

Cal/OSHA and COVID-19 Industry Guidance for Office Workspaces

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On May 12, 2020, the California Department of Industrial Relations (Cal/OSHA) released guidance for businesses operating in office workspaces to support a safe, clean environment for employees. This guidance addresses all of the following:

- Worksite specific plans;
- Employee training topics;
- Individual control measures and screening;
- Cleaning and disinfecting protocols; and
- Physical distance guidelines.

Office workspaces must comply with all Cal/OSHA standards and be prepared to adhere to its guidance as well as guidance from the Centers for Disease Control and Prevention (CDC) and the California Department of Public Health (CDPH). Additionally, employers must be prepared to alter their operations as those guidelines change. See the Cal/OSHA guidance.

Localities, Paid Leave, and COVID-19

The following California localities enacted leave laws related to COVID-19:

- City of Los Angeles Supplemental Paid Leave (issued April 7 and updated May 19) and rules.
- Emeryville (city's paid sick leave law as applied to COVID-19).
- Long Beach COVID-19 Paid Supplemental Sick Leave (adopted May 19, immediately effective, no expiration date but revisited every 90 days to determine if still necessary).
- Oakland Emergency COVID-19 Paid Sick Leave Ordinance (adopted May 12 and expires December 31, 2020, unless extended).
- San Jose Urgency COVID-19 Paid Sick Leave Ordinance (employers subject to the Ordinance must provide the required paid sick leave benefits starting April 8, 2020 through December 31, 2020).
- Of note, Los Angeles County enacted an emergency paid sick leave ordinance in April.

Sexual Harassment Prevention Training

On May 21, 2020, the California Department of Fair Employment and Housing (DFEH) released its online training courses for the prevention of sexual harassment and abusive conduct in the workplace. Under California law, all employers with five or more employees must provide the following training to employees every two years:

- One hour of sexual harassment and abusive conduct prevention training to nonsupervisory employees; and
- Two hours of sexual harassment and abusive conduct prevention training to supervisors and managers.

This training must include practical examples of harassment based on gender identity, gender expression, and sexual orientation. Additionally, employers must provide employees with a sexual harassment poster or fact sheet and maintain records of all employees' training for at least two years.

All employees must receive training by January 1, 2021. Employers of 50 or more employees have an existing and ongoing obligation to train new supervisory employees within six months of assuming their supervisory position. Beginning January 1, 2021, new supervisory employees in workplaces of five or more employees must be trained within six months of assuming their supervisory position, and new nonsupervisory employees must be trained within six months of hire. Employees must be retrained once every two years. Read more about the online training courses and FAQs

Reopening Requirements for All Businesses

On May 14, 2020, California updated its industry guidance for businesses that are reopening during the state's phased plan. The updated guidance requires all businesses to implement the following before reopening:

- Perform a detailed risk assessment and implement a site-specific protection plan.
- Train employees on how to limit the spread of COVID-19, including how to screen themselves for symptoms and stay home if they have them.
- Implement individual control measures and screenings.
- Implement disinfecting protocols.
- Implement physical distancing guidelines.

Additionally, industry-specific checklists were provided for all of the following:

- Agriculture and livestock
- Auto dealerships
- Childcare
- Communications infrastructure
- Construction
- Delivery services
- Energy and utilities
- Food packing
- Hotels and lodging
- Life sciences
- Limited services
- Logistic and warehousing facilities
- Manufacturing
- Mining and logging
- Outdoor museums
- Office workspaces
- Ports
- Public transit and intercity passenger rail
- Real estate transactions
- Retail

Businesses are instructed to review the guidance applicable to their industry, prepare a plan, and post the related checklist in their workplace to show customers and employees that they reduced the risk of illness and are open for business.

Workers' Compensation Benefits and Workers Who Contract COVID-19 During Stay-at-Home Order

On May 6, 2020, California Governor Gavin Newsom signed an executive order (N-62-20) creating a time-limited rebuttable presumption that workers who contract COVID-19 while on the job (working outside their home) may be eligible to receive workers' compensation and employers will have chance to rebut (prove otherwise). In other words, the employee is presumed to have been injured on the job (under the order's specific terms and conditions) and the employer may contest it. Those eligible will have the rebuttable presumption if they tested positive for COVID-19, or were diagnosed with COVID-19, within 14 days of working at the employer's workplace after issuance of the state's March 19, 2020 stay-at-home order.

The executive order does not apply to employees who were working from home, they must have been working on the employer's premises at the employer's direction. Additionally, the COVID-19 diagnosis must have been made by a licensed physician and confirmed by further testing within 30 days of the diagnosis date. There are additional terms and stipulations; however, an accepted workers' compensation claim for a COVID-19-related illness is eligible for all benefits applicable under the state workers' compensation laws, including full hospital, surgical, medical treatment, disability indemnity, and death benefits. Additionally, employees with paid sick leave benefits (specifically available in response to COVID-19) must use and exhaust them before any temporary disability benefits are due and payable. Alternatively, if an employee does not have such sick leave benefits, then they must be provided temporary disability benefits, from the date of disability. Importantly, there will be no waiting period for temporary disability benefits. The executive order took effect May 6, 2020 and the presumption it creates will stay in place through July 5, 2020 (for 60 days from effective date).

COVID-19 and Stage Two Reopening

On May 4, 2020, California Governor Gavin Newsom announced that California will move into stage two of its reopening on May 8, 2020. Stage two allows for the gradual reopening of lower-risk workplaces with adaptations including bookstores, clothing stores, florists, and sporting goods stores. The state will release public health guidance for some stage two sectors including some retail, manufacturing, and logistics businesses, which will outline modifications that lower the risk of transmission. Other stage two sectors, such as offices and dine-in restaurants, will be part of a later stage two reopening. Additionally, even though the state is moving from stage one to stage two, counties may elect to continue more restrictive measures already in place based on their local conditions. In fact, the state expects some counties to keep their more robust stay-at-home orders in place beyond May 8.