

Morgan Lewis

NAVIGATING THE NEXT.

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

Daryl Landy, Kate McGuigan, Mike Schlemmer, and Andrea Fellion
June 16, 2021

Presenters



Daryl Landy



Kate McGuigan



Mike Schlemmer



Andrea Fellion

Morgan Lewis

Agenda

- What Does “Reopening” Mean in California?
- Cal/OSHA Standards Confusion
- Vaccinations
- Remote Work
- Travel Policies
- Large Meetings
- Paid Sick Leave
- “Hero Pay”
- Is Your Company Prepared for Another Crisis?
- What Comes Next?

What Does “Reopening” Mean in California

The background of the slide is a composite image. At the top, a dark blue space filled with stars and a bright sun or star on the horizon. Below this, a night view of a city with a network of glowing blue lines overlaid on it, set against a background of a starry space with a bright sun or star on the horizon.

Morgan Lewis

“Reopening” to the Governor and Cal. Dept. of Public Health



Thanks to your trust in the vaccine and falling transmission rates, California has fully reopened its economy. This means no more physical distancing, no capacity limits, no county tiers, and relaxed mask guidance.

On this page:

- > [Reopening California](#)
- > [Continuing safety measures](#)
- > [County risk level map on June 15](#)

Reopening California

California is moving Beyond the Blueprint to safely and fully reopen the economy.

As of June 15, 2021, the Governor terminated the executive orders that put into place the **Stay Home Order** and the **Blueprint for a Safer Economy**. He also phased out the vast majority of executive actions put in place since March 2020 as part of the pandemic response, leaving a subset of provisions that facilitate the ongoing recovery.

The new [public health order](#) effective June 15 supersedes all prior health orders. The order has limited restrictions, only related to masking and mega-events, as well as settings serving children and youth pending an expected update to the K-12 schools guidance by the Centers for Disease Control and Prevention.

“Reopening” to the Governor and Cal. Dept. of Public Health

- No more county tiers
- No capacity restrictions
- No more physical distancing requirements
- Relaxed mask guidance – if fully vaccinated then no masks except:
 - On public transit and in transportation hubs
 - In healthcare settings (including long-term care facilities)
 - Indoors in K-12 schools, childcare and other youth settings
 - In state and local correctional facilities and detention centers
 - In homeless shelters, emergency shelters and cooling centers

“Reopening” to the Governor and Cal. Dept. of Public Health

- Relaxed mask guidance – if *not* fully vaccinated then masks remain required indoors except:
 - When alone in a room or vehicle
 - Under two years old
 - Persons with medical condition that prevents wearing a mask
 - Certain persons who are hearing impaired, or communicating with a person who is hearing impaired if ability to see mouth is essential
 - Persons for whom local, state or federal regulators or workplace safety guidelines deem wearing a mask a risk

Cal/OSHA Standards Confusion



Morgan Lewis

Cal/OSHA Standards Confusion

- At June 9 “special” meeting, the Cal/OSHA Standards Board unanimously voted to withdraw the “Readopted” ETS (approved on June 3) that conflicted with CDC guidance.
- CDPH presented at the June 9 meeting and explained (again) that CDPH would align with CDC by June 15. In response, Cal/OSHA announced that it would draft new ETS for “Readoption” based on CDC and CDPH guidance.
- Cal/OSHA released the new language publicly on June 11, and it will be voted on at the Standards Board’s June 17 public meeting.
- In the meantime, the old ETS remains in place, which means masks and physical distancing regardless of vaccination status.
- Under normal procedural conditions, the new language would be effective no sooner than June 28. However, we may see an Executive Order that would make it effective immediately.

Cal/OSHA Standards – The Latest Proposed Revisions

- Summary of revisions:
 - Face coverings would only be required for employees who are not fully vaccinated (except in outbreaks when cannot maintain physical distancing).
 - Respirators (e.g., N95s) must be provided to employees who are not fully vaccinated only upon their request (no grace period until July 31).
 - The physical distancing requirements would be almost entirely rescinded, except in very narrow circumstances, such as in the case of an outbreak.
 - Fully vaccinated means “the employer has documented that the person received” the final dose of an FDA approved or emergency authorized vaccine at least 14 days prior. This language suggested that Cal/OSHA will not require employers to review or maintain copies of employee vaccination cards, but will require employers that intend to loosen restrictions on fully vaccinated employees to ascertain employees’ vaccination status.

