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

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June 17, 2020

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Presenters



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Southern California – Local Order Updates

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Los Angeles

- Los Angeles County and City have both issued orders that are regularly updated
 - County – last updated June 11
 - City – last updated June 14
 - Slightly different
- Reopening Protocols – Appendix A-P
 - Issued by LA County
 - LA City refers to them

Los Angeles

- Office Reopening?
 - Los Angeles County reopening protocol for office workspaces
 - Appendix D
 - “Everyone who can carry out their work duties from home has been directed to do so”
 - Los Angeles City order
 - Refers to county reopening protocols
 - “When teleworking is not possible”

San Diego - Temperature Check Requirements

Previous language

- “Employers . . . [s]hall conduct **temperature** screening of all employees . . .”

June 9 Update

- “Employers . . . [s]hall conduct **symptom** screening of all employees . . .”

June 16 Update

- “Employers . . . [s]hall conduct **temperature** screening of all employees . . .”
- Safe Reopening Plan – “all employees must have their temperature taken upon reporting to work”

Orange County – Face-Covering

Previous Order

- Cloth Face-Covering. All Orange County residents and visitors **shall** wear a cloth face-covering outside their home when they are not able to maintain at least 6 feet of physical distance from another person who is not a family/household member or does not reside in the same living unit.

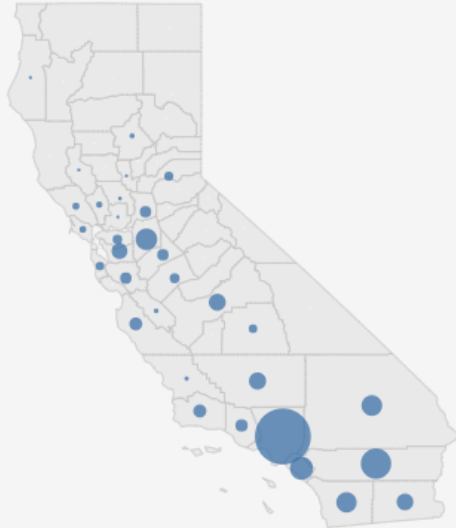
Current Order – Revised June 11

- Wear a Cloth Face-Covering. To help prevent the spread of droplets containing COVID-19, all Orange County residents and visitors **should** wear a cloth face-covering outside their home when they are not able to maintain at least 6 feet of physical distance from another person who is not a family/household member or does not reside in the same living unit.

County Variance

How are COVID-19 cases progressing in each county?

- Positive Cases
- New Cases**
- Total Deaths
- New Deaths



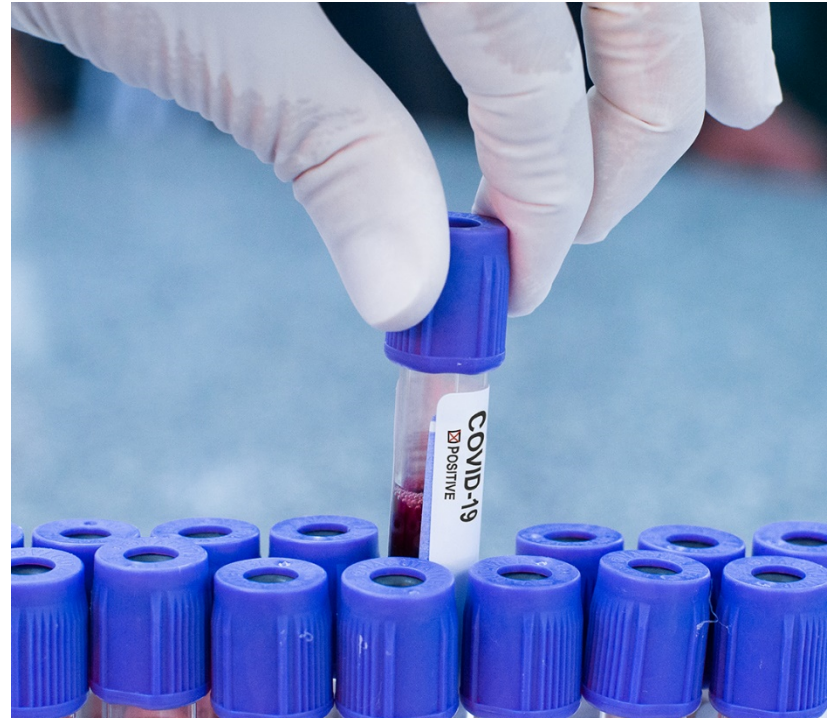
New Cases by County

Los Angeles	994	
Riverside	287	
Orange	163	
San Joaquin	142	
San Bernardino	130	
San Diego	126	
Kern	89	

+ Show All

County Variance – Stricter Requirements?

