

COVID-19 Update From EKA – May 8, 2020

Stay At Home Order Day 51

Today is day 50 of the [statewide "Stay-at-Home" Order](#). 59 days ago, the World Health Organization declared COVID-19 a Pandemic. Safer at Home orders have been in place in Los Angeles since March 19 and are set to expire May 15.

If you have any COVID-19 government or communications questions, please reach out to any member of the EKA team. As always, feel free to share our COVID-19 updates. EKA's previous COVID-19 updates can be found [here](#).

LOS ANGELES COUNTY

Recovery Roadmap

The Department of Public Health issued a five-stage recovery roadmap for a phased approach to relaxing select directives of the Safer at Home Order. This will begin the reopening process for certain business sectors. The County is beginning stage two today by allowing florists and some retailers to offer curbside pickup. Car dealerships, golf courses, and trails can also open with appropriate safeguards in place. Physical distancing and infection control protocols must be observed. Cloth face coverings must be worn. The County has said that other restrictions will be lifted to include many retailers, manufacturers, and other recreational facilities. The next three stages include the potential phased-in opening of higher-risk businesses like movie theaters, schools, colleges and universities, followed by conventions and spectator events, to finally normalize operations. The County Health Department is emphasizing that physical distancing, wearing cloth face coverings, frequent hand washing, self-isolation and self-quarantine will continue to be very important throughout the foreseeable future. To view the Five Stage Roadmap, click [here](#).

Metro To Require Use Of Face Coverings

Metro revised its policy on face coverings for riders. Beginning on Monday, May 11, Metro will require all riders on buses and trains to wear face coverings to help prevent the spread of the Coronavirus. Up to now, Metro has been recommending face coverings. The agency will enforce this requirement to the extent that is practical and is considering the best way to enforce this rule going forward. Also, Metro will be looking at ways the agency can help riders obtain face coverings while protecting our own supply of coverings that are needed for our employees. Metro will also commence an educational campaign to inform the public of the requirement to wear face coverings in public and on our system. Amtrak took a stronger approach to enforcing the face coverings, stating services will be denied to customers not wearing facial coverings.

CITY OF LOS ANGELES

DWP

Mayor Garcetti said the Department of Water and Power would not shut off power for the rest of the year to customers who cannot pay their bills due to financial hardship, but he urged people who can pay their bills to do so.

LONG BEACH

Starting today, Long Beach is transitioning into the next phase of our "Safer at Home" order. The City is doing it slowly and will be closely monitoring data along the way. Long Beach has been at Stage 1 for the last few weeks. Beginning today Long Beach and Los Angeles County will open:

- Florists, toy stores, bookstores, clothing stores, music stores, sporting goods stores, and small retailers with curbside pickup only.
- Car dealership showrooms will also be able to open with physical distancing guidelines in place.
- Hiking trails and golf courses will open.

Beginning Monday, May 11, Long Beach will open:

- Parking lots adjacent to our parks so folks can visit them and be able to walk through our parks.
- Tennis centers will be reopened throughout the City.
- The beach bike and walking paths will also be reopened on May 11.

SACRAMENTO

Governor Newsom Releases Updated Industry Guidance

Following up on the state's announcement that it will begin modifying the stay at home order, Governor Newsom released [updated industry guidance](#) – including for retail, manufacturing and logistics – to begin reopening with modifications that reduce risk and establish a safer environment for workers and customers. [Click here](#) to see the new guidance.

Resilience Roadmap

The [Resilience Roadmap](#) stages that California is using to guide its gradual reopening process are: Stage 1: Safety and Preparedness, Stage 2: Lower-Risk Workplaces, Stage 3: Higher-Risk Workplaces, Stage 4: End of Stay at Home Order. We are now moving into [Stage 2](#), where some lower-risk workplaces can gradually open with adaptations. Stage 2 expansion will be phased in gradually. Some communities may move through Stage 2 faster if they are able to show greater progress, and counties that have met the readiness criteria and worked with the California Department of Public Health can open more workplaces as outlined in the [County Variance Guidance](#). The state moved into Stage 2 today based on achieving key [public health metrics](#) will allow a gradual reopening of California's economy. The state has also set up a mechanism to gather input on future industry guidance through the [California Recovery Roadmap survey](#).

NATIONAL

CDC Updates

The EKA team noticed the CDC updated several documents, including their critical infrastructure workers document, which details the work across [16 critical infrastructure sectors](#). Below are the recent CDC updates.

