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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 12, 2021

Presenters



Kate McGuigan



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Blueprint for a Safer Economy & County Tier Assignments

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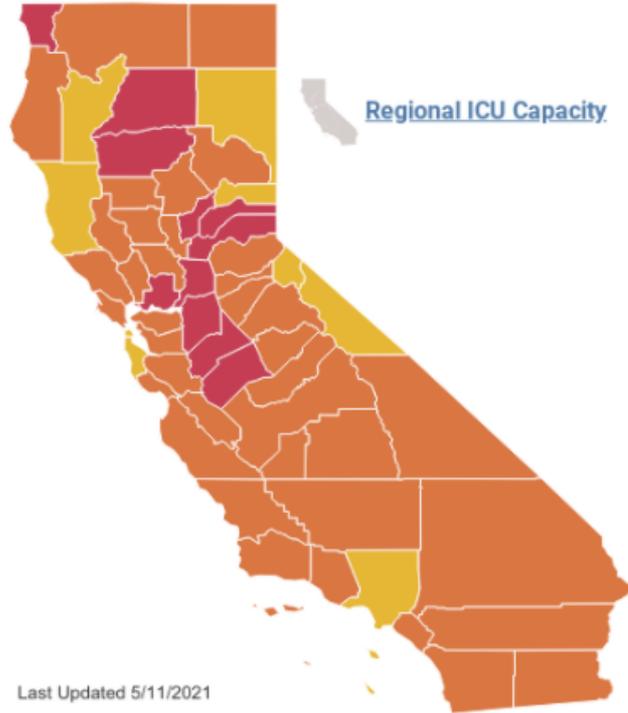
California's Tier System

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 Cal/OSHA and other agency guidelines and standards with limited public health restrictions.

California's Tier System



STATEWIDE METRICS

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

1.2% Positivity rate (7-day average)

33.8% ICU availability

Find a county

Highlight County

Click on the map for updated metrics

COUNTY RISK LEVELS

	Countries	Population	
Substantial	11	4,494,300	11.2%
Moderate	38	23,556,971	58.7%
Minimal	9	12,077,889	30.1%

California's Tier System – Permissible Activity

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

- [Link: Full Chart](#)

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.

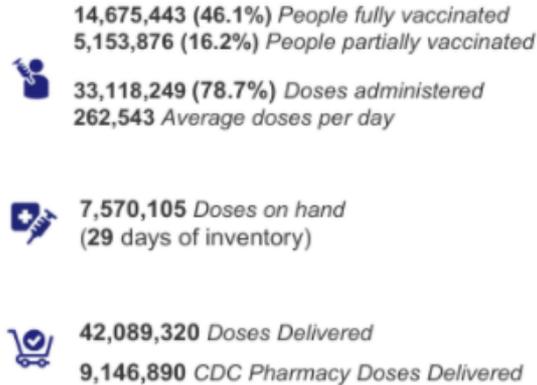
Vaccine Updates

The background is a composite image. At the top, a starry night sky transitions into a view of Earth from space, showing the horizon and a bright sun or star. Below this, a night view of a city is shown with a glowing network of lines and nodes overlaid, suggesting global connectivity or data flow.

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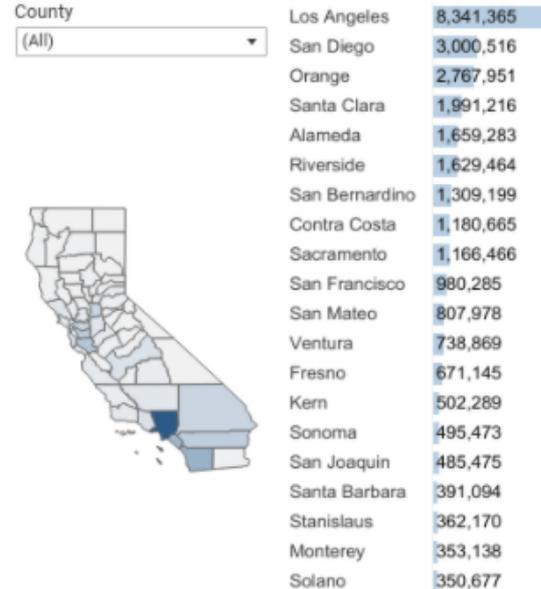
Current California Vaccine Rollout Progress

Statewide



See [Data Dictionary](#) for Details.

