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Employment Update: New COVID-19 Updates

As promised, here is the latest information on the updated COVID-19 rules. On January 9, 2023, the California Department of Health (CDPH) issued an order changing COVID-19 related definitions. These revisions apply to the Cal/OSHA Non-Emergency Regulations, which are still in place until February 3, 2025 and must be followed by all employers in California. The chart below reflects the updated rules and definitions that currently apply in the workplace. You can read more about the changes on Cal/OSHA's FAQ page [here](#), which is updated regularly.

QUESTION	ANSWER
What is the current definition of the “infectious period” for employees who test positive for COVID-19?	For COVID-19 cases with symptoms, the “infectious period” is a minimum of 24 hours from the day of symptom onset. Under the regulations, there is no infectious period for COVID-19 cases with no symptoms.

If an employee tests positive, are they required to be excluded from the workplace?

If an employee tests positive for COVID-19 and has symptoms, they must be excluded from the workplace for a minimum of 24 hours from the day of symptom onset.

Symptomatic COVID-19 cases may return to work after 24 hours if:

- 24 hours have passed with no fever, without the use of fever-reducing medications and;
- Symptoms are mild and improving.

If an employee tests positive for COVID-19 and is asymptomatic, there is no infectious period for the purpose of isolation or exclusion, which means they are not required to be excluded from the workplace. If symptoms develop, the above criteria will apply.

All employees who test positive for COVID-19 must wear a mask around others for 10 days from the date of the positive test or symptom onset.

Cal/OSHA FAQ re Workplace Exposure is [here](#):

<p>Are employees allowed to come to the workplace if they had a “close contact” with someone with COVID-19?</p>	<p>Yes – employees do not have to be excluded from the workplace unless they test positive.</p> <p>If you have had a “close contact,” you are no longer required to test, however the CDPH recommends testing for:</p> <ul style="list-style-type: none">• All people with new COVID-19 symptoms• Close contacts who are at higher risk of severe disease or who have contact with people who are at higher risk of severe disease
<p>Are masks still required in the workplace?</p>	<p>Masks are only required in the workplace in the following situations:</p> <ul style="list-style-type: none">• Employees who test positive for COVID-19 must wear a mask while around others for 10 days from the positive test or symptom onset;• In an outbreak or major outbreak all employees in the exposed group must wear a mask;• If a local ordinance requires it, such as places like healthcare facilities and skilled nursing facilities. <p>Close contacts are no longer required to wear masks; however, it is still recommended that close contacts wear masks around others for 10 days following the last contact.</p>

<p>What is a “close contact”?</p>	<p>The regulation defines a “close contact” as sharing the same indoor airspace as a COVID-19 case for a cumulative total of 15 minutes or more over a 24-hour period during a COVID-19 case's infectious period. Spaces that are separated by floor-to-ceiling walls (e.g., offices, suites, rooms, waiting areas, bathrooms, or break or eating areas that are separated by floor-to-ceiling walls) are considered distinct indoor airspaces.</p>
<p>What is the current definition of an “outbreak”?</p>	<p>The new outbreak definition requires at least three COVID-19 cases within an exposed group during a <u>7-day period</u> (previously it was a 14-day period).</p>

<p>Is an employee paid if they test positive and are unable to work?</p>	<p>Possibly.</p> <p>The COVID supplemental paid sick leave program has expired. However, an employee may be eligible for compensation depending on how and where they contracted COVID, and the source of the compensation may differ. For example, compensation may come through:</p> <ul style="list-style-type: none">• Accrued sick time and/or vacation time;• Disability Insurance <p>*Please note that Worker’s Compensation Presumption expired on January 1, 2024, which means the presumption that an employee’s COVID-19 illness is an occupational injury and eligible for worker’s compensation is no longer available.</p>
<p>Does an employer still need to send a notification when there is a workplace exposure?</p>	<p>If an employer becomes aware of a potential COVID-19 exposure in the workplace, they are still obligated to notify all employees who may have had close contact with a COVID-19 case. The notice must be in writing and must be provided within one business day of discovering the potential exposure.</p>

<p>Is an Employer still required to maintain a COVID Prevention Plan (CPP)?</p>	<p>Yes, to comply with the Non-Emergency Regulations, an employer must develop a written COVID-19 Prevention Program or ensure its elements are included in an existing Injury and Illness Prevention Program (IIPP).</p>
<p>Does an employer still need to provide COVID-19 testing to employees?</p>	<p>Regardless of CDPH recommendations, employers must continue to make COVID-19 testing available at no cost and during paid time to all employees who had a close contact at work with a person with COVID-19 during their infectious period, except for asymptomatic employees who recently recovered from COVID-19.</p> <p>In workplace outbreaks or major outbreaks, the COVID-19 regulations still require testing of all close contacts in outbreaks, and everyone in the exposed group in major outbreaks. Employees who refuse to test and have symptoms must be excluded for at least 24 hours from symptom onset and can return to work only when they have been fever-free for at least 24 hours without the use of fever-reducing medications, and symptoms are mild and improving.</p>

As always, this email contains general information only and not legal advice. Please reach out with any specific questions or concerns.