- If the county has insufficient progress, over a 14-day period, on containing their disease transmission and hospitalization rates, a county should consider reinstating sector limitations or more general Stay-at-Home provisions. ***If the county makes insufficient or no progress, the State Public Health Officer may take action.***



Multiple Locations – How to Keep Track?

**Statewide
Charts Are
Not Enough**

Many states have
additional local
requirements
(county and city)

Detailed posting
and other
requirements are
not addressed

**We Have
Resources!**

Nationwide charts
that track ~2,000
jurisdictions

Tracks
requirements for
different industries
– financial services,
healthcare, etc.

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**Paid Sick Leave:
What actually governs in
Los Angeles?**

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Los Angeles: Mayor's Order vs. City Council Ordinance

Mayor's Order

- Currently operative (suspends & supersedes City Council's Ordinance)
- Applies to employers with either (1) 500+ employees in the City of LA; or (2) 2,000+ employees within the US
- Includes many more exemptions (7 total, including a generous leave exemption)
- Clarified by Rules & Regulations from the Office of Wage Standards
- Expires 2 weeks after the COVID-19 "local emergency period"

City Council Ordinance

- Will go into effect when the Mayor's Order expires
- Applies to employers with 500+ employees in the US (**includes employers not covered by Mayor's Order**)
- Exempts first responders and healthcare providers (but even these definitions differ from those in the Mayor's Order)
- CBA exemption requires an express waiver, in clear and ambiguous terms (don't wait!)

Los Angeles Mayor's Order & City Council Ordinance: Highlights of Similarities

- Both:
 - Include a private right of action with an attorney fee provision
 - Contain broad definition of a “covered employee,” not limited to where the office is located
 - Be careful of employees who have teleworked within LA city limits
 - Prohibit employers from requiring any documentation (including doctors’ notes) for use of supplemental paid sick leave (SPSL)
 - Allow an offset for paid sick leave hours provided for COVID-19–related reasons, *in excess of the employer’s usual paid sick leave policy*
 - Note that the Mayor’s Order contains a Generous Leave Exemption

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AB 3216:

**Expansion of CFRA and
Statewide Paid Sick Leave
for COVID-19 Reasons**

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AB 3216: Key Changes to CFRA

- **Expands “family care and medical leave” to include:**
 - Leave to care for a family member whose school or place of care is closed/unavailable due to a “state of emergency”
 - Leave because of an employee’s inability to work or telework due to a “state of emergency” involving:
 - 1) A federal, state, or local quarantine or isolation order, including a stay-at-home order
 - 2) Being advised by a healthcare provider to self-quarantine “due to exposure to the disease that is the subject of the state of emergency”
 - 3) Experiencing symptoms of the disease that is the subject of the state of emergency and seeking a diagnosis
 - 4) Being a member of a vulnerable population at high risk of severe illness from the subject disease, according to the CDC
 - 5) Living with or being responsible for care of a family member who is a member of a vulnerable population at high risk of a severe illness from the subject disease
- **Authorizes employees to provide self-certification of a serious health condition due to a state of emergency, if obtaining medical certification is not feasible**

AB 3216: Key Changes to Statewide Paid Sick Leave

- **Expands circumstances when paid sick leave may be used to include the following:**
 - An employee is subject to a federal, state, or local public health order related to a public health emergency, including when the employee is told to remain at home because they are in a high-risk population
 - An employee is caring for a family member subject to an order described above
 - An employee is caring for a child or family member whose school, place of care, or care provider is unavailable due to a state of emergency
 - An employee's place of employment is closed due to a state of emergency
 - An employee is subject to a federal, state, or local evacuation order related to a state of emergency
- **During any public health emergency, employers must provide full-time employees with at least 56 hours (or 7 days) of paid sick leave**
 - This paid sick leave must be available immediately
 - In addition to "regular" paid sick leave requirement (result = annual total of 80 hours or 10 days)
 - CBA exemption does not apply to this subsection
 - Employers cannot require certification from a healthcare provider, but can require self-certification "within a reasonable time"

AB 3216: Notes on Other Provisions & Status

- Paid leave provisions tied to “state of emergency” and “public health emergency” (not limited to COVID-19)
- AB 3216 also includes:
 - Right of Rehire and Worker Retention Provisions for the following types of employers: hotel, event center, airport hospitality, and building service (janitorial, building maintenance, security services)
 - Changes to the Unemployment Insurance Code (allowing self-certification of a disability during a state of emergency)
- Status of AB 3216:
 - Ordered to 3rd and final reading in the Assembly, and will be voted on during 3rd reading
 - If Assembly approves, then it will proceed to Senate

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Returning Older Employees to Work (or Not)

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Older Individuals Are Considered Higher Risk