Cal/OSHA Standards – The Latest Proposed Revisions

- Summary of revisions (con'd):
 - Just released FAQs confirm that self-attestation suffices:
 - “Acceptable options include:
 - . . .
 - “Employees self attest to vaccination status and employer maintains a record of who self-attests.”
 - Notice requirements after a COVID-19 case in the workplace would align with AB 685 Notice requirements (i.e., no longer any specific Cal/OSHA notice requirements for “close contacts”).
 - November 2020 ETS requirements that are proposed to remain in place include:
 - Prevention Program; Training; Screening; Testing; Exclusion Pay

Vaccines

The image is a composite background. The top half shows a dark, starry space scene with a bright, glowing light source behind a horizon line, creating a lens flare effect. The bottom half shows a night view of a city with illuminated buildings and streets. A network of glowing lines, in shades of blue and orange, is overlaid on the city, connecting various points across the scene, suggesting a global or digital network.

Morgan Lewis

Mandating COVID-19 Vaccination

- An employer may require its employees to be vaccinated against COVID-19.
- The ADA, Title VII, and other federal employment nondiscrimination laws *allow* employers to require COVID-19 vaccines for employees entering a workplace as long as employers make reasonable accommodations in accordance with Title VII and the ADA for persons with disabilities, persons with sincere religious beliefs, and pregnant employees.
- In California, the FEHA protects against discrimination, harassment, and retaliation cover employees who decline to get vaccinated due to:
 - A disability or medical condition, or
 - A sincerely held religious belief

Mandating COVID-19 Vaccination – Considerations

- An employer that requires vaccination against COVID-19 in its workforce must reasonably accommodate employees with known disabilities.
 - If an employee objects to vaccination on the basis of disability, the employer must engage in the interactive process with, and reasonably accommodate the employee.
 - Examples of accommodations for unvaccinated employees include face masks, social distancing, modified schedules, telework, or reassignment to a vacant position.
 - If no workplace accommodations are available, consider whether the employee may be able to perform the position remotely.
 - If remote work is not possible, consider available leave options under federal, state, and local laws and the employer's policies.

Mandating COVID-19 Vaccination – Considerations

- An employer that requires vaccination against COVID-19 in its workforce must reasonably accommodate an employee's sincerely held religious beliefs and practices.
 - The employer should engage in an interactive process with the employee similar to the disability context.
 - Accommodations may include:
 - Job restructuring;
 - Job reassignment; or
 - Modification of work practice.
 - If the employer can show that an accommodation imposes an undue hardship, it may exclude the employee from the workplace.

Mandating COVID-19 Vaccination – Considerations

- Employers that require employees to receive a COVID-19 vaccine from the employer or its agent must ensure that any screening questions asked during the process are job related and consistent with business necessity, in accordance with the ADA. Current COVID-19 screening questions do *not* implicate GINA.
- If an employer requires its employees to receive a vaccination against COVID-19 administered by a third-party, the employer may request that the employees provide proof of vaccination.
 - Any record of employee or applicant vaccination must be maintained as a confidential medical record.
 - Proof of vaccination should be very limited.
 - It should only document whether the employee received the vaccine.
 - It should not include any medical information (i.e., pre-vaccination screening questions and answers which would likely elicit information about an employee’s disability.)

Mandating COVID-19 Vaccination – Considerations

- If the employer requires an employee to obtain a COVID-19 vaccination, then it must pay for the time it takes for the vaccination, including travel time.
- Consider whether to provide additional benefits to employees who need time off for vaccine side effects.
- Likely a mandatory subject of bargaining for unionized companies (if permitted at all by a CBA).

Mandating COVID-19 Vaccination – Considerations

Other Practical Considerations:

- Consider the impact on employee morale:
 - Safety concerns;
 - Ideological or political objections;
 - Potential for increased union-organizing efforts.
- Potential turnover and staffing shortages
 - Some employees may feel so strongly in their convictions that they choose to quit
 - If a significant number of employees stand to quit, then what?
 - Must be prepared and willing to terminate (otherwise high-performing) employees who refuse vaccination
- Potential Benefits

