

Morgan Lewis

**NOW. NORMAL.
NEXT.**

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

Kate McGuigan, Grace Tse, and Kara Crawford

July 29, 2020

NOW. NORMAL. NEXT.

Presenters



Kate McGuigan



Grace Tse



Kara Crawford

Morgan Lewis

NOW. NORMAL. NEXT.

State Developments: Employer Playbook for a Safe Reopening

Morgan Lewis

State Developments: Employer Playbook

- Governor Newsom released the “Employer Playbook” (Playbook) for safely reopening in California on Friday, 7/24.
- The Playbook applies to all industries and is available on the state’s COVID-19 website (covid19.ca.gov).
- The Playbook is a condensed version of the guidance that already exists at the state level.
 - It does not replace the state’s industry-specific guidance documents and checklists, nor does it replace other existing regulatory requirements, such as those from Cal/OSHA.
- As of now, there is no requirement that employers post the Playbook in the workplace.

State Developments: Employer Playbook

- The Playbook covers several topics that are intended to help employers prepare for reopening their businesses, and help them maintain a safe, clean environment.
- First, the Playbook makes it clear that all employers must create and implement a COVID-19 prevention plan. Each plan must:
 - Be workplace-specific;
 - Identify work areas and job tasks with potential COVID-19 exposures;
 - Include control measures to eliminate or reduce such exposures, such as a protocol for symptom screening;
 - Maintain healthy business operations;
 - Maintain a healthy work environment, such as by cleaning and disinfecting the worksite;
 - Provide effective training for workers; and
 - Encourage workers to give input into creating a safe workplace for everyone.

State Developments: Employer Playbook

- The Playbook also addresses:
 - What to do if there is an outbreak of COVID-19 in the workplace, including:
 - How to prevent the spread, how to properly disinfect the office, and how to ensure that it's safe for affected workers to return to work.
 - Explanations of existing paid leave resources for workers, including a reference to workers' compensation
 - At this point, we are awaiting further direction on the presumption of application of workers' compensation to COVID-19 for illnesses contracted after 7/5.
 - Topics for worker education on COVID-19; and
 - Appendices of resources for workers and employers, including:
 - Links to CDC guidance documents, contact information for agencies on the state's Enforcement Task Force, and guidance for enforcing mask requirements in the workplace.

NOW. NORMAL. NEXT.

AB 1492: Telecommuting Act

Morgan Lewis

AB 1492: Expense Reimbursements

- Must indemnify employees who work from home for all physical equipment at home reasonably necessary to perform work, ***unless equipment provided by the employer.***
- Covered equipment includes (but is not limited to):
 - Computer
 - Printer
 - Scanner
- Employer may establish procedures requiring prior approval of equipment for purchase, unless need is unforeseeable and required to be purchased immediately to perform work duties

AB 1492: Expense Reimbursements

- Must indemnify employees who work from home for a “reasonable percentage” of employees’ monthly internet and telephone costs, to the extent those costs are necessary for performance of work duties
 - Costs to be ***estimated by the employee, unless already fully covered by employer***
 - Prior draft of bill required reimbursement of energy costs as well
- Instead of reimbursing or indemnifying employees for exact costs, employers may provide a monthly voucher amount, based on ***employee’s*** reasonable estimate of the reimbursable expenses
- Employer may require documentation to support employees’ reasonable estimates

AB 1492: Meal & Rest Breaks

- Nonexempt employees who work from home and are “not under the physical control of the employer” may choose when to take any meal or rest break during the workday
- Employer shall notify employee of employee’s right to take a meal or rest period daily
 - Failure to provide daily reminder = 1 hour of premium pay per day
 - 1 hour of premium pay also for requiring an employee to work without a meal or rest period
- **Note:** only relates to timing of meal and rest periods.
 - Does not change responsibility of employers to relieve employees of all duty, relinquish control over employees’ activities, permit them a reasonable opportunity to take uninterrupted breaks, and to not impede or discourage employees from doing so

AB 1492: Notices & Postings

- An employee who works from home may receive all required notices and postings “under this code” electronically
 - Current draft would not cover notices and postings required by local ordinances
 - Electronically: via email? Intranet?
- An employee who works from home may utilize an electronic signature for any employment-related documents requiring acknowledgement of receipt or attestation
 - Remember you still want this to be verifiable (so do not use /s/ or just typed signatures). Think about how any signed document might look as a depo exhibit!

Return to Work Resources for Employers

View a list of the [return to work resources](#) 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](#).

Morgan Lewis



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

Morgan, Lewis & Bockius LLP

www.morganlewis.com

Additional Resources

Find resources on how to cope with the postpandemic reality on our [Now. Normal. Next. page](#) and our [COVID-19 page](#) to help keep you on top of developments as they unfold.