- [Identifying Critical Infrastructure During COVID-19](#)
- [COVID-19 Critical Infrastructure Sector Response Planning](#)
- [Pets and Other Animals](#)
- [Quarantine and Isolation](#)
- [Reporting COVID-19 Laboratory Data](#)
- [Cruise Ship Crew Member Disembarkations](#)

Preparing For Return To Work

Resuming Activity

As many businesses begin to resume their activity levels with the loosening of shelter-in-place orders, EKA has been reading numerous articles, government guidance notices and human resources publications for suggested best practices. Based on our review of the material, we have put together some employment-related tip that businesses should be mindful of as companies prepare for employees' return to work, recalling employees from furlough or rehiring after layoffs. As a reminder, EKA is not a law firm, and the suggestions below are not intended as legal or HR advice. We urge you to consult with your legal counsel or Human Relations professional before taking action on the suggestions outlined below.

- **Workspace Layout** – Assess the level of risk present at various worksites and the extent to which employees can be exposed to COVID-19 by co-workers, customers, guests, and the general public. Take appropriate preventative measures prior to resuming operations, such as staggering employees' return to work dates or implementing multiple shifts to limit the number of people in the workplace, rearranging the physical workspace to assist with social distancing, and limiting the number of people in common areas.
- **CDC Guidelines** – Monitor and ensure compliance with applicable [CDC guidelines](#) regarding reducing transmission of COVID-19 among employees (for example, social distancing and cleaning/disinfection protocols).
- **State and Local Requirements** – Review and implement applicable state and local COVID-19 orders and guidance. Many of these orders are continuously evolving. Employers should regularly monitor the status of these orders and adapt their operations to ensure continuing compliance. Page four of the [May 5 EKA](#) update contains a link to all the County Health Orders. To view previous EKA updates, click [here](#).
- **OSHA Safety and PPE Requirements** – Employers have a duty under OSHA to protect employees from exposure to the virus that causes COVID-19 as well as a general duty to provide a workplace free from recognized hazards. Employers should review and

implement [OSHA's COVID-19 guidance](#) regarding the use of personal protective equipment ("PPE"). Per OSHA's guidance, employers may be required to provide employees with PPE (and train employees regarding the use of PPE) depending on the level of risk associated with the employee's position.

- **FFCRA Policy and Request Forms** – Employers with fewer than 500 employees should be prepared to provide paid leave to eligible employees under the Families First Coronavirus Response Act ("FFCRA") with limited exceptions. Companies should consider implementing an FFCRA Leave Policy to ensure compliance and consistency. Additionally, employers are required under the FFCRA (and to obtain the corresponding tax credit) to collect specific information about an employee's request for leave. Accordingly, before returning their workforces, employers should develop standard FFCRA request forms that will capture the required information.
- **Identifying Employees with Return to Work Challenges** – To determine which employees may have issues with returning to work due to childcare, transportation, and/or medical issues, employers should utilize the EEOC's approved questionnaire, which can be located within Section III(A)(2) of the [EEOC's pandemic flu guidance](#). Additionally, the EEOC has approved employers asking employees in advance of the date of return to identify any reasonable accommodations they will need when they return.
- **Employee Infection/Exposure Plan** – With a return to operations, companies might want to consider having a plan to address employees who test positive for COVID-19 or are in close proximity to someone else who is infected. Such a plan could address how the company will handle notice to its workforce, quarantine requirements for infected employees and exposed co-workers, and cleaning/sanitation protocols or temporary closures in the event of an infection/exposure.
- **Update Existing Policies** – Employers should consider updating applicable policies and procedures such as sick leave/PTO policies, attendance policies, and work-from-home policies for the COVID-19 era.

Recalling Employees

Employers may want to consider the following best practices when recalling employees.

- **Return to Work/Furlough Recall Letter** – Employers may want to consider using a standard return-to-work or furlough recall letter. The letter should provide advance notice of the return date, request that employees with issues about returning to work notify the employer in writing as soon as possible, identify that the employer has work available for the employee (to preclude employee's continued eligibility for unemployment), and provide a contact person for questions/concerns.
- **Selecting Employees to Recall** – Employers should ensure that they select employees to return to work in a nondiscriminatory fashion. Return to work decisions must be made without regard to race, color, religion, age, disability, or any other protected class. Employers must also not retaliate against employees for having requested or taken protected leave.