Mandatory Vaccinations – First Major Court Decision

- *Bridges v. Houston Methodist Hospital* (S.D. Tex. 6/12/2021)
- Plaintiff argued that the hospital's mandatory vaccination policy is unlawful because (1) it would result in a wrongful termination if she was terminated for failing to comply, (2) violates the Nuremberg Code as a form of forced medical experimentation.
- Court held:
 - Termination for refusing to comply with a mandatory vaccination policy is not a wrongful termination under Texas law, because "[r]eceiving a COVID-19 vaccination is not an illegal act, and carries no criminal penalties."
 - The vaccine's Emergency Use Authorization does not expand or restrict the responsibilities of private employers nor does it confer a private right to sue the government, employer, or worker.
 - Federal law regarding clinical human trials does not apply to an employer's mandatory vaccination policy.
 - The policy does not violate the Nuremberg Code, because it does not apply to private employers. "Equating the policy to medical experimentation in concentration camps is reprehensible."
 - Plaintiff has not been coerced. She "can freely choose to accept or refuse a COVID-19 vaccine; however, if she refuses, she will simply need to work somewhere else."

Voluntary Vaccines – Considerations

- Staffing of fully vaccinated employees and unvaccinated employees:
 - The CDC and California Department of Public Health (CDPH) guidance provide different face-covering, physical distancing and quarantine requirements for the fully vaccinated individuals as compared to unvaccinated individuals.
 - Cal/OSHA's Emergency Temporary Standards (ETS) should align soon.

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 (although it likely will).
- 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 Attestation Complications

- EEOC and DFEH: Employers can ask about vaccine status everywhere, but must keep any documentation they receive that reflects vaccine status confidential.
- Remote workers: Santa Clara County has issued guidance that employers are strongly encouraged, but not required, to determine vaccination status for personnel who work solely remotely and who do not perform work at the employer's facility or worksite in the county.
- HIPAA does not apply when an employer asks an employee for their vaccination status.
- Contractors' employees: Santa Clara County has issued guidance that businesses may rely on contractors to determine the vaccination status of their own employees, but should confirm with the contractors that they are complying with this requirement.

Voluntary Vaccines – Incentives

Big Question: How to increase the number of employees who get vaccinated if it's not mandatory?

- Employers have broad discretion in encouraging employees to get vaccinated.
 - If vaccination is administered by the employer, the incentive should not be “so substantial as to be coercive.”
- Incentive efforts:
 - Financial incentives (e.g., \$100 cash bonus)
 - Health and wellness campaign
 - Video of senior leadership getting vaccinated (if eligible)
 - Gift cards/swag/store credit
 - PTO time

Voluntary Vaccines – Incentives

- Employers *may* encourage employees and their family members to receive a vaccination without violating federal EEO laws by doing the following:
 - Offering incentives to employees who voluntarily participate in an incentive program and provide documentation or other confirmation that they and/or their family members received a vaccination from a third party.
 - Offering incentives to encourage employees to receive a vaccine administered by an employer or its agent, so long as the incentive is not “so substantial as to be coercive.”
 - Offering incentives to an employee’s family member to receive the vaccine without offering the employee an incentive, so long as the employer keeps all vaccination information it acquires confidential and does not provide it to managers, supervisors, or others who make employment decisions for employees.
 - Providing employees with information to educate them and their family members about the benefits of COVID-19 vaccination.
- Employers *may not* offer an incentive to an employee in return for an employee’s family member receiving a vaccination by the employer or its agent (but vaccinations provided by an unaffiliated third party are permissible).

Vaccines – Future Considerations

- COVID-19 Booster Shots:
 - It is unclear how long the initial protection will last at this time. Some scientists estimate that the Pfizer-BioNTech, Moderna, and Johnson & Johnson vaccines authorized in the United States will last at least a year, possibly several years.
 - It is also unclear whether emerging variants of the coronavirus will change our vaccination needs. (e.g., flu shots)
 - Mandate booster shots or incentivize?
 - Same obligation to reasonably accommodate individuals who cannot get vaccinated due to disability/medical conditions or sincerely held religious beliefs.
 - Same practical considerations may remain.
 - Employers should be aware of the evolving federal, state, and local laws and guidance.

The Future of Remote Work

The background of the slide is a composite image. At the top, a dark blue space scene shows a starry field and a bright sun or star on the horizon. Below this, a glowing blue and white globe of the Earth is visible. The lower portion of the image shows a cityscape at night with illuminated buildings and streets. Overlaid on the entire scene is a network of glowing blue lines connecting various points, representing a global network or digital infrastructure.

