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NAVIGATING THE NEXT.

**Biweekly Webinar Series: Returning to Work
in California: Highlights of Major State and
Local Orders**

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May 26, 2021

Presenters



Daryl Landy



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Timeline of Events

- May 3: California Department of Public Health (CDPH) issues new face mask guidance and recommendations for fully vaccinated people.
- May 5: Cal/OSHA announces agreement with (CDPH) that fully vaccinated people exposed to COVID-19 do not need to quarantine if asymptomatic.
- May 7: Cal/OSHA releases its proposed changes (“readoption”) to the ETS for Standards Board consideration at a noticed meeting on May 20. The proposed changes include language that would have allowed fully vaccinated persons to remove masks indoors if in a room where everyone is vaccinated.
- May 13: CDC issues new guidance, immediately rendering the Cal/OSHA proposed changes outdated.

Timeline of Events

- May 17: Cal. Health and Human Services Secretary announces state's intent to "align" its face-mask guidance with CDC mask guidance effective June 15. Delay to June 15 is to allow more people to be vaccinated and businesses to prepare for the changed rules.
- May 18: Santa Clara County publishes sweeping Health Officer Order that includes requirement to "ascertain" personnel's vaccination status.
- May 19: Cal/OSHA requests that the Standards Board delay voting on the proposed "readoption."
- May 20: Cal/OSHA Board delays vote. Sets a new meeting for June 3, which means Cal/OSHA must submit new proposed changes by May 28.
- May 21: The CDPH announces plans for "fully reopening," including summary of face-mask guidance effective June 15.



Beyond the Blueprint for a Safer Economy & County – Tier Assignments

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California's Tier System

| County risk level | New cases | Positive tests |
|---|---|--|
| <p>WIDESPREAD</p> <p>Many non-essential indoor business operations are closed</p> | <p>More than 7</p> <p>Daily new cases (per 100k)</p> | <p>More than 8%</p> <p>Positive tests</p> |
| <p>SUBSTANTIAL</p> <p>Some non-essential indoor business operations are closed</p> | <p>4-7</p> <p>Daily new cases (per 100k)</p> | <p>5 – 8%</p> <p>Positive tests</p> |
| <p>MODERATE</p> <p>Some indoor business operations are open with modifications</p> | <p>1 – 3.9</p> <p>Daily new cases (per 100k)</p> | <p>2 – 4.9%</p> <p>Positive tests</p> |
| <p>MINIMAL</p> <p>Most indoor business operations are open with modifications</p> | <p>Less than 1</p> <p>Daily new cases (per 100k)</p> | <p>Less than 2%</p> <p>Positive tests</p> |

| SECTORS | Tier 1 Widespread (Case Rate >7 and Test Positivity >8%) | Tier 2 Substantial (Case Rate 4-7 and Test Positivity 5-8%) | Tier 3 Moderate (Case Rate 1-3.9 and Test Positivity 2-4.9%) | Tier 4 Minimal (Case Rate <1 and Test Positivity <2%) |
|--|--|--|---|---|
| Post 2 million administered in first Healthy Places Index quartile | CR >10 | CR 4-10 | CR 1-3.9 | CR <1 |
| Post 4 million administered in first Healthy Places Index quartile | CR >10 | CR 6-10 | CR 2-5.9 | CR <2 |
| Bars (where no meal provided; follow restaurant guidance where meal is provided) | Closed | Closed | Open outdoors with modifications | Effective March 13, 2021: Open indoors with modifications <ul style="list-style-type: none"> • Max 25% capacity indoors, or 100 people, whichever is fewer |
| Family Entertainment Centers | Outdoor only with modifications e.g. <ul style="list-style-type: none"> • Kart Racing • Mini Golf • Batting Cages | Outdoor only with modifications e.g. <ul style="list-style-type: none"> • Kart Racing • Mini Golf • Batting Cages | Open indoors for naturally distanced activities with modifications <ul style="list-style-type: none"> • Max 25% capacity • Bowling Alleys | Open indoors for activities with increased risk of proximity and mixing with modifications <ul style="list-style-type: none"> • Max 50% capacity • Arcade Games • Ice and roller skating • Indoor playgrounds |
| Cardrooms, Satellite Wagering | Outdoor only with modifications | Outdoor only with modifications | Open indoors with modifications <ul style="list-style-type: none"> • Max 25% capacity | Open indoors with modifications <ul style="list-style-type: none"> • Max 50% capacity |
| Offices | Remote | Remote | Open indoors with modifications <ul style="list-style-type: none"> • Encourage telework | Open indoors with modifications <ul style="list-style-type: none"> • Encourage telework |

“Mega Events”



TOMÁS J. ARAGÓN, M.D., Dr.P.H.
State Public Health Officer & Director

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



GAVIN NEWSOM
Governor

May 21, 2021

TO: All Californians

SUBJECT: Beyond the Blueprint for Industry and Business Sectors - Effective June 15

