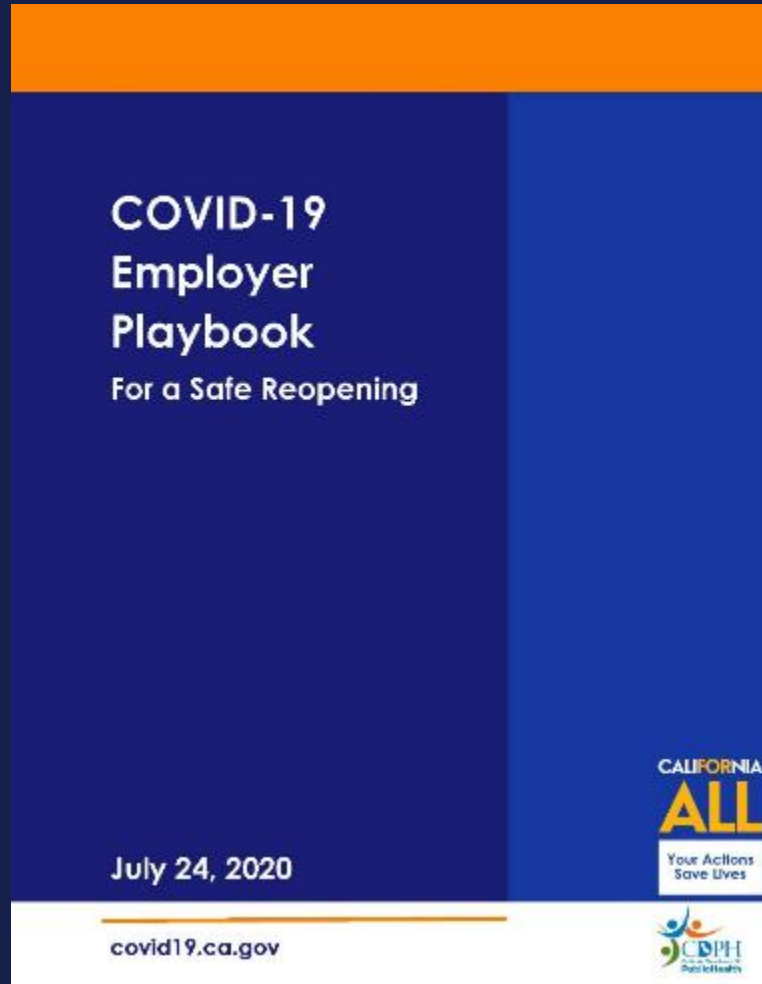




# ZALLER LAW GROUP, PC



**An Overview of  
California's  
"COVID-19 Employer  
Playbook for a Safe  
Reopening"**

**Plus Employment Q&A**

# Speakers

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Anne McWilliams



Michael Thompson



Rick Reyes

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# Topics

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- **Understanding California's COVID-19 Employer Playbook**
- **Managing outbreaks in the workplace**
- **Communicating about identified cases of COVID-19**
- **Returning employees to work after exposure**
- **Reporting and recording cases of COVID-19**
- **Relevant paid and unpaid leaves**
- **Guidance in enforcing mask requirements**
- **Worker Education**

# State of the State

## Resilience Roadmap

Last updated July 24, 2020 at 11:33 AM

Californians have been staying home and saving lives since the start of our statewide stay-at-home order issued on March 19, 2020. These efforts have allowed the state to move forward on our [roadmap](#) for modifying the statewide order.

We are now in early **Stage 2**, where retail, related logistics and manufacturing, office workplaces, limited personal services, outdoor museums, child care, and [essential businesses](#) can open with modifications. The state is [issuing guidance](#) to help these workplaces reopen safely.



