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## **Employment Update: Change to "Close Contact" Definition and Important COVID Compliance Reminders**

Last month, the California Department of Public Health ("CDPH") updated its definition of "close contact" for purposes of its Isolation and Quarantine Guidelines. The order from the CDPH also changes the definition of "close contact" in the Cal/OSHA ETS. The new definition removed the "within 6 feet" requirement, and instead defines close contacts as follows:

A close contact is someone who shared the same indoor airspace with a positive COVID-19 case for a cumulative total of 15 minutes or more over a 24-hour period (for example, three individual 5-minute exposures for a total of 15 minutes) during the positive individual's infectious period.

While this definition broadens the scope of who should be considered a "close contact," the CDPH also released a Q&A on the new definition that allows for some discretion in determining what area counts as the "shared indoor airspace": <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Isolation-Quarantine-QA.aspx>. The Cal/OSHA ETS also has regulations related to "close contacts," which means that this change will likely increase the number of close contacts when there is a positive case in the workplace. The bottom line from Cal/OSHA appears to be for employers to continue doing the best they can to protect their employees. We have provided an overview below of some of the Cal/OSHA rules that are affected by this change, and if you have questions about any specific situation please reach out to us to discuss.

**IMPORTANT REMINDERS:** The following regulations related to COVID-19 are still in place until the dates indicated and employers must continue to comply with these laws.

- **Cal/OSHA ETS:** The Cal/OSHA ETS is in place until **December 31, 2022**.
  - **Exclusion and Isolation Periods:** Employees who test positive for COVID-19 and **close contacts** (see changes above) **who have symptoms** need to be excluded from the workplace in accordance with the latest CDPH standards, which you can access [here](#). All employees are treated the same regardless of vaccination status.
  - **Testing:** Employers must provide all **close contacts** with testing at no cost to the employee, during paid time. Employees who are **close contacts** must test within 3-5 days following exposure, and any employees who test positive must be excluded from the workplace.
  - **Face Coverings:** While face coverings are not generally required in the workplace under state and local laws, employees who have tested positive for COVID-19 **and close contacts** are required to wear a mask around others in the workplace for 10 days following exposure. One option for employers to alleviate the need to track who needs to wear a face covering is to require all employees to wear face coverings when around others in the workplace, which will lessen the administrative burden for employers.
  - **Exclusion Pay:** Employers must continue to pay employees who are excluded from work due to a *workplace exposure* to COVID-19 if the employee is not able to telework and the employee is not receiving disability or worker's compensation payments.
  - **Outbreaks:** Employers still need to follow outbreak protocols when 3 or more employees in the same workplace test positive within a 14 day period.

- **COVID-19 Supplemental Paid Sick Leave:** For employers with 26 or more employees, your employees are entitled to up to 80 hours of supplemental paid sick leave for COVID-19 related reasons through **September 30, 2022**. Part-time employees are entitled to a pro-rated amount of leave based on hours worked. Employers cannot require employees to use their supplemental paid sick leave before providing the exclusion pay required under the ETS.
- **Notice of COVID-19 Case:** The CA law requiring employers to provide written notice to all employees at the workplace within 24 hours of learning that a positive case was at the workplace is still in effect until **January 1, 2023**. The notice must be provided to all employees who were at the workplace during the positive employee's infectious period and not just to close contacts (although given the new definition of close contact noted above, all employees at the workplace during the infectious period may be close contacts). Employers must also notify the county of an outbreak within 48 hours.
- **Worker's Comp Notice:** Employers must report all positive cases of COVID-19 in the workplace to your worker's comp carrier with 3 business days of learning of the positive case. This notice requirement is in place until **January 1, 2023**.

As always, contact us with any questions or concerns.