Related Materials: [Beyond the Blueprint Q&A](#)

When California fully reopens the economy, the state will move beyond the Blueprint for a Safer Economy. Beginning June 15, all sectors listed in the current [Blueprint Activities and Business Tiers Chart](#) may return to usual operations (with the limited exceptions noted below for Mega Events) based on the following general public health recommendations:

“Mega Events”

| Restrictions Applying to Indoor & Outdoor Settings | |
|--|--|
| Vaccine Verification / Negative Testing | Required for Indoor mega events Recommended for Outdoor mega events |
| Capacity Limitations | No restrictions |
| Physical Distancing | No restrictions for attendees, customers and guests |
| Masking | Follow current CDPH Guidance for Face Coverings |
| Travelers | Follow CDC recommendations and CDPH Travel Advisory |

Face-Covering Guidance and Orders



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CA: Loosens Mask Requirements for Fully Vaccinated Individuals



























Fully Vaccinated

- Outdoors: Not required, unless at a crowded event.
- Indoors: Required except when alone in a closed room or car.

Unvaccinated

- Outdoors: Required any time physical distancing cannot be maintained.
- Indoors: Required, except when alone in a closed room or car.

CDC: Limited Mask Requirements for Fully Vaccinated Individuals

| | Unvaccinated People | Examples of Activities | Fully Vaccinated People |
|------------|---|---|---|
| | | Outdoor | |
| Safest |  | Walk, run, wheelchair roll, or bike outdoors with members of your household |  |
| |  | Attend a small, outdoor gathering with fully vaccinated family and friends |  |
| |  | Attend a small, outdoor gathering with fully vaccinated and unvaccinated people |  |
| Less Safe |  | Dine at an outdoor restaurant with friends from multiple households |  |
| Least Safe |  | Attend a crowded, outdoor event, like a live performance, parade, or sports event |  |
| | | Indoor | |
| Less Safe |  | Visit a barber or hair salon |  |
| |  | Go to an uncrowded, indoor shopping center or museum |  |
| |  | Attend a small, indoor gathering of fully vaccinated and unvaccinated people from multiple households |  |
| Least Safe |  | Go to an indoor movie theater |  |
| |  | Attend a full-capacity worship service |  |
| |  | Sing in an indoor chorus |  |
| |  | Eat at an indoor restaurant or bar |  |
| |  | Participate in an indoor, high intensity exercise class |  |

CDC: Limited Mask Requirements for Fully Vaccinated Individuals

- Fully vaccinated individuals must still wear a face covering on all:
 - Planes
 - Buses
 - Trains
 - Other forms of public transportation traveling into, within, or out of the United States and in US transportation hubs such as airports and stations

CA: June 15 Reopening of the Economy

- On June 15, California will align with the CDC's guidance on masks, with limited exceptions for "mega events."
- For indoor and outdoor "mega events" after June 15, attendees must follow the anticipated CDPH guidance for face coverings.



Cal/OSHA Board Delays Proposed Readoption of Emergency Temporary Standards

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Timeline

- On May 7, 2021, Cal/OSHA made public its proposed changes to the ETS.
- On May 13, 2021, the CDC issued new guidance regarding face coverings and physical distancing for fully vaccinated individuals.
- On May 17, 2021, the California Department of Health and Human Services announced that California would align with CDC guidance by June 15, 2021.
- On May 19, 2021, Cal/OSHA sent a public memorandum to the Board requesting that it postpone the vote while Cal/OSHA drafts a new version that aligns with the CDC.
- On May 20, 2021, the Board held its public meeting and decided to postpone the vote.

Path Forward

- By May 28, 2021, Cal/OSHA will publicly post new language.
- On June 3, 2021, the Board will hold an emergency public meeting to discuss and vote on the new language with an aim to hit the June 15, 2021 target.
- A few members of the Board expressed reservations about an ETS that aligns with the CDC because they believe that the CDC's new guidance is "premature"
- Likely to contain carveouts for vaccinated employees in any setting.
- Likely to contain PPE and testing requirements for unvaccinated employees.



Local Mandate to Determine Personnel's Vaccination Status

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Santa Clara County Health Officer Order

- As of May 19, the order requires all businesses to **ascertain the vaccination status of all personnel (including contractors, vendors, volunteers, etc.) by June 1** and every two weeks thereafter.
- Rules for Personnel Not Fully Vaccinated:
 - Businesses must provide these personnel with information on how to get vaccinated.
 - Personnel must follow the County's Mandatory Directive on Use of Face Coverings and the Mandatory Directive for Unvaccinated Personnel.
- Strong Recommendations for Personnel Not Fully Vaccinated:
 - Urges businesses to prohibit these personnel from engaging in any work-related travel, especially greater than 150 miles from the county
 - Require these personnel to obtain weekly PCR testing for COVID-19 or daily antigen testing with COVID-19 PCR confirmation of any positives.