**STAGE 1:**  
Safety and  
preparedness



**STAGE 2:**  
Lower-risk  
workplaces



**STAGE 3:**  
Higher-risk  
workplaces



**STAGE 4:**  
End of Stay  
Home Order

<https://covid19.ca.gov/roadmap/>

# State of the State

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July 13, 2020: Statewide shutdown of certain indoor operations:

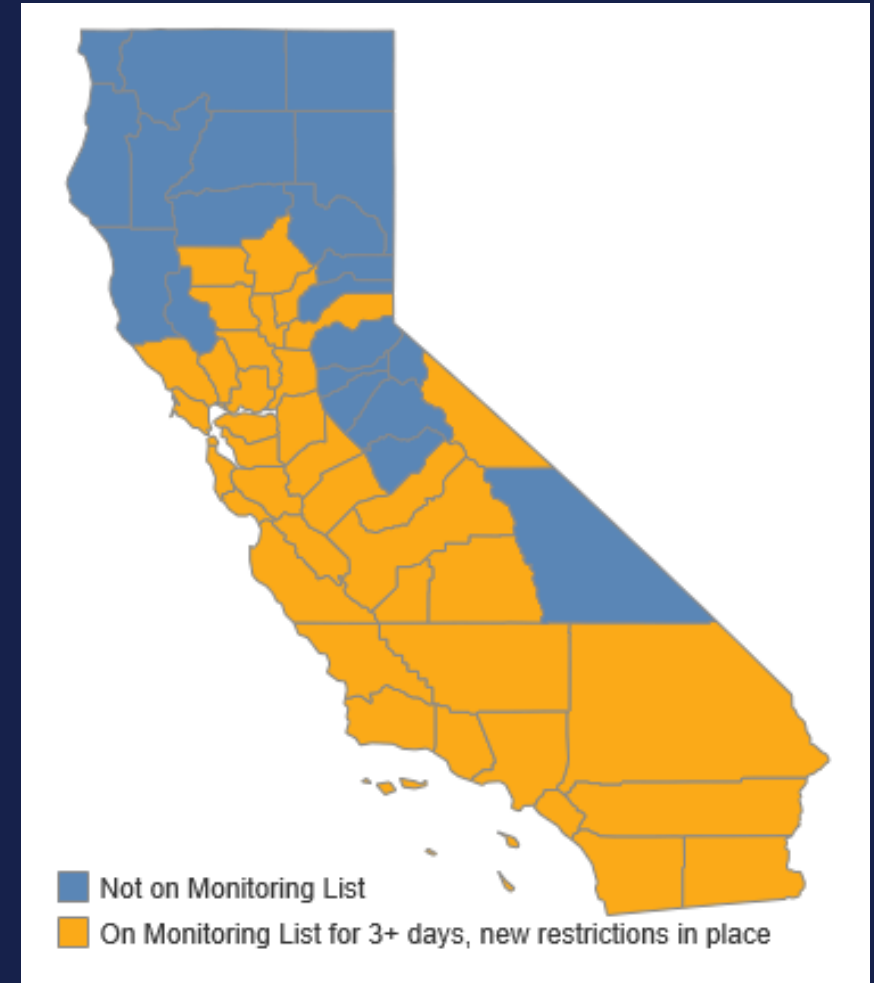
- Dine-in restaurants
- Wineries and tasting rooms
- Movie theaters
- Family entertainment centers
- Zoos and museums
- Cardrooms
- Bars, brewpubs, and breweries (must close indoor and outdoor operations unless offering sit-down, outdoor dining; alcohol can only be sold in same transaction as a meal).