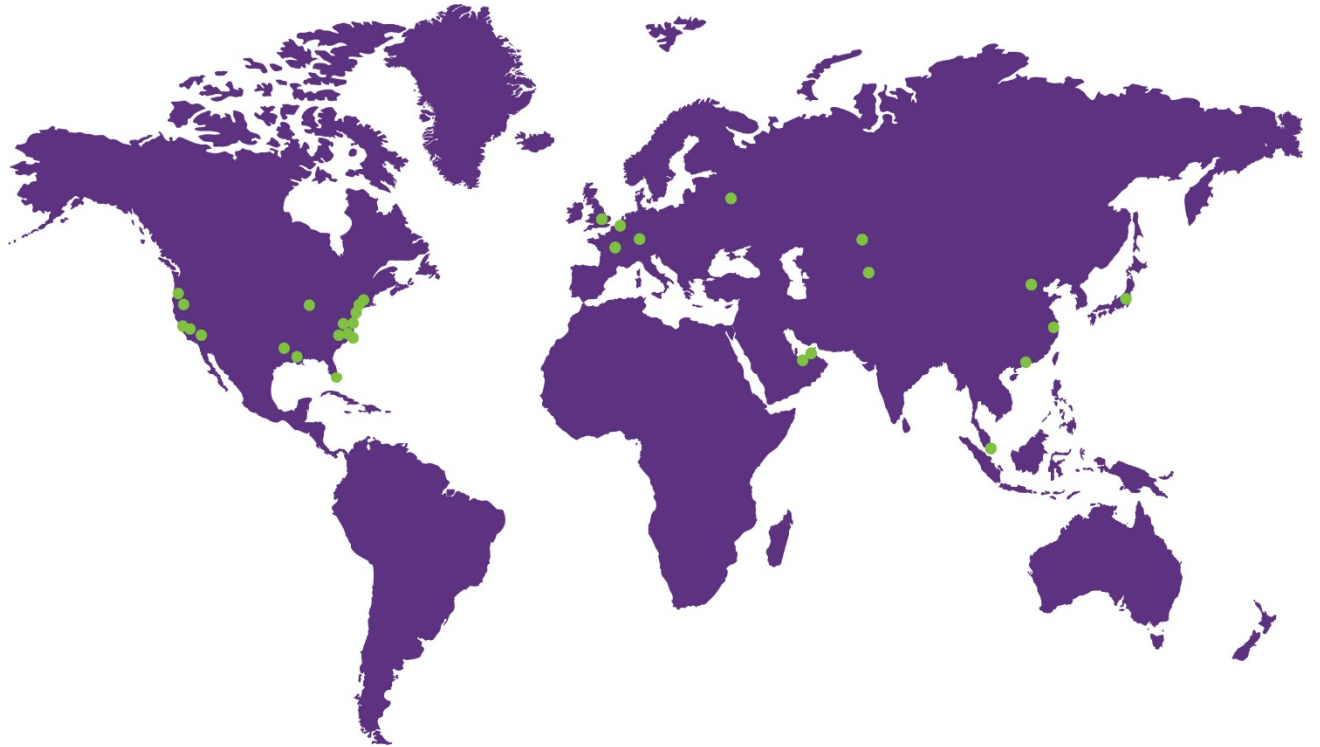
[Subscribe to receive our Digest of Coronavirus COVID-19 alerts >](#)

Our Global Reach

Africa
Asia Pacific
Europe
Latin America
Middle East
North America

Our Locations

Abu Dhabi
Almaty
Beijing*
Boston
Brussels
Century City
Chicago
Dallas
Dubai
Frankfurt
Hartford
Hong Kong*
Houston
London
Los Angeles
Miami
Moscow
New York
Nur-Sultan
Orange County
Paris
Philadelphia
Pittsburgh
Princeton
San Francisco
Shanghai*
Silicon Valley
Singapore*
Tokyo
Washington, DC
Wilmington



Morgan Lewis

*Our Beijing and Shanghai offices operate as representative offices of Morgan, Lewis & Bockius LLP. In Hong Kong, Morgan Lewis operates through Morgan, Lewis & Bockius, which is a separate Hong Kong general partnership registered with The Law Society of Hong Kong as a registered foreign law firm operating in Association with Luk & Partners. Morgan Lewis Stamford LLC is a Singapore law corporation affiliated with Morgan, Lewis & Bockius LLP.

THANK YOU

© 2020 Morgan, Lewis & Bockius LLP

© 2020 Morgan Lewis Stamford LLC

© 2020 Morgan, Lewis & Bockius UK LLP

Morgan, Lewis & Bockius UK LLP is a limited liability partnership registered in England and Wales under number OC378797 and is a law firm authorised and regulated by the Solicitors Regulation Authority. The SRA authorisation number is 615176.

Our Beijing and Shanghai offices operate as representative offices of Morgan, Lewis & Bockius LLP. In Hong Kong, Morgan Lewis operates through Morgan, Lewis & Bockius, which is a separate Hong Kong general partnership registered with The Law Society of Hong Kong as a registered foreign law firm operating in Association with Luk & Partners. Morgan Lewis Stamford LLC is a Singapore law corporation affiliated with Morgan, Lewis & Bockius LLP.

This material is provided for your convenience and does not constitute legal advice or create an attorney-client relationship. Prior results do not guarantee similar outcomes. Attorney Advertising.