

February 26, 2021

Cal-OSHA Wins First Round in Major Court Challenge to its COVID-19 Emergency Regulation

By [Steven Churchwell](#)

Cal-OSHA's COVID-19 regulation remains in effect after the trial court rejected a motion for a preliminary injunction filed by a coalition of employers. This included challenges to: (1) compensation for employees excluded from work; (2) mandated testing; and (3) health and safety requirements for employer-provided housing and transportation.

Therefore, employers must continue to abide by the requirements of **the emergency regulation**.

In its 39-page **ruling**, the court noted that the regulation's continuing compensation requirement applies only to employees who are "otherwise able and available to work." If an employee must be excluded for longer than a 14-day quarantine period, the employer would not be required to keep paying wages and benefits. The court also noted that employers may offset any required payments by amounts employees receive in related benefit payments.

The court also concluded that Cal-OSHA may regulate employer-provided housing and transportation to ensure employee safety and health.

Written comments on the regulation may be submitted to the Cal-OSHA Standards Board as the agency moves to formally adopt the regulation in a 6-month process that results in a "Certificate of Compliance."

https://oal.ca.gov/emergency_regulations/emergency_regulation_process/

Buchalter is committed to helping our clients assess their rights with respect to COVID-19 and stands ready to assist in navigating these uncharted waters.

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