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## **Employment Update: Status of Cal/OSHA ETS**

Governor Newsom's [executive order](#) which suspended the Cal/OSHA Covid-19 Emergency Temporary Standards ("ETS") requirement that unvaccinated employees wear masks indoors on March 1, 2022, also extended the current version of the ETS by 21 days. As such, the second Cal/OSHA ETS re-adoption which was previously set to expire on April 14, 2022, will remain in place until May 5, 2022.

At its upcoming April 21, 2022 meeting, the Cal/OSHA Standards Board will decide whether to readopt the ETS, and what exactly the newer version will say. If and when the Board readopts a new version of the ETS, it will replace the current version on May 6, 2022.

On April 6, 2022, Cal/OSHA issued a [draft of a proposed ETS](#) for re-adoption. While many aspects of the current ETS would remain unchanged, there are some notable proposed changes, including the following:

- **Vaccination Status No Longer a Factor:** The proposed ETS removes vaccination status as a factor in any safety protocol and all employees will have the same guidelines regardless of vaccination status.
- **Face Coverings:** employers will only need to provide face coverings and ensure they are worn by employees when required to do so by orders from the California Department of Public Health ("CDPH") or applicable local public health order.
- **Testing:** To meet the return-to-work requirements, a COVID-19 test may now be both self-administered and self-read, but only if another means of independent verification of the results can be provided such as a time-stamped photograph of the test results.
- **Close Contacts:** The proposed ETS no longer requires exclusion of close contacts from the workplace. Instead, employers must review and follow CDPH guidance for persons who had close contacts, including guidance regarding quarantine or other measures to reduce transmission. Currently, the CDPH's quarantine guidance instructs asymptomatic individuals who are not fully vaccinated and boosted to stay home for five days. As such, the CDPH's current guidance, which the proposed ETS requires employers to follow, would still require exclusion (and knowledge of an employee's vaccination status) even if the ETS itself doesn't specify this.

Cal/OSHA will discuss the proposal at its April 21 meeting, and whatever is adopted will go into effect on May 6, 2022. We will keep you updated as we learn more.

As always, please contact us with any questions or concerns.