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NAVIGATING THE NEXT.

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

Daryl Landy, John Hayashi, Lauren Nikkha
April 14, 2021

Presenters



Daryl Landy



John Hayashi



Lauren Nikkhah

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Blueprint for a Safer Economy & County Tier Assignments

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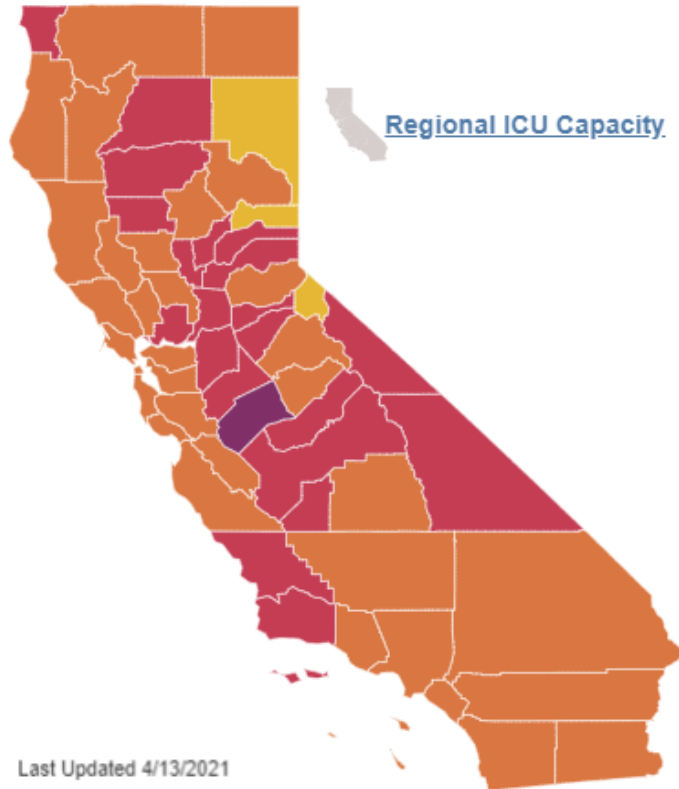
California's Tier System

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

What Happens Beyond the Blueprint?

- Two criteria required for CA to fully open:
 - (1) Equitable vaccine availability, and
 - (2) Consistently low burden of disease.
- Masking, testing, and vaccination verification requirements will be in place.
- Impending and updated California Public Health Order to be issued.
- Sectors will return to usual operations in compliance with CalOSHA and other agency guidelines and standards with limited public health restrictions.

California's Tier System



STATEWIDE METRICS

4.8 New COVID-19 positive cases per day per 100K

1.8% Positivity rate (7-day average)

31.9% ICU availability

Find a county

Highlight County

Click on the map for updated metrics

COUNTY RISK LEVELS

	Counties	Population	
Widespread	1	287,420	0.7%
Substantial	21	6,541,204	16.3%
Moderate	33	33,266,239	82.9%
Minimal	3	34,297	0.1%

California's Tier System – Permissible Activity

- [Link: Full Chart](#)

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

California's Tier System – Searching for Status of Activity in Each County

Find the status of activities in your county

County

Activity

San Francisco

Q Clear

Enter a business or activity

GET LATEST RISK LEVELS

San Francisco

MINIMAL

Most indoor business operations are open with modifications. [Understand the data.](#)

Counties can restrict further. Check your [county's website](#).

Office workspaces

Tier status:

Widespread (purple): Remote work

Substantial (red): Remote work

Moderate (orange): Indoor with modifications, encourage telework

Minimal (yellow): Indoor with modifications, encourage telework

Follow this [guidance for office workspaces](#) to create a safer environment for workers.

Review the guidance, prepare a plan, and post the [checklist for office workspaces](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

Faith-based office workspaces can reopen within the following parameters:

1. Faith-based facilities are considered "offices" only for those employed by the organization and where the facility is their regular place of work.
2. The employer should implement state guidance relating to offices before reopening the facility for employees.
3. This designation does not permit gatherings of non-employees, such as the organization's congregation.

Vaccine Updates

The image is a composite background. At the top, a bright sun or star is on the horizon, casting a glow over a dark, starry space. Below this, a cityscape is visible at night, with lights from buildings and streets. Overlaid on the city is a network of glowing lines and nodes, resembling a data network or a global communication system. The lines are primarily blue and orange, connecting various points across the city and extending towards the horizon.

