



California Updates re: Isolation, Quarantine, the ETS and More!
1/3/22 at 11:15 p.m.

Anyone else struggling to keep up with the frequently changing COVID-19 mandates, standards and guidelines??? Sadly, the end is not in sight yet, as there is still uncertainty! This email provides you with the latest updates, which, of course, could change at any moment! So, continue to check the links in this email for updates.

As you read this email and implement the latest and greatest in your operation, keep the following terms and concepts in mind:

1. Isolation - Keeping a person *who is sick with or has tested positive for COVID-19* (even if they have no symptoms) away from others.
2. Quarantine - Keeping a person *who has been in close contact with / exposed to* a person that has tested positive for COVID-19 away from others.
3. Strictest Standard Governs - The current conflicts in the various governing standards highlight the importance of understanding the requirement that the *strictest* standard governs.

The current status of the various governing mandates, standards and guidelines is as follows:

1. CDC - The [CDC's 12/27/21 Updated Isolation & Quarantine Guidance](#) shortens the recommended isolation and quarantine periods based on science demonstrating that the majority of COVID-19 transmission generally occurs in the 1 - 2 days prior to the onset of symptoms and the 2 - 3 days thereafter. The CDC's updated recommendations are a welcome change for many, while frustrating at the same time because the recommendations contain words such as "if a 5-day quarantine is not feasible..." which leaves employers concerned about when they can and cannot actually require an employee who has been exposed to COVID-19 to stay home from work. Luckily, the CDPH updated the guidance on 12/30/21.
2. CDPH - The [CDPH's 12/30/21 Updated Isolation & Quarantine Guidance](#) applies to California employers (other than healthcare personnel), unless the employer is subject to a more restrictive standard established by the local health department/jurisdiction. Although similar to the CDC's standards, the CDPH's requirements are not identical and include additional protective measures. The CDPH's updated guidance confirms that *antigen* tests are *preferred* for ending isolation, but states that nucleic acid amplification test (NAAT) or LAMP tests are acceptable. Although the guidance contains a number of recommendations, and defines when a person is "booster eligible" and what a "well-fitting mask" means, the following chart summarizes the current CDPH isolation and quarantine recommendations:

<p>COVID-19 Positive - Isolation for <u>All People</u>, <u>Regardless</u> of Vaccination Status, Previous Infection or Lack of Symptoms</p>	<ul style="list-style-type: none"> • Stay home / Isolate for <i>at least 5 days</i>. • Isolation can end <i>after 5 days</i> <u>if</u> symptoms are not present <i>or</i> symptoms are resolving <u>and</u> a diagnostic specimen (test) was collected <i>on day 5 or later</i> shows the person has tested negative for COVID-19. • Isolation can end <i>after 10 days</i> <u>if</u> the person is unable to test or chooses not to test <u>and</u> symptoms are not present <i>or</i> symptoms are resolving. • If the person has a fever, isolation should be continued until the 5 or 10 day criteria (as applicable) is met <u>and</u> the fever resolves. • If the person has symptoms, other than fever, that are not resolving, isolation should continue until symptoms are resolving or until after day 10. • Under all circumstances, the person should wear a well-fitting mask around others for a total of 10 days, especially in indoor settings.
<p>COVID-19 Exposure - Quarantine for People who are <u>Unvaccinated or Vaccinated and Booster-Eligible</u>, but Have <u>Not yet Received</u> the <u>Booster</u></p>	<ul style="list-style-type: none"> • Stay home / Quarantine for <i>at least 5 days</i> after last contact with the person who has COVID-19. • Test on Day 5. • Quarantine can end <i>after 5 days</i> <u>if</u> symptoms are not present <u>and</u> a diagnostic specimen (test) was collected <i>on day 5 or later</i> shows the person has tested negative for COVID-19. • Quarantine can end <i>after 10 days</i> <u>if</u> the person is unable to test or chooses not to test <u>and</u> symptoms are not present. • Under all circumstances, the person should wear a well-fitting mask around others for a total of 10 days, especially in indoor settings. • If the person develops symptoms, the person should take a COVID-19 test and stay home. • If the person tests positive for COVID-19, the person should follow the COVID-19 Positive - Isolation recommendations above.
<p>COVID-19 Exposure - No Quarantine for People who are <u>Boosted or Vaccinated but Not Yet Booster-Eligible</u></p>	<ul style="list-style-type: none"> • Test on Day 5. • Under all circumstances, the person should wear a well-fitting mask around others for a total of 10 days, especially in indoor settings. • If the person develops symptoms, the person should take a COVID-19 test and stay home. • If the person tests positive for COVID-19, the person should follow the COVID-19 Positive - Isolation recommendations above.