Morgan Lewis

Legal Considerations for Remote Work Arrangements

- **Wage & Hour**

- Choice of law
- Exemption status (competing state tests; outside sales exemption issues; fallback exemptions)
- Keeping of accurate records of time worked
- Proper calculation of wages
- Meal and rest breaks
- Deductions from salary (exempt employees)

- **Expense Reimbursement**

- Stipends versus expense submissions
- Coverage for electricity, utilities, etc.?
- Internal studies to determine usage/amounts
- Exceptions policies
- Travel costs when required to come onsite, meet with clients, etc.
- Hybrid employee issue (split time)

- **ADA and Leave-of-Absence Issues**

- Unable to receive vaccine
- Working from home as a “reasonable accommodation” because vulnerable
- General “reasonableness” of working remotely – shifted standard
- Leaves and sick time related to family care
- COVID-19–related leave and sick time entitlements

- **Religious Accommodation Issue**

- Working from home as accommodation to mandatory vaccine/testing for onsite work

- **Tax Implications**

- Competing state payroll taxes
- Mobility taxation
- “Permanent establishment” considerations if “doing business” in new states

- **OSHA and Workers’ Compensation**

- Minimization of onsite challenges
- Avoidance of onsite workers’ compensation presumption
- Still need to ensure workplace safety (e.g., other concerns from remote work – more challenging ergonomic setups, equipment)

- **Immigration Compliance**

- **Other Employment-Related Issues**

- Confidentiality and protecting proprietary information
- Applying policies in a nondiscriminatory manner

Remote Work – Why Continue?

- Legal Reasons:
 - Continued encouragement to limit onsite work
 - Lessons learned during pandemic (some roles can be handled efficiently by remote workers)
 - Disability/religious accommodations (vaccination; general accommodation)
 - Enhanced candidate pipelines by expanded geographic scope (including for DEI purposes)
- Market/Employee Relations Reasons
 - Potential shifts in business model (hoteling, possible real estate savings)
 - Employees may desire and expect/demand it
 - Many employees prefer remote or hybrid models
 - Minimized commute
 - Family care
 - Competitive employer marketplace requires matching the competition's flexibility

Remote Work – Types

- Fully remote
- Hybrid models (mix between onsite and remote work)

Scheduled (e.g., set times in the workspace)

- Allows time for employee interaction
- Hoteling – ensure sufficient workspace for all employees

Unscheduled (e.g., open-ended flexibility around when to be onsite)

- Greater employee freedom
- Harder to manage
- Harder to maintain hoteling options

Remote Work – Location

Same Region (city/state) as Worksite

- Simpler administration
- Simpler handling of local ordinances
- Simpler tax administration

Different Region

- Tax implications (including PE implications)
- COLA adjustments (and long-term pay equity implications)
- Benefits access (e.g., not all plans universally available)
- Wage/hour nuances (overtime, vacation, reporting time, travel time)
- Practical considerations (time zone differences; travel for onsite meetings)
- Choice of law challenges for employment agreements

Eligibility Criteria – Consider Shifts Moving Ahead

- **Performance**

- Consider limiting future-state remote work to those with positive performance records (efficient/responsive/productive)

- **Exemption status**

- Exempt employees better suited for remote working relationships

- **Other potential criteria**

- Length of service/tenure
- Productivity measurements
- Expected engagement with other employees, customers, vendors
- Required access to proprietary information or special equipment

Productivity

- Established productivity expectations are key to a successful remote relationship
 - Targets and goals should be established and reaffirmed periodically
 - Part-time expectations should be established in advance
- Exempt: ensure that primary duty for exempt employees remains exempt work
- Non-exempt: set clear expectations regarding hours, communication, and responsiveness during working times
- Consider disqualifying those unable to maintain productivity expectations
 - Be wary of inconsistent standards that might lead to discrimination claims

Duration

- World is in flux – avoid guarantees of indefinite remote work, unless truly committed
 - Maintain discretion to require employees to return to onsite work at a future time
 - Be wary of “reasonable reliance” on expectation of permanent remote work arrangements (e.g., employees purchasing homes in distant locations)
- Examine periodic reevaluation periods, considering evolving needs of the role and personal performance within the role

Travel

The image is a composite graphic. The background is a deep blue and black space filled with stars. A bright, glowing sun or star is positioned on the horizon line, creating a lens flare effect. Below the horizon, a cityscape is visible at night, with lights from buildings and streets. Overlaid on the city and extending across the entire image is a network of glowing lines and nodes. The nodes are small, bright circles in various colors (orange, blue, white), and the lines are thin, connecting these nodes in a complex web pattern. The overall aesthetic is futuristic and technological.