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Current California Vaccine Rollout Progress



COVID-19: Vaccine Dashboard

Statewide

23,243,392 (80.7%) Doses administered
371,263 Average doses per day



6,313,523 (19.5%) People partially vaccinated
8,871,326 (27.4%) People fully vaccinated



4,856,000 Doses on hand
(13 days of inventory)



28,799,070 Doses Delivered
5,313,660 CDC Pharmacy Doses Delivered

Doses Administered by County of Residence

County

(All)



Los Angeles	5,789,262
San Diego	2,117,604
Orange	1,911,024
Santa Clara	1,209,663
Riverside	1,161,975
Alameda	1,141,914
San Bernardino	910,164
Contra Costa	837,302
Sacramento	820,969
San Francisco	691,544
San Mateo	571,077
Ventura	525,642
Fresno	511,253
Kern	367,763
Sonoma	366,406

Today's count of administered doses is incomplete due to data processing latency. Complete counts will be updated once available this week.

See [Data Dictionary](#) for Details.

Data: 4/12/2021 11:59pm | Posted: 4/13/2021

Updated California Travel Advisory



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

April 2, 2021

TO: All Californians

SUBJECT: Travel Advisory

Travel Advisory

Updated April 2, 2021

CDPH and the CDC recommend delaying travel until persons are [fully vaccinated](#), because travel increases the chance of getting and spreading COVID-19. Travel threatens to exacerbate community spread within and beyond California —particularly because travel itself (especially the use of shared conveyances in air, bus, or rail travel) can increase a person's chance of spreading and getting COVID-19, including Sars-CoV2 variants of concern.

With over 18 million vaccine doses administered statewide, vaccines have made a difference and overall disease trends have improved dramatically over the past ten weeks. Case rates, test positivity, transmission rate, hospitalizations and ICU admissions have all declined since the winter surge. While we have made great progress, many states and countries are experiencing increasing levels of transmission, and it is imperative that California continue to take steps necessary to curb the spread of COVID-19 and contain new sources of infection until we can achieve higher levels of vaccination

California Wage and Hour Checkup

The background of the slide is a composite image. At the top, a bright sun or star is visible on the horizon of a planet, casting a warm glow. Below this, a night view of a city is shown, with its lights and buildings. Overlaid on the city is a network of glowing blue lines and dots, resembling a digital or data network. The overall color palette is dominated by blues, oranges, and whites.

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Employee Training

- The Cal/OSHA Emergency Temporary Standards (ETS) included exceptions for:
 - Employees working from home
 - Workplaces where there is only one employee, and that employee does not have contact with other people. 8 C.C.R. § 3205(a).
- If employees return to the office, or if there will be more than one employee who may have contact with others, the ETS will cover these employees.
- Among the ETS requirements, the employer must provide training and instruction on COVID-19.
- Training should be conducted during work time (on the clock).

Temperature Checks and Health Screening

- *Frlekin v. Apple Inc.*, 8 Cal. 5th 1038 (Feb. 13, 2020): Time employees spend on premises waiting for and undergoing mandatory exit searches is compensable as “hours worked” under California law.
- Resulted in lawsuits seeking compensation for temperature checks and screenings.
- Treat temperature checks or other preshift screenings as compensable time (on the clock).

Meal Break Timing

- To achieve social distancing between employees during meal or rest breaks, some counties recommend that breaks and mealtimes be staggered to reduce occupancy in areas used for meals and breaks. *See, e.g.,* Los Angeles County Health Officer Order for Office Based Workers.
- If an employer chooses to stagger meal break times for nonexempt employees, it still must comply with the California law requirement to provide 30-minute, duty-free meal breaks no later than the end of the fifth hour of work.
- Better to allow nonexempt workers to take meal breaks early.

Compensation for COVID-19 Testing

- In the event of potential COVID-19 work-related exposure, the employer must offer testing to employees at no cost and “during working hours.”
- “During work hours” means the employees must be compensated for their time and, if tested offsite, travel expenses (mileage, parking, etc.).
- The employer is not obligated to provide the test during an employee’s normal working hours, but non-exempt employees may be eligible for overtime if testing results in a work day of more than eight hours or more than 40 hours in one workweek.