# State of the State

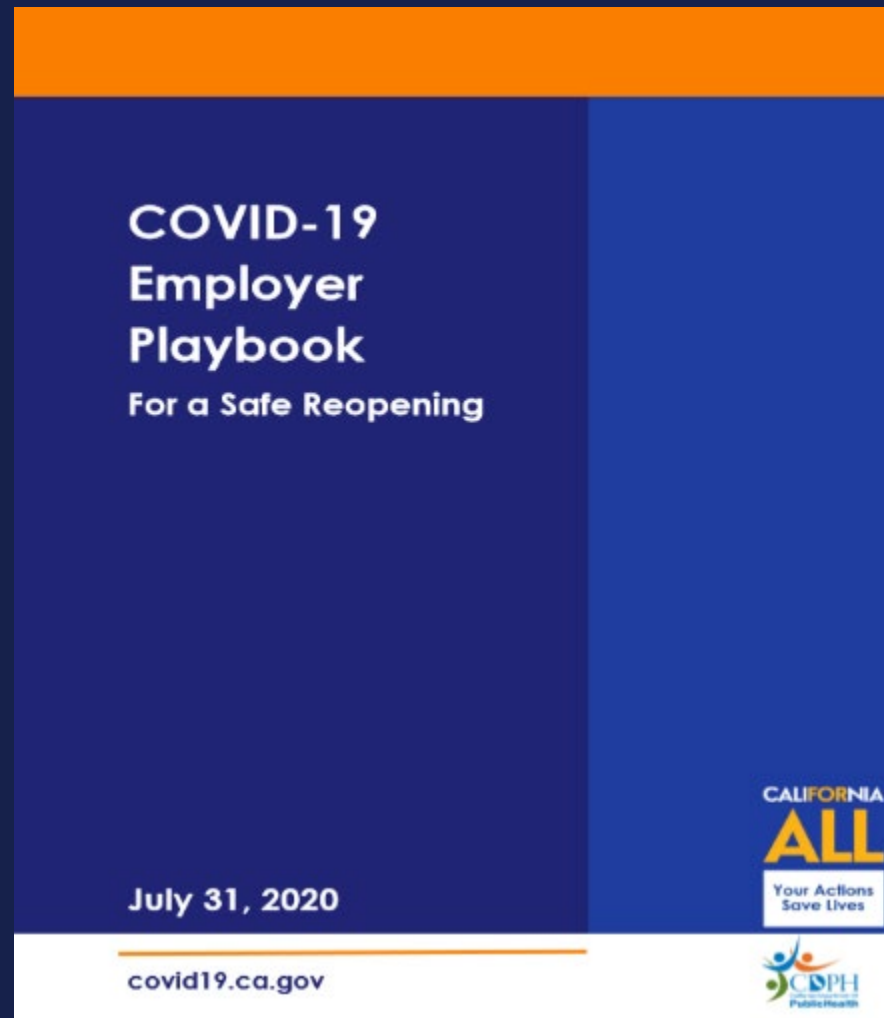
Additional closures based on County Monitoring List:

- Gyms and fitness centers
- Places of worship/cultural ceremonies
- Offices for non-critical infrastructure
- Personal care services
- Hair salons and barbershops
- Shopping malls

Exception: if modified to operate outside or by pick-up



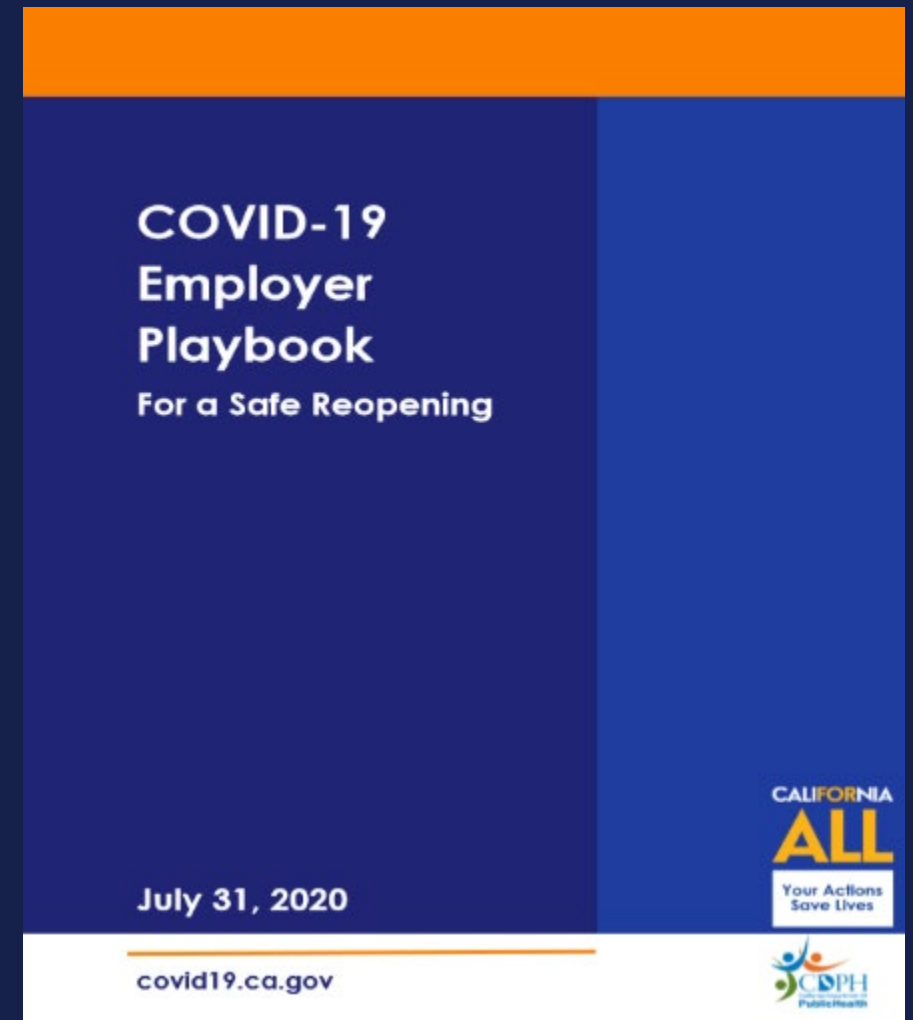
# COVID-19 Employer Playbook For a Safe Reopening