Santa Clara County Health Officer Order

- Requires that all residents, businesses, and governmental entities follow California's Guidance for Use of Face Coverings issued on May 3, 2021.
- Not yet determined whether the county will follow the state's decision to align with the CDC's face-mask guidance starting on June 15.
- Requires businesses to immediately report all personnel COVID-19 cases to the County Public Health Department.
- A violation of the order, including for failing to ask about the vaccination status of workers, is a misdemeanor punishable by a fine of up to \$5,000 per violation per day, imprisonment, or both.

Vaccine Paid Leave

The image is a composite graphic. The background is a deep blue space filled with stars. A bright, glowing sun or star is positioned on the horizon line, casting a warm orange and yellow light across the scene. Below the horizon, a cityscape is visible at night, with numerous buildings and streets illuminated. Overlaid on the city and extending upwards is a network of glowing lines and nodes, resembling a digital or data network. The lines are primarily blue and white, with some nodes appearing as bright orange or red dots. The overall aesthetic is futuristic and technological.

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Los Angeles County Paid Vaccine Leave Ordinance

- Requires all private employers to provide paid leave for employees to receive the COVID-19 vaccine, including time spent recovering from related symptoms.
 - Only available if the employees have exhausted all available California COVID-19 Supplemental Paid Sick Leave.
- Eligible employees: Any employees performing any work in the county's unincorporated areas.
- This leave is in addition to any other job-protected paid leave, such as regular paid sick leave.
- Amount of leave:
 - Full-time employees: 4 hours per injection.
 - Part-time employees: a proportionate amount based on their normally scheduled work hours over the 2-week period preceding the injection.

Los Angeles County Paid Vaccine Leave Ordinance

- Pay rate: The employee's highest average 2-week pay over the period of January 1 through May 18, 2021.
- Employers must conspicuously post a written notice that the LA County Department of Consumer and Business Affairs (LACDCBA) will create.
- Record keeping requirement for 4 years.
- Employees may file a complaint with the LACDCBA within 3 years of an alleged violation and seek damages.
- Enacted May 18, but retroactive to January 1.
- Sunsets on August 31, 2021.

Return to Work Resources for Employers

View a list of the [return to work resources](#) that we have developed to support employers' efforts in safely returning to work.

Get more information on our [Return to Work – Stay in the Safe Zone](#) training program.

Access our [workplace reopening checklist](#).

[Questions on Vaccines?](#)



RETURN TO WORK RESOURCES

| Category | Work Product |
|---|---|
| Essential Business and/or Reopening Guidance | State and Local Orders, Ordinances, and Regulations Regarding Shelter in Place, Business Restrictions, and Business Reopening Chart <ul style="list-style-type: none">We can also provide weekly updates |
| | We can also create customized charts of specific orders or just reopening orders. Examples: <ul style="list-style-type: none">Requirements Regarding Temperature Screens and Symptom ScreensRequirements for PPE or Face Coverings |
| Workplace Screening, Social Distancing, PPE, and Sanitization Policies and Procedures | Social Distancing Policy Template, Customization Guidance, and Face Covering Policy Template |
| | Active Screening Protocol with Temperature/Symptom Screening Policy Template |
| | FAQs on COVID-19 Molecular and Serology Testing |
| | Infection Control Protocols for the Workplace |
| | <i>Policies and procedures can be customized for the company.</i> |
| Training | Webinar Training Program on Social Distancing and Safety Measures for Return to Work |
| Unions | Labor Management Return To Work Memorandum of Understanding Template |

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Coronavirus COVID-19 Resources

