

Cal/OSHA Issues Interim General Guidelines on Protecting Workers from COVID-19 and Guidance Regarding COVID-19 Recording and Reporting Requirements

June 1, 2020

As California continues to move through Stage 2 of its [Resilience Roadmap](#), “Lower-risk workplaces,” where retail (curbside and delivery only), related logistics and manufacturing, office workplaces, limited personal services, outdoor museums, childcare, and essential businesses can now open with modifications, California employers should continue to be vigilant in assessing and complying with up to date health and safety guidance from the Occupational Safety and Health Administration (OSHA), the California Division of Occupational Safety and Health (Cal/OSHA), and the Centers for Disease Control and Prevention (CDC). As some [news outlets](#) have reported, Cal/OSHA has seen a roughly 30% increase in complaints about workplace safety due to the pandemic.

On May 14, 2020, Cal/OSHA issued new [Interim General Guidelines on Protecting Workers from COVID-19](#). While this interim guidance “does not impose new legal obligations,” it reiterates that California employers were already required to establish and implement Injury and Illness Prevention Programs (IIPP) tailored to the specific workplace (per health and safety regulations and the California Labor Code), and states that **it is now “mandatory” for most California workplaces to adopt certain changes to their IIPPs, as COVID-19 is considered widespread in the community**. Pre-COVID-19, Cal/OSHA’s IIPP rule was its most frequently cited violation; therefore, employers should be especially vigilant in consulting and following Cal/OSHA guidance regarding IIPPs in the wake of the COVID-19 pandemic. Cal/OSHA’s interim guidance outlines employee training and other safety requirements for California employers, and encourages employers to consult CDC guidance available [here](#) and [here](#).

California employers should also consult the California Department of Health and Cal/OSHA’s [California statewide industry re-opening guidance](#), which includes specific re-opening guidance and checklists for tens of industries including retail, office workspaces, real estate transactions, life sciences, logistics and warehousing, childcare, delivery services, hotels and lodging, manufacturing, and more.

Separately, on May 27, 2020, Cal/OSHA issued guidance for employers on [recording and reporting requirements](#) for COVID-19 cases, which is summarized herein.

Injury and Illness Prevention Programs

Pre-COVID-19 [general industry safety regulations](#) require that IIPPs include the following:

- **Responsibility:** Identity of the individual(s) with authority and responsibility for implementing the IIPP;
- **Compliance:** System for ensuring that employees comply with safe and healthy work practices;
- **Communication:** System for communicating with employees about occupational safety and health matters;
- **Hazard Assessment:** Procedures for identifying and evaluating work place hazards, including periodic inspections;
- **Accident or Exposure Investigation:** Procedures for investigating occupational injuries or illnesses;
- **Hazard Correction:** Procedures for correcting unsafe or unhealthy conditions, work practices and work procedures; and
- **Training and Instruction:** Training and instruction for all new employees, employees taking new job assignments, and for all employees whenever the employer learns of a new or previously unrecognized hazard.

Note that most employers must **maintain documentation** of steps taken to implement and maintain the IIPP for one year, including records of scheduled and periodic inspections and corrective actions, and maintain documentation of health and safety training.

Pre-COVID-19 general safety regulations regarding hazardous substances and processes also require that **certain employers** including hospitals, healthcare facilities, certain laboratories, correctional facilities, coroner's offices, mortuaries, and other facilities comply with the [Aerosol Transmissible Diseases \(ADT\) Standard](#) to protect employees from airborne infectious diseases and pathogens transmitted by aerosols.

COVID-19-Related Infection Prevention Measures

In light of COVID-19, the recent Cal/OSHA Interim General Guidance on Protecting Workers from COVID-19 states that **IIPPs should include** and reflect the following infection prevention measures in writing, when applicable to the workplace.