- Released July 24 by Department of Public Health
- Provides “guidance for employers to help them plan and prepare for reopening their business and to support a safe, clean environment for workers and customers.”
- “By following this Employer Playbook, employers will be able to do their part in reducing the risk and spread of COVID-19 in the workplace and ensure California businesses stay open.”
- Lots of links and resources

# Employer Beware!

- “Not intended to revoke or repeal any worker rights”
- “Not exhaustive, as it does not include county health orders.”
- Not “a substitute for existing safety and health-related regulatory requirements such as” Cal/OSHA
- What are the legal implications?
- “Guidance” but lots of “must” and “will need to”
- Don’t forget the CDC





## How to Open Safely

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“All employers must implement (and update as necessary) a plan that:”

- Is specific to your workplace
- Identifies all areas and job tasks with potential exposures to COVID-19
- Includes control measures to eliminate or reduce such exposures
- Maintains healthy business operations
- Maintains a healthy work environment
- Provides effective training for workers
- Encourages workers to give input into an effective workplace plan

Employers encouraged to “talk with your workers about planned changes and seek their input” and “effectively communicate important COVID-19 information.”

# How to Open Safely

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“Before reopening, all facilities must:”

1. Perform a detailed risk assessment and create a work site-specific COVID-19 prevention plan
2. Train workers on how to limit the spread of COVID-19. This includes how to screen themselves for symptoms and when to stay home
3. Set up individual control measures and screenings
4. Put disinfection protocols in place
5. Establish physical distancing guidelines
6. Establish universal face covering requirements (with allowed exceptions) in accordance with CDPH guidelines



# Outbreak Identification Preparedness

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- Designate a workplace infection prevention coordinator to implement infection prevention procedures and manage COVID-related issues
- “Ensure that sick leave policies are sufficiently generous and flexible to enable workers who are sick to stay home without penalty”
- Instruct workers on when to stay home
- Develop mechanisms to track cases
- Identify LHD contact information to notify of suspected outbreak
- Outbreak: three or more lab-confirmed cases within a two-week period among employees who live in different households



## Specific Guidance for Takeout/Drive-Through/Delivery

- Clean touchable surfaces between shifts or users: registers, appliances, touchpads, etc.
- Dishwashers should use equipment to protect eyes, nose, and mouth, and impermeable aprons
- Avoid sharing phones, pens, supplies
- Increase fresh air circulation by opening windows/doors, if possible
- Do not clean floors by sweeping; use vacuum with HEPA filter whenever possible
- Ensure physical distancing for pre-shift meetings
- Use transfer-aiding materials to reduce person-to-person hand-offs