- **Reducing Compensation/Hours** – Employers should ensure that any reductions in compensation or hours do not cause an employee to lose their exempt status or breach applicable employment or labor contracts.
- **Rehiring** – If re-hiring employees who were previously terminated or laid off, employers should consider completing a new onboarding process, including preparing a new employment agreement, new restrictive covenant agreement (i.e., non-compete, non-solicit, confidentiality), signing a new handbook acknowledgment, and completing a new I-9 (or Section 3 of the original I-9 if within three years of the initial verification).
- **Background Checks** – Some employers may want to run new background checks on returning employees. If using an outside vendor to do so, employers must comply with numerous documentation requirements and other requirements under the federal Fair Credit Reporting Act and applicable state law. Among other requirements, the Fair Credit Reporting Act requires that employees be provided a very specific disclosure in a document containing no other information (i.e., state law notices, waivers, releases, etc.). If you are doing business in the City of Los Angeles, be aware of the [Fair Chance Hiring Ordinance](#) and the [California law regarding background checks](#).
- **Terminations** – Employers may decide to terminate some employees rather than returning them to the workplace. When doing so, employers should ensure that they do so in a nondiscriminatory manner and that they carefully review and comply with any requirements in an employment agreement (such as providing notice of termination, payment of PTO, or payment of required severance). Employers with more than 100 employees should also consider if such terminations require advance notice under the [WARN Act](#).
- **Employee Objections to Returning to Work** – Employers should consult with counsel upon receiving an employee's refusal to return to work or objection to any aspect of their working conditions. Such objections may be protected under various laws, including OSHA, the NLRA, the FFCRA, and the ADA. Employers should also expect employees to request reasonable accommodations under the ADA. As mentioned in previous EKA updates, the Equal Employment Opportunity Commission (EEOC) guidance on [Pandemic Preparedness in the Workplace and the ADA](#) is a useful guide for employers who have ADA compliance questions. The EEOC has confirmed that employers must still participate in the interactive process in response to a request for accommodation. Employers should have standard forms to document the accommodation(s) requested and to obtain medical certification.
- **Benefits Issues** – For employees who were furloughed and not terminated, it is important to confirm, if they are benefits eligible, whether re-enrollment in their benefit plans is necessary.

Operating During the Pandemic

Below are major considerations for safely operating during the COVID-19 pandemic.

- **Temperature Checks** – As detailed in previous EKA updates, , the EEOC has approved of the use of temperature checks during the COVID-19 pandemic. Remember, though, that some employees with COVID-19 might not have a fever. Employers likely would be

required to provide PPE to individuals performing temperature checks under [OSHA's COVID-19 guidance](#). Employers should compensate employees for the time spent waiting for and undergoing the temperature check. As always, keep all employee health information confidential and in a file separate from the employee's personnel file. EKA recommends that employers seeking to implement mandatory COVID-19 testing should consult with counsel.

- **Paid Leave under the FFCRA** – Employers with fewer than 500 employees are required to provide paid leave to eligible employees under the [Families First Coronavirus Response Act](#) with limited exceptions. Some employees recalled to work may now be eligible for paid leave under the FFCRA

WHAT WE'RE READING

US Shelves Detailed Guide To Reopening Country

The Trump administration has shelved a document created by the nation's top disease investigators with step-by-step advice to local authorities on how and when to reopen restaurants and other public places during [the still-raging coronavirus outbreak](#). The 17-page report by a Centers for Disease Control and Prevention team, titled "[Guidance for Implementing the Opening Up America Again Framework](#)," was researched and written to help faith leaders, business owners, educators and state and local officials as they begin to reopen. To read the full story, click [here](#).

Coronavirus: Who's On L.A. County's Reopening Task Force? The Initial Names Are In

An array of local business and nonprofit leaders have been tapped to find ways to help sectors such as the entertainment industry to find a road to economic recovery. To read the full story, click [here](#).

CALIFORNIA JUST REVEALED A \$54.3 BILLION DEFICIT — SIGNALING DEEP CUTS AHEAD

California faces an unprecedented \$54.3 billion deficit. Finance officials announce the unemployment rate could reach 18%, worse than the Great Recession. Schools, health care and safety-net programs face devastating cuts as state and local officials seek additional federal stimulus. To read the full story, click [here](#).

Newsom Welcomes 'New Partners' In Coronavirus Supply Deals: Federal Investigators

As feds probe, Newsom labeled big coronavirus supply deals gone awry "cautionary tales" and said they were averted in time to avoid costing taxpayers. To read the full story, click [here](#).

Coronavirus Plunges California Into Worst Budget Deficit In State History

California's government faces a \$54.3-billion budget deficit through next summer according to an analysis released Thursday by advisors to Gov. Gavin Newsom, the deepest projected fiscal hole in state history. The estimate accounts for both an alarming erosion of tax revenues and a growing need for health and human services programs. To read the full story, click [here](#).

Economic Expert With Perfect Record Calling Recessions Is Betting This One Will Be Over By The End Of 2020

Last summer, when the U.S. had just notched a decade of economic recovery and unemployment stood at 3.7%, Campbell Harvey, a professor of finance at the Fuqua School of Business at Duke University, predicted a recession for 2020 or early 2021. Why? Because the yield on the three-month Treasury bill was higher than the yield on the five-year Treasury note for the entire second quarter of 2019. That "[inverted yield curve](#)" had been the harbinger of the previous seven recessions. Harvey first identified the inverted yield curve's predictive power in his 1986 doctoral dissertation at the University of Chicago. To read the full story, click [here](#).