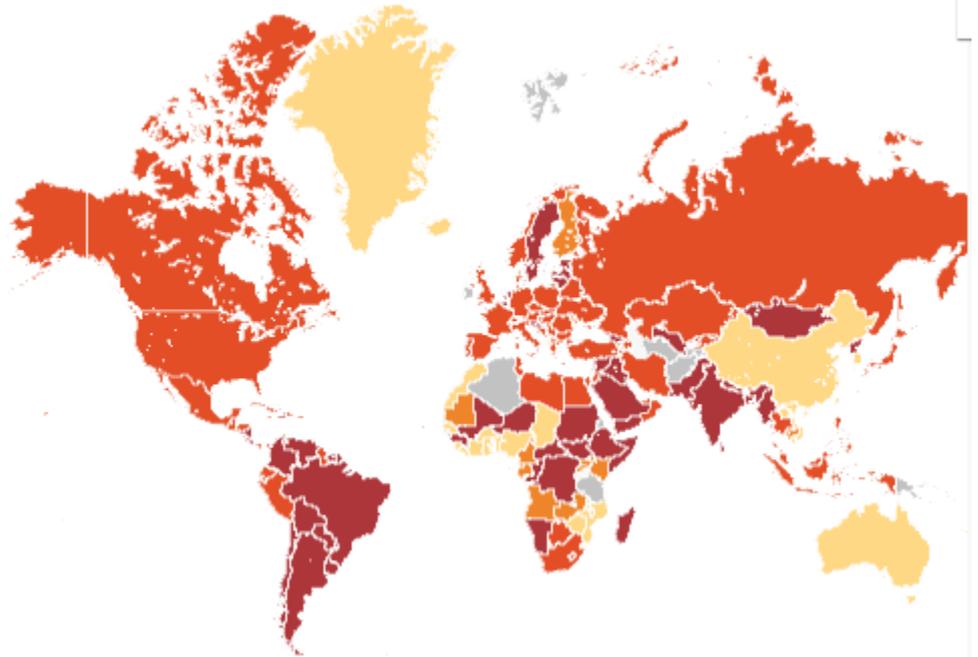
Morgan Lewis

Employee Travel

- **CDC**: Domestic Travel
 - Wear face coverings during travel
 - Avoid crowds, distance from those outside of your group, use hand sanitizer
- Vaccinated:
 - If fully vaccinated, no need to quarantine or get tested after traveling
 - Still should self-monitor for symptoms and follow local guidance regarding travel
- Unvaccinated:
 - Delay travel until fully vaccinated
 - If not fully vaccinated and must travel, get tested 1-3 days before and 3-5 days after traveling, and quarantine for 7 days after trip. Travelers should quarantine for 10 days if they do not get tested after traveling.
 - Do not travel if exposed to COVID-19, sick, or tested positive

Employee Travel

- **CDC**: International Travel
 - Recommendations by destination
 - India – very high
 - Australia – low
 - Very high – avoid travel, even if vaccinated
 - High – unvaccinated travelers should avoid nonessential travel
 - Moderate – unvaccinated high risk travelers should avoid travel



Employee Travel

- **California Department of Public Health:**

- In April, issued guidance distinguishing between essential and non-essential travel.
- Starting June 15, 2021, the California Department of Public Health now refers to the CDC travel guidelines.

Employee Travel

- **Local Requirements:**

- Some localities continue to have their own travel advisories.
 - City of Los Angeles
 - All individuals over the age of 16 traveling into the City of Los Angeles from another state or country must complete and submit online a traveler form upon arrival, acknowledging that they have read and understood the State of California and Los Angeles County travel advisory. Failure to submit the form is punishable by a fine of up to \$500.
- Check location of travel/contact counsel before approving business travel to ensure that employees comply with all state and local guidance.