## Specific Guidance for Dine-In

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- Servers and bussers should use disposable gloves and frequently change aprons
- Remind guests in advance to bring face covering
- Restaurants have the right to cancel reservations for parties with symptomatic guests
- Provide clear guidance to customers on rules for entry and changes to restaurant services
- Ensure that water systems are safe to use after prolonged facility shutdown
- Provide disposable menus and consider options for customers to view menu or order in advance
- Discontinue pre-setting tables; pre-roll utensils in napkins



# Handling Cases of COVID-19 in the Workplace

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## Communication of Identified Cases of COVID-19 – Employer considerations:

- Contact the local health department where the COVID-19 positive employee resides
- Discuss with the local health department how *frequently* the department expects updates from the employer on newly identified cases and symptomatic workers in the workplace
- Share a roster of *all workers* with the local health department in the jurisdiction where the workplace is located
- Follow any and all specific protocols required by the local health department(s)

# Handling Cases of COVID-19 in the Workplace

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## Communication of Identified Cases of COVID-19 (Cont'd):

- Employers *must* maintain confidentiality of employees
- Employers *must* notify all workers who were potentially exposed to the individuals with COVID-19
- “Close contacts” – those who spent 15 minutes or more within 6 feet of an individual with COVID-19, *should* be given instructions on home quarantine and symptom monitoring
- Use employment records to verify shifts working during the “infectious period” and other workers who may have worked closely with them during that time period
- Such close contacts *should* be instructed to quarantine at home for 14 days and *should* be tested

# Handling Cases of COVID-19 in the Workplace

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## Playbook Adopts July 17 CDC Modifications re When to Stop Home Isolation

- The CDC is no longer recommending testing to determine when to discontinue home isolation/return to work
  - Caveat: If a healthcare provider recommends testing, they will let the employee know when he can return to work based on the test results
  - Exception: Persons with severe COVID-19 or with severely weakened immune systems may need to stay at home longer and/or be tested and should follow advise from doctor
- Symptom-based strategy changed:
  - from "at least 72 hours" to "at least 24 hours" have passed since last fever without the use of fever-reducing medications.
  - From "improvement in respiratory symptoms" to "improvement in symptoms" to address expanding list of symptoms associated with COVID-19.



# Handling Cases of COVID-19 in the Workplace

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## CDC Modifications on Determining When to Stop Home Isolation

Employee had symptoms (with or without test, positive or negative):

1. 10 days since symptoms first appeared and
2. 24 hours with no fever without the use of fever-reducing medications and
3. COVID-19 symptoms have improved (for example, cough, shortness of breath)

# Handling Cases of COVID-19 in the Workplace

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## CDC Modifications on Determining When to Stop Home Isolation

Employee is Asymptomatic (tested positive):

Employee remains symptom free

1. 10 days since positive viral test for COVID-19.

If the employee develops symptoms after testing positive, follow the guidance above for employees with symptoms

# Handling Cases of COVID-19 in the Workplace

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## CDC Modifications on Determining When to Stop Home Isolation

- Anyone who has had close contact with someone with COVID-19 should stay home for 14 days after their last exposure to that person.
- The CDC acknowledges that the 14-day self-quarantine for persons known to have been exposed may appear to be in conflict with other recommendations. The 14 days of 14 days of quarantine after exposure is based on the time it takes to develop illness if infected. Thus, it is possible that a person known to be infected could leave isolation earlier than a person who is quarantined because of the possibility they are infected.

# Handling Cases of COVID-19 in the Workplace

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## CDC Modifications on Determining When to Stop Home Isolation

Anyone who has had close contact with someone with COVID-19 and who:

- developed COVID-19 illness within the previous 3 months and
- has recovered and
- remains without COVID-19 symptoms (for example, cough, shortness of breath)

does not need to stay home.