Both the CDC and California's Department of Public Health identify individuals over age 65 as being at "high risk" for severe cases of COVID-19

Most COVID-19–related paid sick leave orders and ordinances in California require employers to allow older employees (generally age 65+) to use paid sick leave because of their heightened risk/vulnerability due to age:

- City of LA's Expansion of "Regular" Paid Sick Leave Ordinance
- City of LA Mayor's SPSL Order
- LA City Council's SPSL Ordinance
- County of LA's SPSL Ordinance
- Oakland's SPSL Ordinance
- San Francisco's Expansion of "Regular" Paid Sick Leave Ordinance (age 60+)
- San Francisco's Public Health Emergency Leave (age 60+)

Other Considerations for Addressing Older Employees

- **EEOC Guidance:**

- The Age Discrimination in Employment Act (ADEA) prohibits employment discrimination against individuals age 40 and older
- The ADEA would prohibit a covered employer from involuntarily excluding an individual from the workplace based on his or her being 65 or older, ***even if the employer acted for benevolent reasons such as protecting the employee due to higher risk of severe illness from COVID-19***
- But, the ADEA does not include a right to reasonable accommodation for older workers

- **Consider an age-neutral policy that might be utilized more by older (or other high-risk) employees**

- Example: option of long-term teleworking


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](#).

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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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Additional Resources

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

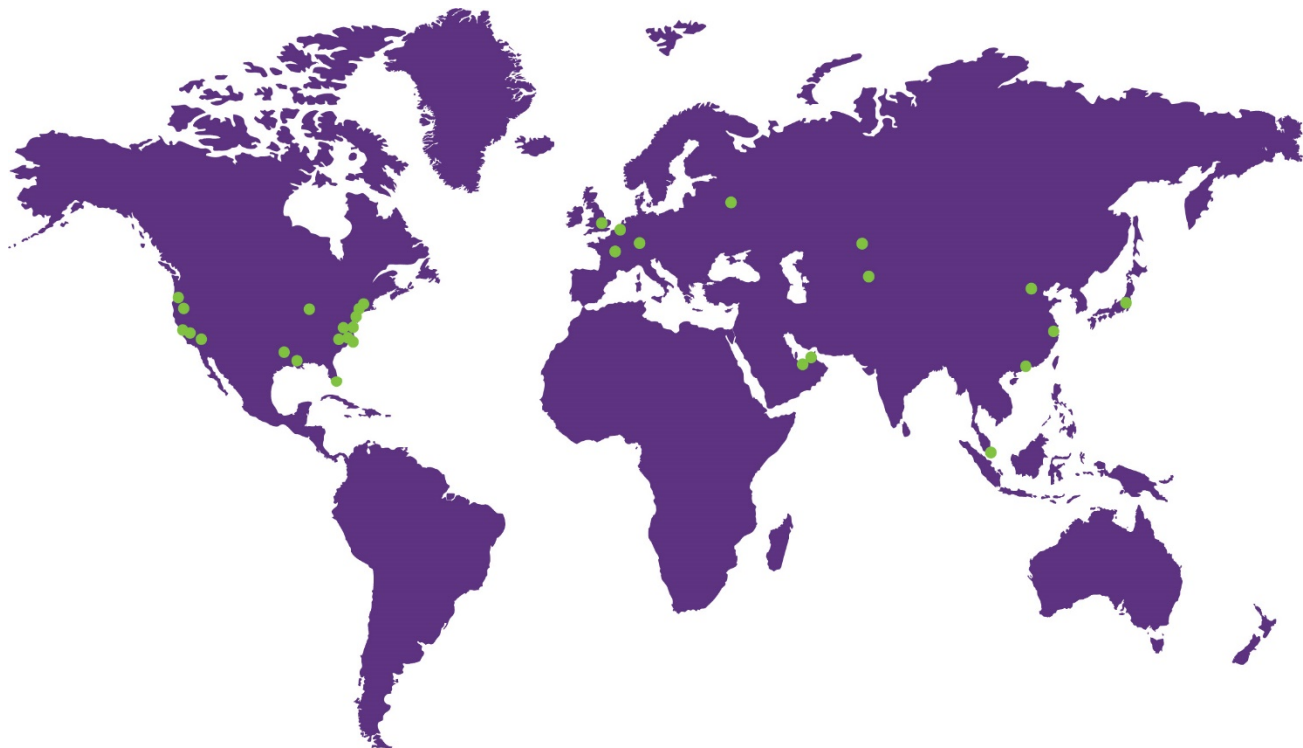
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Our Global Reach

Africa
Asia Pacific
Europe
Latin America
Middle East
North America

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Almaty
Beijing*
Boston
Brussels
Century City
Chicago
Dallas
Dubai
Frankfurt
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