3. Cal/OSHA COVID-19 Prevention ETS - On 12/16/21, revisions to the Cal/OSHA ETS were adopted, although they do not go into effect until 1/14/22. The [Cal/OSHA ETS Change Comparison](#) shows the changes that are currently scheduled to become effective 1/14/22. Additionally, the [Cal/OSHA ETS 12/16/21 Updated Fact Sheet](#) summarizes the new requirements and those requirements that remain in effect as adopted in June 2021. The [Cal/OSHA ETS Website](#) remains a very good resource for employers, as are the updated [FAQs](#). However, as discussed in #4 below, we are still waiting for confirmation regarding whether the Federal OSHA COVID-19 Vaccination and Testing ETS will require additional

revisions to the Cal/OSHA ETS requirements. For now, employers should become familiar with the current Cal/OSHA requirements in case they actually become effective on 1/14/22. A couple of notable revisions include:

- New definitions of “COVID-19 Test,” “Fully Vaccinated” (which does not include reference to a booster), “Face Covering” and “Worksite.”
- Revised procedures for investigating and responding to COVID-19 Cases in the Workplace, including new rules for Exclusion of employees who had Close Contact with a COVID-19 Case and modified Return to Work Criteria following Close Contact with a COVID-19 Case.

All Employer subject to the Cal/OSHA ETS will need to revise their COVID-19 Prevention Program (“CPP”) to comply with the new standards. As stated above, whichever standard is the strictest governs. Accordingly, although the Cal/OSHA ETS does not distinguish between those people who are fully vaccinated and those who are vaccinated and booster eligible, the CDPH guidance creates different quarantine standards for those who are boosted and those who are not.

At this time, since the Cal/OSHA ETS does not align with the requirements of the Federal ETS, and we do not know if the Federal ETS will be upheld by the United States Supreme Court (as discussed in #4 below), California employers must wait to see if the Cal/OSHA ETS will be updated.

4. Federal OSHA COVID-19 Vaccination and Testing ETS for Employers with 100+ Employees - Generally, the [Federal ETS](#) requires employers with *100 or more employees* in the United States to either mandate that *covered employees* be fully vaccinated against COVID-19 (subject to medical and religious exceptions) or require *covered employees* who are not fully vaccinated to undergo weekly COVID-19 testing and wear face coverings. Of course, there are a significant number of details that employers need to understand in order to comply with the requirements of the Federal ETS. Summaries of the requirements can be found in the [ETS Summary](#), [Fact Sheet](#) and [FAQs](#). Unfortunately, the fate of the Federal ETS is currently uncertain. Since the initial stay that was imposed was dissolved on 12/17/21, the Federal ETS currently requires employers to comply with the requirements by 1/10/22. The United States Supreme Court has scheduled oral arguments regarding the Federal ETS for 1/7/22. In the interim, OSHA’s website confirms that OSHA will not issue citations for noncompliance with any of the requirements of the Federal ETS before 1/10/22 and will not issue citations for non-compliance with the testing requirements before 2/9/22 so long as the employer is exercising reasonable, good faith efforts to come into compliance with the Federal ETS.
5. Indoor Face Coverings Temporarily Required for Everyone - The [CDPH 12/13/21 Face Covering Guidance/Mandate](#) explains the universal indoor masking requirement for all public places, including workplaces, from 12/15/21 through 1/15/22, subject to limited exceptions. The CDPH updated its [Face Covering Q&A](#) on 12/15/21, which provides some clarity to the confusion caused by the CDPH calling the mandate “face covering guidance” and by its failure to specify that the mandate applies to all workplaces, regardless of whether the workplace is “open to the public.”

In addition to the foregoing, those in the healthcare industry remain subject to different standards. While we wish we were able to provide definitive guidance with this email, we cannot do so yet. We highly recommend that every business continue to monitor the various website for updated guidance and FAQs, as there remain many unanswered questions and conflicting standards. As always,

we are here for our Clients to work through this very complicated time. And, we wish everyone good luck and good health as we enter this new year hopeful for positive developments!



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