<https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/end-home-isolation.html>

# Handling Cases of COVID-19 in the Workplace

## Timeline for Returning to Work:

<b>Workers</b>	<b>Minimum Criteria for Return to Work (As of July 24, 2020)</b>
<p><b>1. Symptomatic Positive/Negative/Untested</b></p> <p>Workers with symptoms who are: laboratory confirmed to have COVID-19, tested negative, or are symptomatic but have not been tested</p>	<ul style="list-style-type: none"><li>• At least 1 day (24 hours) has passed since last fever (defined as resolution of fever without the use of fever-reducing medications); <b>and</b></li><li>• improvement in symptoms (e.g., cough, shortness of breath); <b>and</b>,</li><li>• at least 10 days have passed since symptoms first appeared.</li></ul>

# Handling Cases of COVID-19 in the Workplace

<b>Workers</b>	<b>Minimum Criteria for Return to Work (As of July 24, 2020)</b>
<b>2. Asymptomatic Positive</b> Workers who never had symptoms and are laboratory confirmed to have COVID-19	<ul style="list-style-type: none"><li>• A minimum of 10 days has passed since the date of their first positive COVID-19 test. * If they develop symptoms, then the criteria for laboratory confirmed cases with symptoms apply (see 1, above).</li></ul>
<b>3. Asymptomatic Negative</b> Workers who never had symptoms but were tested due to close contact with a laboratory-confirmed case patient and were negative	<ul style="list-style-type: none"><li>• Workers should quarantine at home for 14 days after the last known close contact with the case patient.</li><li>• Symptoms can develop even after testing negative within 14 days after exposure.</li><li>• <b>Essential Workers:</b> The local health department <i>may</i> consider allowing earlier return to work only for an worker in a critical infrastructure industry in which the essential operations of the workplace would be compromised by quarantine of the worker and no alternate staff .</li></ul>

# Handling Cases of COVID-19 in the Workplace

<b>Workers</b>	<b>Minimum Criteria for Return to Work (As of July 24, 2020)</b>
<b>4. Asymptomatic Untested</b> Workers who had close contact to a laboratory-confirmed case patient at work, home, or in the community and do not have symptoms.	<ul style="list-style-type: none"><li>• Workers should be quarantined at home for 14 days after the last known close contact with the case patient.</li><li>• Testing is highly recommended.</li><li>• <b>Essential Workers:</b> If testing has not occurred, the local health department may consider allowing an worker who had close contact to a confirmed case to continue to work only in a critical infrastructure industry in which the essential operations of the workplace would be compromised by quarantine of the worker and no alternate staff can perform the same role.*</li><li>• Workers who develop symptoms of COVID-19 while in quarantine should contact their healthcare provider. Even if they are not tested, the same criteria for laboratory confirmed cases with symptoms apply (see 1, above).</li></ul>
<b>5. Workers who <i>refuse or are unable to be tested</i> after close contact with a laboratory-confirmed case</b>	<ul style="list-style-type: none"><li>• Use the same criteria as 4, above (Asymptomatic Untested).</li></ul>

# Handling Cases of COVID-19 in the Workplace

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## Recording Cases of COVID-19:

- The law: employers must record “work-related” fatalities, injuries and illnesses, which includes COVID-19 related fatalities or illnesses.





# Handling Cases of COVID-19 in the Workplace

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## Recording Cases of COVID-19:

- What must be recorded?
  1. *A work-related illness/injury/fatality; and*
  2. *Results in death, days away from work, restricted, work or transfer to another job, medical treatment, loss of consciousness, or significant injury or illness diagnosed by a physician or other licensed health professional*
- If a work-related COVID-19 case meets the criteria, employers must record the case on the corresponding OSHA Forms/Logs.

# Handling Cases of COVID-19 in the Workplace

## Reporting Cases of COVID-19 to Cal/OSHA:

- The law: employers must report (in addition to record) any "serious illness, injury or death of an employee that *occurred at work or in connection with work*" to Cal/OSHA.
- A "serious illness" may include those that require in-patient hospitalization beyond medical observation or diagnostic testing. COVID-19 cases *may* fall under this definition.
- When must employers report this to Cal/OSHA?
  - Within eight (8) hours of when the employer *knew or should have known* of the illness, unless exigent circumstances.