- **Actively encourage sick employees to stay home.**

- **Immediately send employees home** (or to medical care) if they have COVID-19-related symptoms.
- Ensure **employees who have COVID-19 symptoms do not return to work** until both of the following occur: (1) at least three full days pass with no fever (without the use of fever-reducing medications) and no acute respiratory illness symptoms; and (2) at least 10 days pass since the symptoms first appeared.
- Provide employees with **paid sick leave or expanded family and medical leave** for specified reasons related to COVID-19 if required to by the Families First Coronavirus Response Act.
- Ensure employees that return to work following an illness promptly **report any recurrence of symptoms**.
- **Encourage employees to telework from home when possible.**
- Practice **physical distancing** by cancelling in-person meetings, using video or telephonic meetings, and maintaining a distance of at least 6 feet between persons at the workplace when possible.
- Provide employees with cloth **face covers** or encourage employees to use their own face covers for use whenever employees may be in workplaces with other persons. Cloth face coverings are not personal protective equipment (PPE), but combined with physical distancing of at least six feet, they may help prevent infected persons without symptoms from unknowingly spreading COVID-19.
- **Avoid shared workspaces** (desks, offices, and cubicles) and work items (phones, computers, other work tools, and equipment) when possible. If they must be shared, clean and disinfect shared workspaces and work items before and after use.
- Establish procedures to **routinely clean and disinfect commonly touched objects and surfaces** such as elevator buttons, handrails, copy machines, faucets, and doorknobs. Surfaces should be cleaned with soap and water prior to disinfection. These procedures should include:
 - Using disinfectants that are EPA-approved for use against the virus that causes COVID-19.
 - Providing EPA-registered disposable wipes for employees to wipe down commonly used surfaces before use.
 - Following the manufacturer's instructions for all cleaning and disinfection products (e.g., safety requirements, PPE, concentration, contact time).
 - Ensuring there are adequate supplies to support cleaning and disinfection practices.
- **If an employee is confirmed to have COVID-19:**
 - Inform employees of their possible exposure to COVID-19 in the workplace, but maintain confidentiality as required by the Americans with Disabilities Act (ADA) and California law. Note that employers should take care not to identify any employee who has tested positive for COVID-19 by name in the workplace, though employers may

- notify other potentially affected employees in a way that does not reveal identity or personal health information. For example, the California Department of Fair Employment and Housing recommends that an employer communicate with potentially affected employees by stating: “[Employer] has learned that an employee at [office location] tested positive for the COVID-19 virus. The employee received positive results of this test on [date]. This email is to notify you that you have potentially been exposed to COVID-19 and you should contact your local public health department for guidance and any possible actions to take based on individual circumstances.”
- Temporarily close the general area where the infected employee worked until cleaning is completed.
 - Conduct deep cleaning of the entire general area where the infected employee worked and may have been, ideally via a professional cleaning service.
 - Ensure that any person cleaning the area is equipped with proper PPE.
 - Advise employees to **avoid non-essential travel** if possible and check [CDC’s Traveler’s Health Notices](#) prior to travel.

The Cal/OSHA Interim General Guidance on Protecting Workers from COVID-19 also provides additional infection prevention measures for employers in retail sales or service industries that account for the possibility that the public is a potential contamination source, including even more frequent cleaning and disinfection procedures.

Employee Training

Per Cal/OSHA’s Interim General Guidelines on Protecting Workers from COVID-19, employers should provide training to employees on the following topics, in a language readily understood by all employees:

- General description of COVID-19 symptoms, when to seek medical attention, how to prevent spread, and the employer’s procedures for preventing workplace spread.
- How an infected person can spread COVID-19 even if they are not sick.
- How to prevent the spread of COVID-19 by using cloth face covers.
- Coughing and sneezing etiquette.
- Proper handwashing procedure.
- Avoiding touching eyes, nose, and mouth with unwashed hands.
- Avoiding sharing personal items with co-workers (i.e., dishes, cups, utensils, towels).
- Providing tissues, no-touch disposal trashcans and hand sanitizer for use by employees
- Safely using cleaners and disinfectants, which includes:

- The hazards of the cleaners and disinfectants used at the worksite.
- Wearing PPE (such as gloves).
- Ensuring cleaners and disinfectants are used in a manner that does not endanger employees.

Washing Facilities

All employers are required to provide washing facilities that have an adequate supply of suitable cleaning agents, water, and single-use towels or blowers (see title 8 sections [1527](#), [3366](#), [3457](#) and [8397.4](#)), **regardless of COVID-19 risk.**

Personal Protective Equipment (PPE)

Employers must conduct a hazard assessment to determine if any [PPE](#) is needed to protect employees from workplace hazards. If so, employers must select and provide employees with properly fitting and sanitary PPE, and ensure that the appropriate PPE is provided to and used by employees who use cleaners and disinfectants.

Per the Interim General Guidelines on Protecting Workers from COVID-19, current CDC guidelines do not recommend that the general public wear respirators or masks to protect against COVID-19, and in light of the shortages of respirator and surgical masks in the medical community, Cal/OSHA does not recommend respirators or masks for most workers at this time.

