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Demystifying California's Workplace Reopening: To Mask Or Not To Mask? (and all your other questions answered)



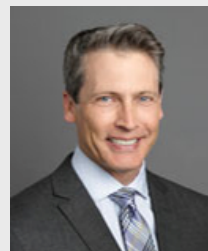
Friday, June 25, 2021 – 11am

Moderator



Kirstin Muller
PARTNER

Panelist



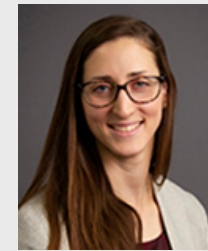
Monte Grix
PARTNER

Panelist



Michelle Freeman
ASSOCIATE

Panelist



Netta Rotstein
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Topics to be covered:

- 1. Face Coverings**
- 2. Respirators**
- 3. Physical Distancing and Partitions**
- 4. Verifying Vaccination Status**
- 5. Workplace Exclusions**
- 6. Testing**
- 7. Return To Work Requirements**
- 8. Notice**
- 9. Training**
- 10. Cleaning and Disinfection Procedures**
- 11. Ventilation**



Face Coverings

Fully Vaccinated Employees:

- Unless there's an outbreak, no requirement to mask
- “Fully vaccinated” means employer has documented that at least two weeks have passed since the employee's final dose of an approved COVID-19 vaccine

Unvaccinated Employees:

- No requirement to mask outdoors
- Must continue to mask indoors in the presence of others
- Acceptable face coverings include only surgical or medical procedure masks, respirators, or woven fabric masks of at least two layers. No scarves, ski masks, bandanas, turtlenecks, or a single layer of fabric!



Respirators

- **Respirator:** device generally worn over the nose and mouth to prevent inhalation of dust, smoke or other harmful particles
- Must be approved by the National Institute for Occupational Safety and Health, e.g., N95
- At all times, provide respirators to unvaccinated employees upon request
- During outbreaks, inform potentially exposed unvaccinated employees they may request a respirator
- During major outbreaks, make respirators available to all potentially exposed employees, regardless of vaccination status



Physical Distancing and Partitions

- Unless there's a major outbreak, may remove physical distancing measures (including partitions)
- During an outbreak, must evaluate whether distancing/barriers are necessary to control transmission of COVID-19
- Remember you have an ongoing obligation to assess workplace hazards and implement controls to prevent transmission
- May determine that physical distancing is generally necessary or advisable



Verifying Vaccination Status

- “Fully vaccinated” = when an employer has documented that the employee received, at least 14 days prior, either the second dose in a two-dose COVID-19 vaccine series or a single-dose COVID-19 vaccine
- Three “acceptable options” for documenting vaccination status:
 1. Employees provide proof of vaccination (vaccine card, image of vaccine card, or health care document showing vaccination status); employer maintains a copy
 2. Employees provide proof of vaccination; employer maintains a record of the employees who presented proof, but not the vaccine record itself
 3. Employees self-attest to vaccination status; employer maintains a record of who self-attests



No Workplace Exclusion For Vaccinated Employees

- Fully vaccinated employees, or those who developed natural immunity, **do not** need to be excluded from the workplace after a close contact, as long as they are asymptomatic
- Unvaccinated employees must still be excluded from the workplace whether symptomatic or not



Employer-Provided Free Testing

- Employers must offer testing at no cost to employees during paid time to:
 - Symptomatic unvaccinated employees, regardless of whether there is a known close contact (work related or not)
 - Unvaccinated employees after a close contact
 - Vaccinated employees after a close contact if they develop symptoms
 - Unvaccinated employees in an outbreak
 - All employees in a major outbreak



Return To Work Requirements For Close Contacts

- Close contacts
 - **Symptomatic employees** cannot return to work until the employee: (1) has been fever free for 24-hours; (2) their other COVID-19 symptoms have improved; and (3) 10 days have passed since symptoms first appeared, unless all the following are true:
 - The employee tested negative for COVID-19;
 - At least 10 days have passed since the last known close contact; and
 - The employee has been symptom free for 24 hours
 - **Asymptomatic employees** can return to work 10 days after their close contact



Notice Requirements

- Reporting requirements are now consistent with Labor Code 6325 (A.B. 685)
- Employer must report if it knows, or should have known, of a COVID-19 case in the workplace
- If an employer should reasonably know that an employee has not received the notice, or has limited literacy in the language used in the notice, the employer must provide verbal notice, as soon as practicable, in a language understandable to the employee



Training Requirements

- Employers must update their training programs to ensure compliance with the full list of training topics identified in the ETS
- Most notably, employers must now provide training about the availability and correct usage of respirators and about access to and effectiveness of vaccinations



Cleaning and Disinfection Procedures

- Employees can share PPE and other common workplaces like phones, desks, keyboards, etc.
- Continue regular cleanings of frequently touched surfaces
- Not required to regularly disinfect objects and surfaces unless used by a COVID-19 case within 24 hours



Ventilation

- Maximize ventilation with outdoor air to achieve highest level of filtration efficiency compatible with existing ventilation system
- Must also determine if use of portable or mounted high efficiency particulate air (HEPA) filtration units, or other air cleaning systems, would reduce the risk of COVID-19 transmission



Conclusion

- These regulations are complex and constantly changing...
- Do not hesitate to contact us with any questions!



Hirschfeld Kraemer

Training

Counseling

Litigation

We work for employers. We work for you.

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