Doses Administered by County of Residence



Data: 5/11/2021 11:59pm | Posted: 5/12/2021

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

Cal/OSHA Regulations



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Emergency Temporary Standards (ETS)

- In November 2020 Cal/OSHA issued emergency temporary regulations, which include a written prevention program, requirements for outbreaks and major outbreaks, and prevention measures in employer-provided housing and transportation.
- On May 7 Cal/OSHA published significant proposed revisions to the ETS, that will be considered at the Cal/OSHA Standards Board's meeting on May 20.
- The board will likely vote on the revisions on May 20.
- If approved by the board, the revised regulations would be effective as soon as they are approved by the Office of Administrative Law.

Proposed Revisions (nonexhaustive)

- July 31 sunset on physical distancing and solid partition requirements.
- Exempts telecommuting employees.
- Exempts employees wearing respirators from the definition of “close contact.”
- Excludes from the definition of “exposed group” parts of the workplace where employees momentarily pass through.
- Requires employers to train employees on how to wear respirators whenever they are provided for voluntary use.
- July 31 sunset on employers’ duty to evaluate the need for certain respiratory protection.

Proposed Revisions (nonexhaustive)

- Defines “face covering” to exclude a scarf, ski mask, balaclava, bandana, turtleneck, collar, or single layer of fabric.
- Defines “fully vaccinated” as a person who received the second dose of a two-dose COVID-19 vaccine or a single-dose COVID-19 vaccine at least 14 days prior, as supported by documentation.
- Requires employers to provide COVID-19 exposure notices when they know or should know about a COVID-19 case.
- Requires employers to train employees on COVID-19 vaccine information.
- Permits fully vaccinated employees to return to the workplace after “close contact” if they do not have any symptoms.
- Does not require testing of fully vaccinated employees during an outbreak.

COVID-19 Litigation

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 lights from buildings and streets. 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 composition suggests a global or digital theme, likely related to the 'COVID-19 Litigation' text.

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COVID-19 Litigation Update

- Litigation against employers for COVID-19-related issues continues apace in California.
- Over 550 lawsuits have been filed since early March 2020
- Employment discrimination and whistleblower claims make up almost 50% of the cases
 - Discrimination issues primarily focused on failure to accommodate both physical and mental disabilities
 - Anxiety due to COVID-19
 - Afraid to return to employer's facility
 - Positive diagnosis of COVID-19
 - Whistleblower claims
 - PPE complaints
 - Failure to provide safety measures

COVID-19 Litigation Update

- Claims against employers for transmittal of COVID-19 to non-employee family members
 - At least two cases have survived motions to strike and are continuing against employers. Spouses died as a result of COVID-19 and families are suing employer for negligence in not preventing COVID-19 at the workplace claiming employer's duty to prevent harm extended to the employee's family
 - US District Court, Northern California on Monday dismissed a case where employee's spouse alleged her husband brought COVID-19 into the home on his clothes, personal belongings, and body.
 - Court held that workers' compensation was exclusive remedy and no plausible claim was pleaded.

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

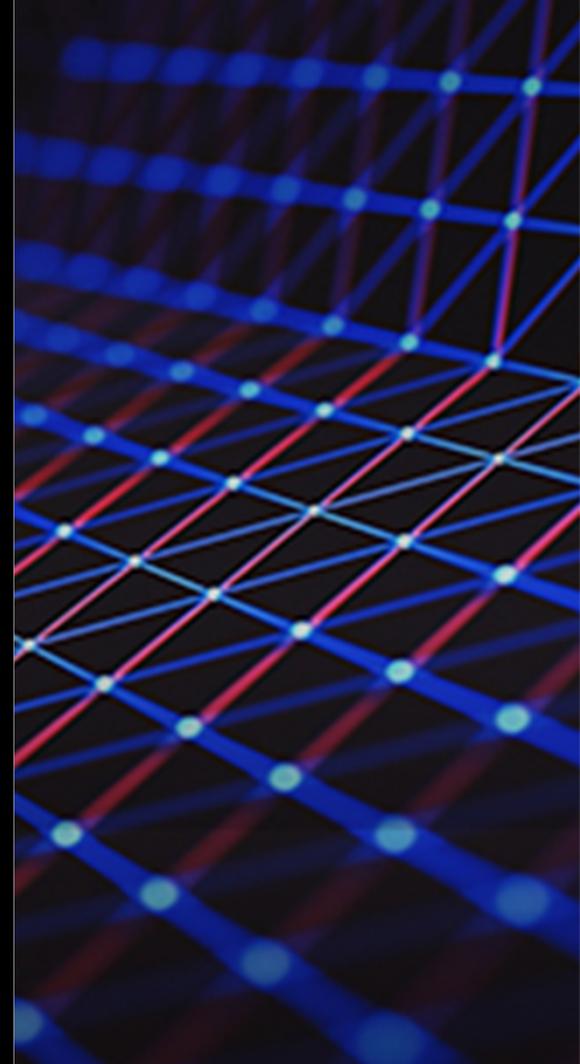
We have formed a multidisciplinary **Coronavirus/COVID-19 Task Force** to help guide clients through the broad scope of legal issues brought on by this public health challenge.