Employee Travel

- **Cal/OSHA:**
- Requirements for employer-provided motor vehicle transportation to and from work
 - Provides requirements regarding:
 - Assignment of transportation
 - Physical distancing and face coverings
 - Ventilation
- Changes being considered at June 17 board meeting
 - Requirements would apply to all employer-provided motor vehicle transportation, not just “to and from work”
 - Requirements would not apply when everyone in the vehicle is fully vaccinated
 - Physical distancing requirements would be eliminated, but face covering requirements would remain

Large Meetings & Conferences

The image is a composite graphic. The background is a deep blue space filled with stars. A bright sun or star is positioned on the horizon, creating a lens flare effect. Below the horizon, a cityscape is visible at night, with lights from buildings and streets. Overlaid on the city and extending into the space is a network of glowing lines and nodes, resembling a global communication or data network. The lines are primarily blue and orange, connecting various points across the scene.

Morgan Lewis

Large Meetings & Conferences

- Demand increasing for large gatherings.
 - Concerns regarding “reward” conferences/gatherings.
- **CDC:**
 - Avoid large events and gatherings, when possible.
 - Consider the level of risk when deciding to host an event.
 - Promote healthy behaviors and maintain healthy environments to reduce risk when large events and gatherings are held.
 - Be prepared if someone gets sick during or after the event.

Large Meetings & Conferences

- **CDPH:**

- Indoor Mega Events—an indoor event that includes over 5,000 attendees
 - Verification of fully vaccinated status or pre-entry negative test result is **required** of all attendees
- Outdoor Mega Events—an outdoor event that includes over 10,000 attendees
 - Verification of fully vaccinated status or pre-entry negative test result is **strongly recommended** for all attendees.

COVID-19 Paid Sick Leave



Morgan Lewis

COVID-19 Paid Sick Leave: Here to Stay?

- **Expired:**
 - San Francisco (April 21, 2021)
 - Sonoma County (March 31, 2021)
 - Sacramento City and County (March 31, 2021)
 - Emeryville (*incorporated COVID-19 related reasons into the existing paid sick leave ordinance)
 - San Diego (*incorporated COVID-19 related reasons into the existing paid sick leave ordinance)
- **Expiring June 30, 2021:** San Jose and San Mateo County
- **Expiring September 30, 2021:** Santa Rosa and California SPSL
- **Expiring When Local Emergency Ends:**
 - Los Angeles City and County (expires 2 weeks after local emergency ends)
 - Oakland
- **Long Beach**
 - City Council will determine the sunset date of the COVID-19 PSL ordinance every 90 days
- **Marin County**
 - Passed a local COVID-19 supplemental paid sick leave ordinance as of June 8, 2021 requiring employers with less than 25 employees to provide supplemental paid sick leave through September 30, 2021

California Hazard ("Hero") Pay



Morgan Lewis

California Hazard Pay: Refresh

- Also known as “Hero Pay,” requires certain employers of frontline or essential workers to pay additional \$3-\$5 per hour on top of base pay to frontline workers
- Employer additional requirements:
 - Prohibited from reducing employee hours and compensation
 - Must inform employees of their rights under the ordinance with a written notice
 - Must retain records that document compliance for a period of 2 years
- Some hazard pay ordinances include up to 4 hours of paid leave for employees to receive the vaccine.

California Hazard Pay – Who Has Adopted?

• Cities with Hazard Pay:

- Alameda
- Alhambra
- American Canyon
- Benicia
- Berkeley
- Buena Park
- Burbank
- Coachella
- Concord
- Costa Mesa
- Culver City
- Daly City
- El Monte
- Irvine
- Long Beach
- Los Angeles
- Millbrae
- Montebello
- Malibu
- Oakland
- Palm Springs
- Pomona
- Redwood City
- Richmond
- San Jose
- San Leandro
- San Mateo
- Santa Ana
- Santa Clara
- Santa Monica
- South San Francisco
- West Hollywood

• Counties with Hazard Pay:

- Los Angeles
(unincorporated areas)
- San Francisco
- Santa Clara (unincorporated areas)

Hazard Pay – Repercussions

- Lawsuits in Long Beach, Daly City, West Hollywood, Montebello, Oakland, San Jose, etc.
 - The District Court ruled in the City of Long Beach’s favor and denied the California Grocers’ Association’s preliminary injunction motion.
 - The CGA has appealed the decision to the Ninth Circuit.
- What happens when the Hazard Pay provisions expire?
 - Reduce front line employee’s pay by \$3-\$5 back to pre-mandate levels?
 - Retention issues
 - Competition
 - Long-term sustainability vs. store closures
 - Demand for higher wages not just by frontline workers
- Future emergencies: are you prepared to pay a premium again?