Recording and Reporting Requirements

Recording Requirements for COVID-19 Cases

Per Cal/OSHA's May 27, 2020 [guidance on recording and reporting COVID-19 cases](#), certain employers are required to record a "work-related" COVID-19 fatality or illness (though note that there is a partial exemption for small employers and for employers in many industries) as they would any other illness. A recordable illness must be "work-related" *and* result in either death, days away from work (not counting time spent in quarantine), restricted work or transfer to another job, medical treatment beyond first aid, loss of consciousness, *or* a significant illness or injury diagnosed by a licensed health care professional. See [here](#) for regulations regarding the employers that are required to record such injuries or illnesses, and other requirements.

Generally, a COVID-19 case should be confirmed through testing to be recordable, though Cal/OSHA has stated that there may be other instances where an employer must make a recordability determination in the absence of testing, such as when the criteria above is met (e.g., days spent away from work, etc.). Cal/OSHA recommends erring on the side of recordability.

A COVID-19 case is considered “[work-related](#)” for recordkeeping purposes if “an event or exposure in the work environment either caused or contributed to the resulting condition, or significantly aggravated a pre-existing injury or illness.” A work-related exposure would include known interaction with people known to be infected with the virus that causes COVID-19; working in the same area where people known to have been carrying the virus had been; or sharing tools, materials or vehicles with persons known to have been carrying the virus. If there is not a known exposure triggering work-relatedness, the employer must evaluate the employee’s environment and duties to determine likeliness of exposure during the course of exposure.

Reporting COVID-19 Cases to Cal/OSHA

Every California employer must [report to Cal/OSHA](#) any serious illness, injury, or death of an employee occurring in a place of employment or in connection with employment, including those related to COVID-19, if the illness occurred at work or in connection with any employment that requires inpatient hospitalization for other than medical observation or diagnostic testing. This means that if a worker becomes ill while at work and is admitted as an in-patient at a hospital—regardless of the duration of the hospitalization—the illness occurred in a place of employment, so the employer must report this illness to the nearest Cal/OSHA office. Reports must be made immediately, but no longer than eight hours after the employer knows or with diligent inquiry would have known of the serious illness. If an employee becomes sick at work, it does not matter if the illness is work-related; the employer must report it without making a determination about work-relatedness. Cal/OSHA states that employers should report these cases so that Cal/OSHA can make the primary determination of work-relatedness. An employer should report a serious illness if there is cause to believe it might be work-related, even if the symptoms began to appear outside of work.

For COVID-19 cases, evidence suggesting transmission at or during work would make a serious illness reportable. An employer should evaluate the following factors:

- Multiple cases in the workplace.
- The type, extent and duration of contact the employee had at the work environment with other people, particularly the general public.
- Physical distancing and other controls that impact the likelihood of work-related exposure.

- Whether the employee had work-related contact with anyone who exhibited signs and symptoms of COVID-19.

Even if an employer cannot confirm that the employee contracted COVID-19 at work, the employer should report the illness to Cal/OSHA if it results in in-patient hospitalization for treatment and if there is substantial reason to believe that the employee was exposed in their work environment. Where there is uncertainty about whether an employee contracted COVID-19 at work, the employer should err on the side of reporting the illness to Cal/OSHA.

Cal/OSHA has stated that reporting a serious illness is not an admission that the illness is work-related, and **is not an admission of responsibility**.

Takeaways and Best Practices for California Employers

- **Update current IPPs to reflect recent Cal/OSHA guidance, including any industry-specific guidance.**
- **Implement general infection prevention control measures per Cal/OSHA and CDC guidance.**
- **Communicate with the workforce regarding these infection prevention control measures and create a safety-focused culture.** This can be accomplished by:
 - Having employees sign **written acknowledgments** of safety and prevention procedures.
 - Increased **signage** in the workplace regarding sanitation and hygiene.
 - Having employee **safety meetings and trainings**.
 - **Reminders regarding proper hygiene** and safety procedures.
 - Auditing to ensure **physical distancing**.
 - Responding to **employee safety concerns**.
- **Provide employee training on the COVID-19-related topics listed above.**
- **Maintain documentation on safety and health measures and on training provided to employees.**
- **Assess applicability of Cal/OSHA recording and reporting requirements for COVID-19 cases.**



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