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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.

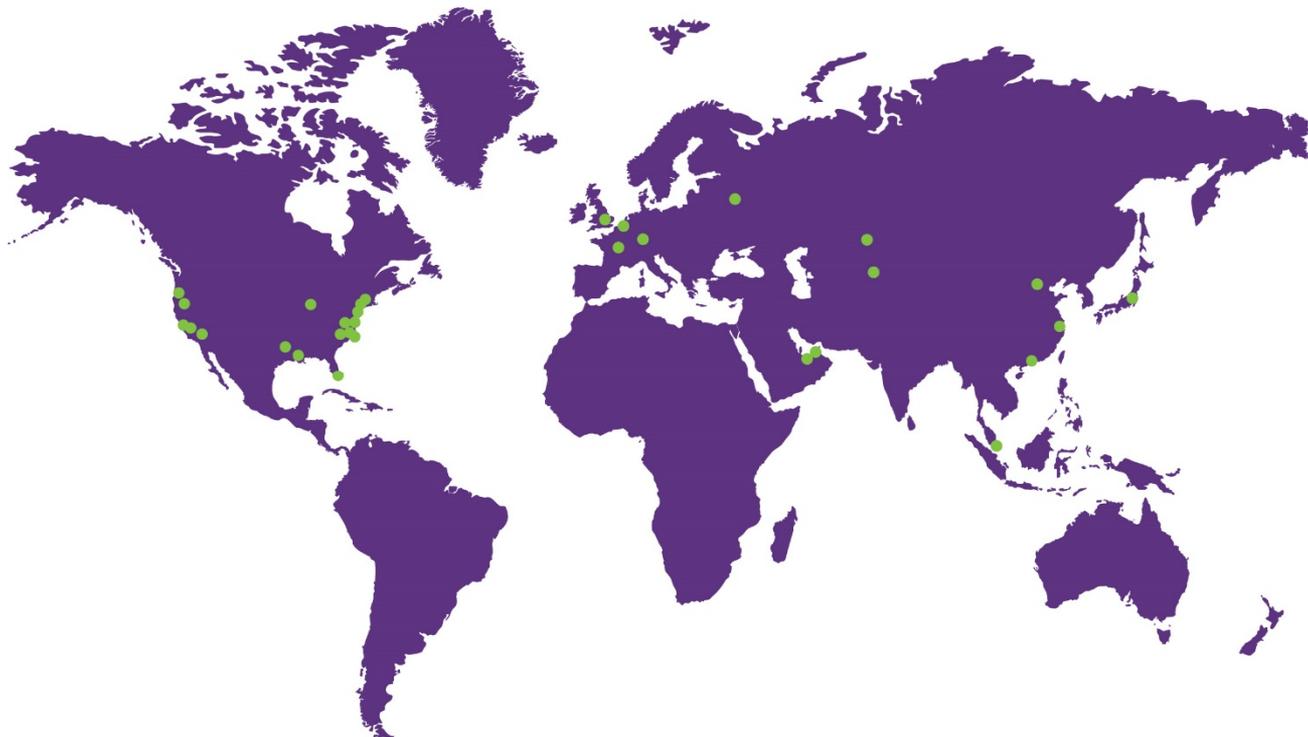


Our Global Reach

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
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Houston
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Los Angeles
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San Francisco
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Washington, DC
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