Governor: Nail Salon Was Site Of California's First Community-Spread Case Of Coronavirus

Governor Gavin Newsom revealed California's first community-spread case of the Coronavirus occurred in a nail salon. The governor made the remark responding to a reporter's question about why nail salons couldn't open up along with other retail businesses for phase 2 of the state's reopening. To read the full story, click [here](#).

Coronavirus Survivors Banned From Joining The Military

A past [COVID-19](#) diagnosis is a no-go for processing, according to a recently released MEPCOM memo circulating on Twitter. "During the medical history interview or examination, a history of COVID-19, confirmed by either a laboratory test or a clinician diagnosis, is permanently disqualifying ..." the memo reads. To read the full story, click [here](#).

LA Mayor's 'Angeleno Card' Program Plagued By Name Glitch

The mayor's fund for the City of Los Angeles has raised millions in contributions. But where is the money going? To read the full story, click [here](#).

McConnell's Coronavirus Business Liability Pledge Sparks Lobbying Frenzy

Republicans say they won't support a new coronavirus relief bill unless it protects business owners from lawsuits related to COVID-19 exposure, sparking a lobbying frenzy from business groups hoping to get their industry or priority into the bill. To read the full story, click [here](#).

Newsom Is Relying On Public Health Officials For His Coronavirus Response. But He Has To Listen To Others Too

Lots of people have specific roles in life. In our American democracy, no single sector can rule absolutely — not even public health officials in a pandemic. Public health professionals have one compelling goal right now: vanquish the Coronavirus. And do whatever it takes to achieve that end. To read the full story, click [here](#).

California's Essential Workers To Get Benefit Of The Doubt If They Contract COVID

Gov. Gavin Newsom signed an executive order today that presumes workers who contracted COVID-19 were infected on the job and therefore entitled to workers' compensation. Labor advocates applaud the order while business interests say the costs could be prohibitive. To read the full story, click [here](#).

Bay Area, citing rising coronavirus cases, to keep stay-at-home order even as Newsom eases rules

During a news conference, Mayor London Breed said the City has been working to learn the exact details of Newsom's new guidelines, but she stressed that Bay Area health officers can continue to order tighter restrictions. The reason has "everything to do" with the numbers of cases and deaths in the Bay Area, she said. To read the full story, click [here](#).

UC San Diego To Mass Test Students For The Novel Coronavirus

UC San Diego Chancellor Pradeep Khosla said Tuesday the university is going to begin mass testing students for the novel Coronavirus as a major step toward resuming on-campus courses in the fall. The school's experimental "Return to Learn" program will begin May 11 when UCSD starts giving self-administered tests to 5,000 students who are currently living in campus housing. The testing is voluntary; students must opt in. To read the full story, click [here](#).

Coronavirus Antibody Tests Are Available Around The Country. Here's Why They May Provide A False Sense Of Security

Medical experts are advising Americans against getting coronavirus antibody tests - at least not until the questionable ones have been weeded out and scientists know whether people who have survived COVID-19 are immune from the virus. Experts warn that the antibody tests, which haven't been validated by government regulators, may give people "a false sense of security." To read the full story, click [here](#).

CHP: 87% Increase In Tickets To Drivers Going More Than 100 Mph Amid COVID-19 Shutdown

CHP is cracking down on speeding after seeing drivers going too fast on empty California freeways during the coronavirus pandemic. To read the full story, click [here](#).

After Criticism, L.A. County Supervisors To Allow Real-Time Public Comment At Its Meetings

Starting on May 12, the Los Angeles County Board of Supervisors will allow the public to comment live by phone for the first time since the coronavirus outbreak shut down in-person meetings. The decision comes after the board has met three times virtually — on March 31, April 14 and April 28 — without allowing for live public comment via phone or video. Instead, supervisors asked that residents email or mail in their comments before the meetings. Those comments were then sent to the board, a county spokesperson said. To read the full story, click [here](#).

The Coronavirus Hit To L.A. Tourism: 22 Million Visitors And \$13 Billion In Spending

Once one of the world's most popular tourism destinations, Los Angeles is expected to draw about 22 million fewer visitors this year and lose more than \$13 billion in tourist spending because of the coronavirus outbreak. A forecast commissioned by the Los Angeles Tourism and Convention Board estimates that Los Angeles County will draw about 29 million tourists this year, down from a pre-outbreak forecast of about 51 million. To read the full story, click [here](#).

Note: This update has been prepared for informational purposes and is compiled from publicly available sources and is not intended to be legal or tax advice. All hyperlinks are live and will bring you to the information mentioned.