in compliance with section 5144, and other applicable controls.

(f) In buildings or structures with mechanical ventilation, employers shall filter recirculated air with Minimum Efficiency Reporting Value (MERV) 13 or higher efficiency filters if compatible with the ventilation system. If MERV-13 or higher filters are not compatible with the ventilation system, employers shall use filters with the highest compatible filtering efficiency. Employers shall also evaluate whether portable or mounted High Efficiency Particulate Air (HEPA) filtration units or other air cleaning systems



would reduce the risk of transmission and, if so, shall implement their use to the degree feasible.

Note: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3 and 144.6, Labor Code.

## HISTORY

1. New section filed 11-30-2020 as an emergency; operative 11-30-2020. Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20) (Register 2020, No. 49). A Certificate of Compliance must be transmitted to OAL by 10-1-2021 or emergency language will be repealed by operation of law on the following day.

2. New section refiled with amendments 6-17-2021 as an emergency; operative 6-17-2021 pursuant to Executive Order N-09-21 (Register 2021, No. 25). Exempt from the APA pursuant to Government Code sections 8567, 8571 and 8627 (Executive Order N-09-21). Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20). A Certificate of Compliance must be transmitted to OAL by 1-13-2022 or emergency language will be repealed by operation of law on the following day.

3. New section refiled 1-5-2022 as an emergency; operative 1-14-2022 (Register 2022, No. 1). A Certificate of Compliance must be transmitted to OAL by 4-14-2022 or emergency language will be repealed by operation of law on the following day.

4. Editorial correction of History 5 (Register 2022, No. 9).

5. Emergency filed 1-5-2022 extended an additional 21 calendar days pursuant to Executive Order N-5-22. A Certificate of Compliance must be transmitted to OAL by 5-5-2022 or emergency language will be repealed by operation of law on the following day.

6. New section, including amendments, refiled 5-5-2022 as an emergency pursuant to EO N-23-21; operative 5-5-2022 pursuant to EO N-23-21 (Register 2022, No. 18). Pursuant to EO N-23-21, a Certificate of Compliance must be transmitted to OAL by 12-31-2022 or emergency language will be repealed by operation of law on the following day.

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## §3205.2. Major COVID-19 Outbreaks.

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### (a) Scope.

(1) This section applies to any workplace covered by section 3205 if 20 or more employee COVID-19 cases in an exposed group, as defined by section 3205(b), visited the workplace during their infectious period within a 30-day period.

(2) This section shall apply until there are fewer than three COVID-19 cases detected in the exposed group for a 14-day period.

(b) Employers shall continue to comply with section 3205.1, except that the COVID-19 testing described in section 3205.1(b) shall be required of all employees in the exposed group, regardless of vaccination status, twice a week or more frequently if recommended by the local health department. Employees in the exposed group shall be tested or shall be excluded and follow the return to work requirements of subsection 3205(c)(10) starting from the date that the outbreak begins.

(c) In addition to the requirements of sections 3205 and 3205.1, the employer shall take the following actions:

(1) The employer shall provide a respirator for voluntary use in compliance with subsection 5144(c)(2) to employees in the exposed group and shall determine the need for a respiratory protection program or changes to an existing respiratory protection program under section 5144 to address COVID-19 hazards.

(2) Any employees in the exposed group who are not wearing respirators required by the employer and used in compliance with section 5144 shall be separated from other persons by at least six feet, except where an employer can demonstrate that six feet of separation is not feasible, and except for momentary exposure while persons are in movement. Methods of physical distancing include: telework or other remote work arrangements; reducing the number of persons in an area at one time, including visitors; visual cues such as signs and floor markings to indicate where employees and others should be located or their direction and path of travel; staggered arrival, departure, work, and break times; and adjusted work processes or procedures, such as reducing production speed, to allow greater distance between employees. When it is not feasible to maintain a distance of at least six feet, individuals shall be as far



apart as feasible.

(3) The employer shall evaluate whether to halt some or all operations at the workplace until COVID-19 hazards have been corrected.

(4) Any other control measures deemed necessary by the Division through the Issuance of Order to Take Special Action, in accordance with title 8 section 332.3.

Note: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3 and 144.6, Labor Code.

### HISTORY

1. New section filed 11-30-2020 as an emergency; operative 11-30-2020. Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20) (Register 2020, No. 49). A Certificate of Compliance must be transmitted to OAL by 10-1-2021 or emergency language will be repealed by operation of law on the following day.

2. New section refiled with amendments 6-17-2021 as an emergency; operative 6-17-2021 pursuant to Executive Order N-09-21 (Register 2021, No. 25). Exempt from the APA pursuant to Government Code sections 8567, 8571 and 8627 (Executive Order N-09-21). Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20). A Certificate of Compliance must be transmitted to OAL by 1-13-2022 or emergency language will be repealed by operation of law on the following day.

3. New section refiled 1-5-2022 as an emergency; operative 1-14-2022 (Register 2022, No. 1). A Certificate of Compliance must be transmitted to OAL by 4-14-2022 or emergency language will be repealed by operation of law on the following day.

4. Editorial correction of History 5 (Register 2022, No. 9).

5. Emergency filed 1-5-2022 extended an additional 21 calendar days pursuant to Executive Order N-5-22. A Certificate of Compliance must be transmitted to OAL by 5-5-2022 or emergency language will be repealed by operation of law on the following day.

6. New section, including amendments, refiled 5-5-2022 as an emergency pursuant to EO N-23-21; operative 5-5-2022 pursuant to EO N-23-21 (Register 2022, No. 18). Pursuant to EO N-23-21, a Certificate of Compliance must be transmitted to OAL by 12-31-2022 or emergency language will be repealed by operation of law on the following day.

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