Regular Rate Considerations

- In California, overtime, sick time, and other forms of hourly compensation must be paid based on the “regular rate.”
- The “regular rate” is based on all remuneration for employment, such as commissions or other forms of nondiscretionary compensation, unless excluded by law.
- Ensure proper calculation of the “regular rate” including any “hazard pay” or special bonuses associated with special circumstances, such as COVID-19 vaccination incentives.
- Be sure to inform your payroll provider that it should ensure that these forms of compensation are properly coded and identified on wage statements.

Review Expense Reimbursement Policies

- As California reopens, it's a good time to review employee expense reimbursement policies.
- California requires employers to reimburse employees for reasonable and necessary business expenses.
- Examples: phones (if used in part for business), internet (same), mileage, and other business-related expenses.
- Some expenses may no longer be "necessary" when employees are permitted to return to the workplace (i.e., home internet).
- Expense reimbursement for face coverings or other safety equipment.

Other Considerations

- Reporting time and/or predictive scheduling obligations when announcing/adjusting schedules and sending employees home from work.
- Preserving overtime exemptions, including of workers whose duties may have been modified or of exempt workers covering nonexempt work resulting from lack of hourly workers.

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.

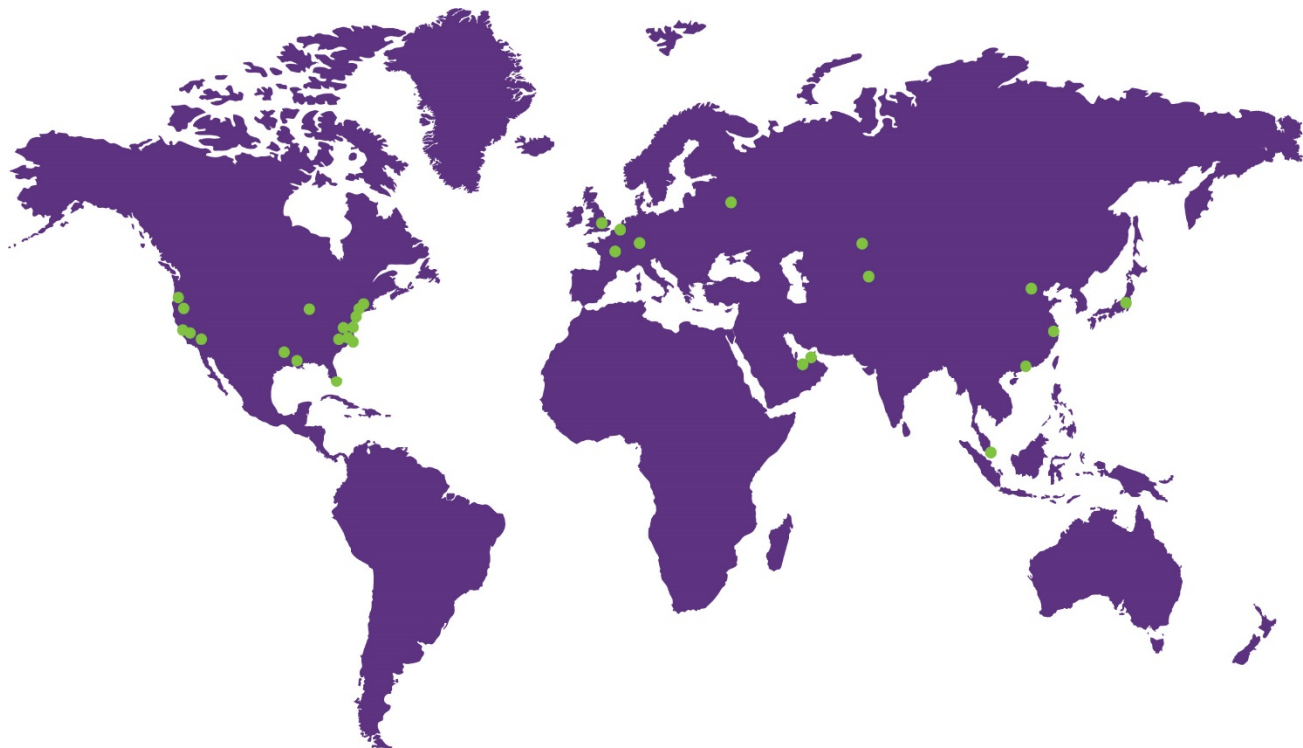


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Middle East
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