Is Your Company Prepared for Another Crisis?

Morgan Lewis

The Next Crisis?

Are you ready:

- Another pandemic
- New strain or outbreak of COVID-19
- Wildfires
- Earthquakes
- Floods
- Hurricanes
- Explosions
- Other natural disasters
- Financial and economic downturns
- Workplace violence
- Active shooter
- Government audits
- Cyber attacks
- Media campaigns
- And others

Preparing for the Next Crisis

- Create a contingency playbook
 - Be Prepared!
 - Think ahead – don't leave your business to last-minute decisions
 - Look at the big picture
- Adopt new technology
 - Are you using the Cloud
 - Where will you store your information and data
 - Is it easily accessible
 - Make pro-active informed decisions – don't be reactive

Preparing for the Next Crisis

- Consider how crisis management fits into your corporate culture
 - Employee communication
 - Ability to report and identify potential risks
- Integrate crisis management into corporate strategy
 - Formal crisis management plan
 - SWOT analysis
 - Tabletop exercises and simulations
- Communication is key
 - Define roles and responsibilities
 - Delegate and give authority to act

Preparing for the Next Crisis

- Key considerations
 - Define the team
 - Strategic response
 - Involve counsel early and often
 - Preserve data, documents, and information
 - Communication – internal, external – stakeholders, shareholders, employees, media, government
 - Continually reassess
 - Evaluate and learn – post-crisis analysis and assessment

What's Next?

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, representing a digital or data network. The nodes are small circles of varying colors (orange, blue, white) connected by thin lines. The overall color palette is dominated by blues, oranges, and whites.

Morgan Lewis

Will There Be Any Long-Term Impact?

- Workforce issues after “hero pay” is gone
- Updated state sick leave policies
- Hybrid working models – remote work is here to stay
- Business travel and meetings
- Workplace safety guidelines
- Staying competitive to attract talent
- Boosters/variants, and the rest of the world – impact on California

Thank You



Lauren Nikkhah



Claire Lesikar



Douglas Hart



Kaiser Chowdhry



Thea Alli



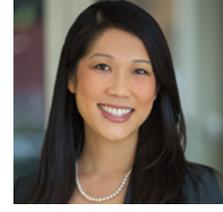
Karen Cho



Nicole Beckley



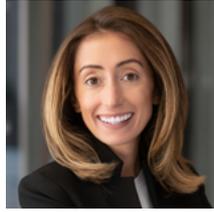
Jason Mills



Grace Tse



John Hayashi



Kara Crawford



Reece Hirsch



Nick Armer

Morgan Lewis

FILLED WITH PRIDE

Our Presenters Today



Daryl Landy

daryl.landy@morganlewis.com



Kate McGuigan

kathryn.mcguigan@morganlewis.com



Mike Schlemmer

michael.schlemmer@morganlewis.com



Andrea Fellion

andrea.fellion@morganlewis.com

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

Morgan, Lewis & Bockius LLP

www.morganlewis.com

Coronavirus COVID-19 Resources

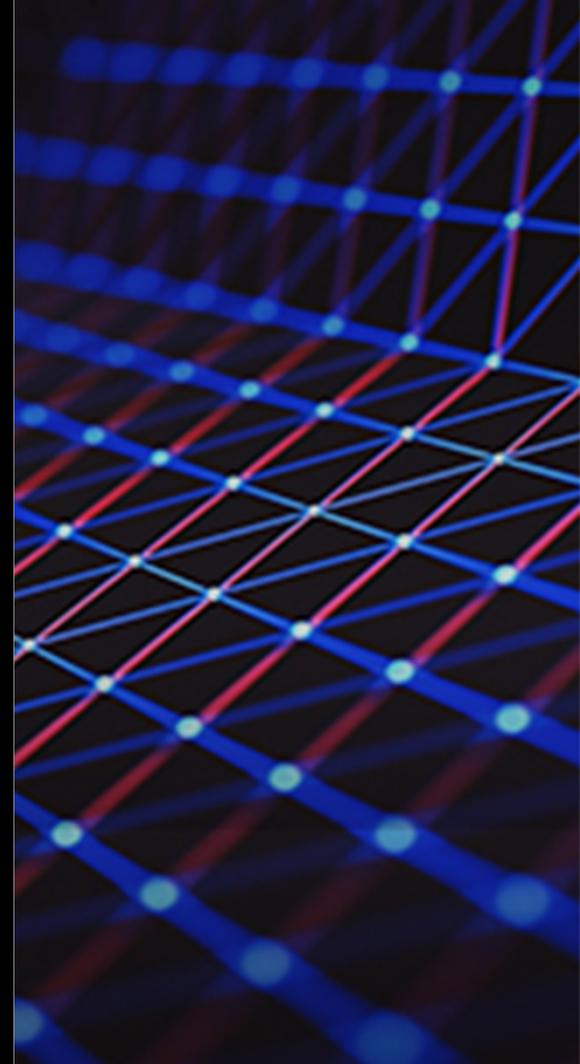
We have formed a multidisciplinary **Coronavirus/COVID-19 Task Force** to help guide clients through the broad scope of legal issues brought on by this public health challenge.