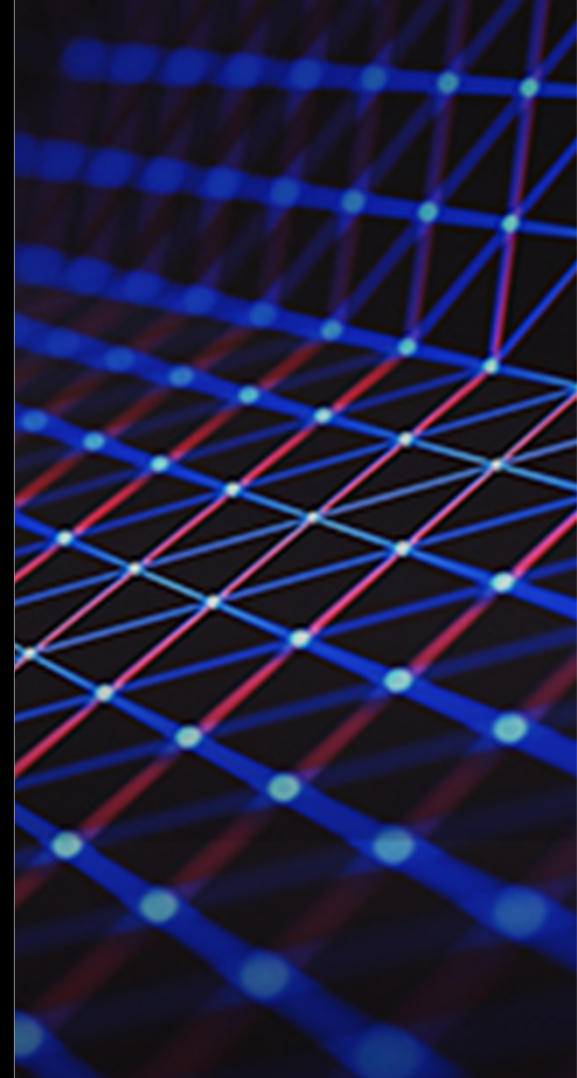
We have formed a multidisciplinary **Coronavirus/COVID-19 Task Force** to help guide clients through the broad scope of legal issues brought on by this public health challenge.

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To help keep you on top of developments as they unfold, we also have launched a resource page on our website at

[www.morganlewis.com/
topics/coronavirus-
covid-19](http://www.morganlewis.com/topics/coronavirus-covid-19)

If you would like to receive a daily digest of all new updates to the page, please visit the resource page to **subscribe** using the purple "Subscribe" button.

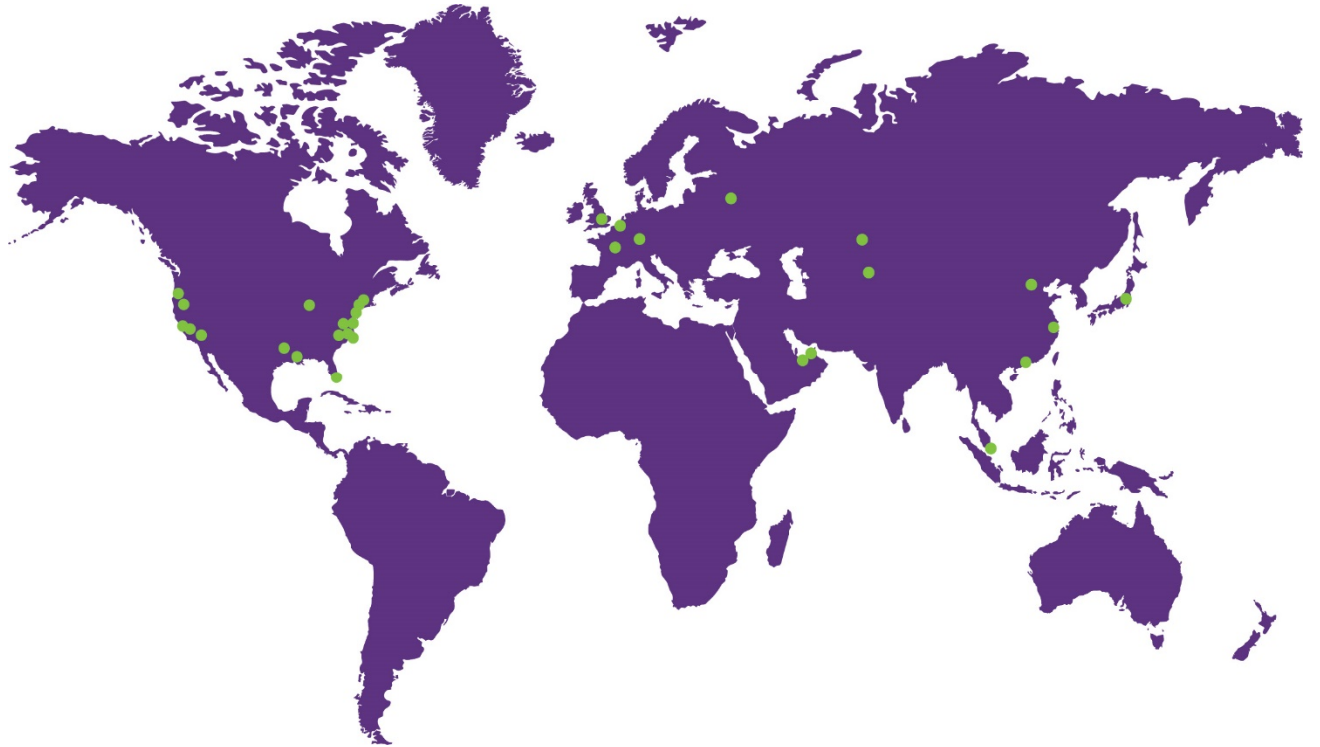


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