# Handling Cases of COVID-19 in the Workplace

## Reporting Cases of COVID-19 to Cal/OSHA:

- Example 1:
  - The Facts: Employee A becomes ill *while at work*. Employee A is COVID-19 positive, and is admitted as in-patient at a hospital for 4 days.
  - The Result: The employer must report this illness to Cal/OSHA, as it would be deemed an illness occurring in the place of employment.



# Handling Cases of COVID-19 in the Workplace

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## Reporting Cases of COVID-19 to Cal/OSHA:

- Example 2:
  - The Facts: Employee B becomes ill *while at work*. Employee B is COVID-19 positive, and is admitted as in-patient at a hospital for 2 hours.
  - The Result: Same as above. Duration of hospitalization is irrelevant for purposes of reporting.

# Handling Cases of COVID-19 in the Workplace

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## Reporting Cases of COVID-19 to Cal/OSHA:



- Example 3:
  - The Facts: Employee C's, a waitress, work duties include dealing face to face with various customers on a regular basis. Employee C begins developing COVID-19 symptoms *outside of work* and is hospitalized during non-working hours.
  - The Result: The employer must report this illness to Cal/OSHA. In this scenario, the illness was contracted "in connection with employment."

# Handling Cases of COVID-19 in the Workplace

## Reporting Cases of COVID-19 to Cal/OSHA: Contact Information by Region



# Handling Cases of COVID-19 in the Workplace

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## Leaves of Absence

- California Family Rights Act (CFRA)
  - Up to 12 weeks job-protected leave for serious health condition of employee or spouse, parent, or dependent child
  - COVID-19 qualifies in case of inpatient care, continuing treatment/supervision by health care provider, or results in pneumonia
  - Eligibility:
    1. 50+ workers within 75 miles of worksite
    2. Employee worked for at least a year
    3. Employee worked at least 1,250 hours in year before leave

# Handling Cases of COVID-19 in the Workplace

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## Leaves of Absence and Other Benefits

- Paid Sick Leave
  1. CA Paid Sick Leave (all employers)
  2. Federal FFCRA leave (less than 500 workers)
  3. CA COVID-19 supplemental paid sick leave (500 or more)
  4. Local paid sick leave ordinances
- State Disability Insurance
- Paid Family Leave
- Unemployment Insurance
- Workers' Compensation



# Worker Education

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- Understanding COVID-19
- Employee Protection at Work
  - Stay at home if sick
  - Notify supervisor if employee or co-workers develops symptoms at work
  - Social distancing
  - Good hand hygiene
  - Wear Masks
- Employee Protection at Home
- Employee Resource Links

# Dealing with Mask Requirements in the Workplace

## Do:

- ✓ Advise employees to avoid approaching co-workers or customers who are not wearing a face covering.
- ✓ Advise employees to maintain at least 6-foot distance from those individuals not wearing a mask and report the situation to their supervisor.
- ✓ Establish methods of communication between company supervisors and company management/human resources to handle these situations.



# Dealing with Mask Requirements in the Workplace



## Do:

- ✓ Train employees on how to manage these issues, including how to de-escalate confrontations and workplace violence minimization.
- ✓ Engage in the interactive process with customers who claim a disability-related reason for being unable to wear a face covering.
- ✓ Depending on the circumstances, contact your local law enforcement department.

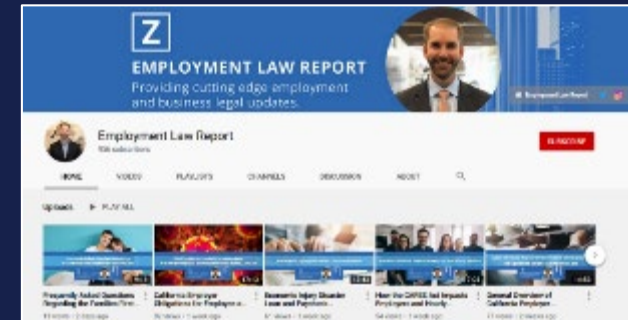
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