Morgan Lewis

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.

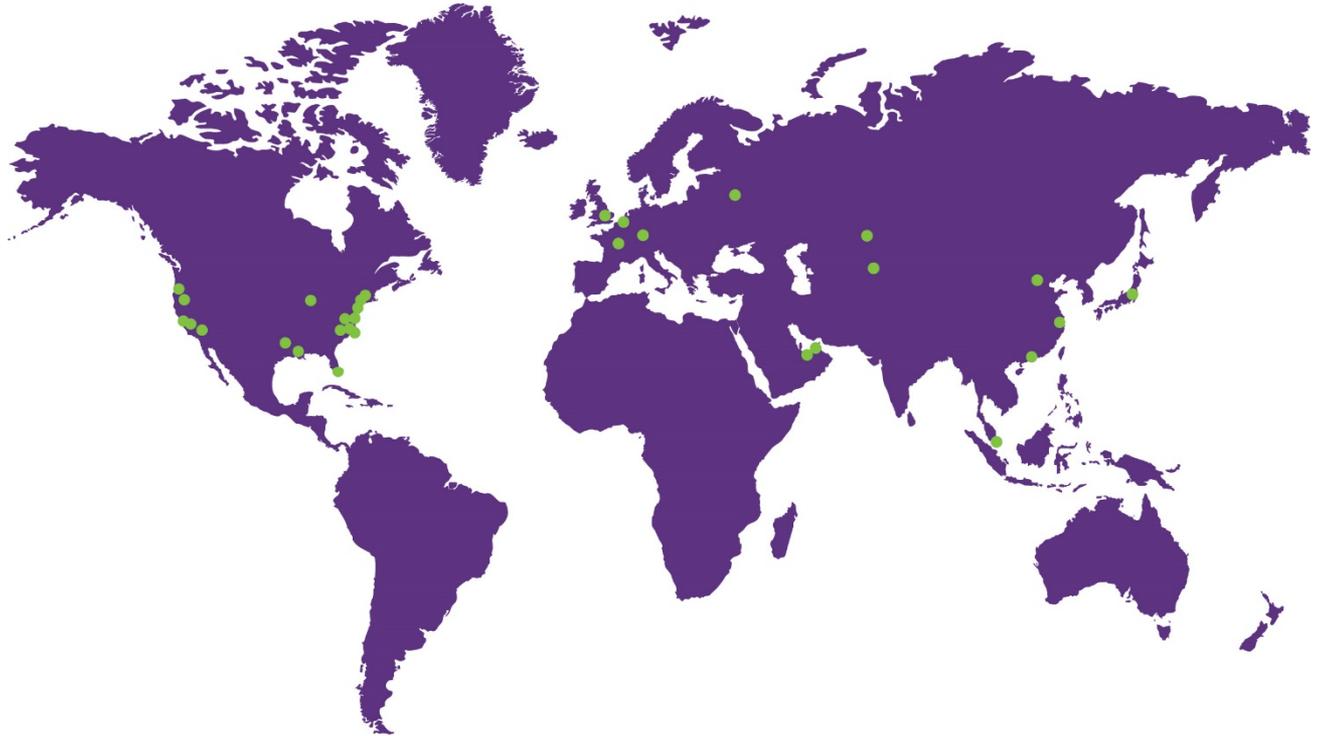


Our Global Reach

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
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. Morgan Lewis Stamford LLC is a Singapore law corporation affiliated with Morgan, Lewis & Bockius LLP.

THANK YOU

© 2021 Morgan, Lewis & Bockius LLP
© 2021 Morgan Lewis Stamford LLC
© 2021 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. 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.