

Weekly COVID-19 Update From EKA

April 7, 2021

A new “double mutant” strain of the coronavirus has been discovered in San Francisco, marking the first time the variant, thought to be behind a surge of cases in India, has been identified in the United States. The mutation is referred to as a “double mutant” because it carries two mutations that help the virus attach to cells.

VACCINATION

You’re Eligible For A COVID-19 Vaccine in California

As of April 1, all Californians 50 and older are eligible for a *free* COVID-19 vaccine. On April 15, all Californians 16 and older will also be allowed to book appointments for shots. You’re going to want to understand the process and your options (and it’s OK if you don’t already). Start with our FAQ guide. Whether you’re new to this news or just need a refresher, it’ll help get you up to speed on the supply, the science, the guidance, and what you need to do.

President Says All U.S. Adults Should Be Eligible for Covid-19 Vaccine by April 19

President Biden said that all U.S. adults should be eligible for Covid-19 vaccines by April 19, speeding up a timeline he set out last month

REOPENING

Moving Beyond The Blueprint on June 15

After what will be 15 months of an often near-total economic shutdown, California will fully reopen its economy on June 15 provided key benchmarks are met: If vaccine supply is sufficient for Californians 16 years and older who wish to be inoculated; and If hospitalization rates are stable and low. For more information on the state’s move beyond the Blueprint, click [here](#).

Concerts in California to Return April 15

The California Department of Public Health announced new guidelines that would allow concerts, sporting events and conferences with specific rules and regulations. Venues will not be opening at full capacity. Concerts and their capacity will be based on the restrictions of each California county.

Orange Is The New Red

In the Orange Tier, businesses are still subject to face covering and social distancing requirements and capacity restrictions (typically between 25-50% depending on the

nature of the business) under the state’s requirements. Employers should be mindful that the state’s requirement and industry-specific guidance only sets the floor for businesses – and many counties have set additional (and typically more restrictive) requirements that businesses are required to plan for before they reopen. Regardless of these capacity limitations set by the County, all workers who are able to telecommute must be “strongly encouraged to continue to do so” to the greatest extent feasible. In other words, non-essential office-based businesses must continue to maximize remote work in the Orange Tier. Some of the most important considerations, however, go beyond capacity restrictions. As more businesses are allowed to reopen and expand their indoor operations, employers should consider taking steps to ensure they are staying on top of current requirements with respect to at least each of the following areas:

- ***Social Distancing Protocols.*** Many counties have specific protocols that employers must post at the worksite, train on, and distribute to employees (and in some cases, submit to the County online) before allowing employees to perform in-person work. These protocols are updated by the counties periodically (and therefore employers should stay informed of changes and update the forms accordingly), and typically include requirements on face coverings, cleaning and disinfecting the workplace, and individual control measures and screening, among various other considerations.
- ***COVID-19 Prevention Program.*** Most employers in California are now required to develop and implement a COVID-19 Prevention Program under Cal/OSHA’s COVID-19 Emergency Temporary Standards. This includes, for example, performing a detailed risk assessment and implementing a site-specific program, including putting controls and protocols in place for issues such as COVID-19 testing, investigations and contact tracing, return to work criteria and exclusion pay, and communications with employees.
- ***Training.*** The state industry guidance and checklists include topics that employees should be trained on prior to bringing employees back to work, including on how COVID-19 is spread, infection prevention techniques, staying home and getting tested if a worker has COVID-19 symptoms, and information regarding COVID-19-related benefits that affected employees may be entitled to under applicable laws.
- ***Signage Requirements.*** Various counties have created industry specific signage and posting requirements for business entrances, elevators, stairs, bathrooms, break rooms, and cafeterias.

- **Plumbing and Ventilation.** Employers should evaluate state *and* local requirements and guidance with respect to ventilation and make adjustments and improvements where necessary. Additionally, for businesses that have remained closed for the past year, employers should determine whether there are additional requirements they may be subject to relating to proper flushing out of pipes before reoccupying the worksite.
- **Reporting Requirements Following a Positive COVID-19 Case.** While there are statewide requirements with respect to reporting COVID-19 cases and outbreaks in the workplace to employees and contractors, local public health departments, Cal/OSHA and workers' compensation carriers, counties may have different and more restrictive requirements that employers need to be aware of and plan for. For example, Santa Clara County requires businesses to report to the Public Health Department *within 4 hours* of learning that any of their workers are confirmed to be positive for COVID-19.
- **Employment Policies and Benefits.** Employers should consider reviewing and updating their employment policies to incorporate any applicable changes related to COVID-19. For example, in addition to the voluntary extension of paid sick time and leave under the Families First Coronavirus Response Act, California recently revived and expanded its supplemental COVID-19 paid sick leave requirements for all employers with more than 25 employees. Various localities have also extended and expanded their own paid sick leave requirements, which in some cases may offset the state's required supplemental COVID-19 paid sick leave. Employers should carefully analyze the overlapping requirements to ensure compliance with all applicable laws.
- **Vaccination Considerations.** Although [guidance](#) issued by the California Department of Fair Employment and Housing (as well as the federal EEOC) appears to permit employers to require employees to receive the COVID-19 vaccine as a condition of employment, subject to certain considerations and necessary accommodations, other state and/or federal laws (such as the federal Food Drug and Cosmetic Act) may prove obstacles to such mandates. Moreover, simply because employers can mandate the vaccine, does not necessarily mean they should. As vaccines become more widely available across all age groups, California employers should carefully evaluate their options and anticipate the legal and health risks associated with having such policies in place (including, for example, considerations related to incentivizing vaccination and evaluating accommodation issues arising from the same).

State agencies have taken steps to assist California employers by creating a [COVID-19 Employer Portal](#) that generates a customized road map for reopening based on an employer's answers to various questions about the business type, applicable County of operation, and compliance practices already in place. The portal takes employers through a set of considerations to ensure businesses have the necessary protocols and policies in place prior to reopening, and provides links to applicable state *and* local resources. Of course, employers are still ultimately responsible for sorting through the applicable guidance and implementing the necessary changes specific to the worksite in order to ensure compliance.

New Protocols for Limited Services

This [protocol](#) outlines public health modifications required of businesses that provide limited services, defined broadly as services that generally do not require close customer contact. Limited services include those essential and other businesses that can provide services to the public while maintaining appropriate physical distancing from customers or the public. Examples of limited services businesses include laundromats, dry cleaners, bank and credit union branches, tax services, check cashing services, non-school learning services, auto repair shops, automobile sales, car washes, landscapers, door-to-door services and sales, pet grooming, 1:1 personal training, and dog walking. Additionally, this protocol applies to those businesses for which service provision may necessitate entry to private residences or community facilities, but physical distancing can be maintained. Those businesses include residential or janitorial cleaning services, HVAC services, appliance repair persons, electricians, plumbers, other mechanical tradespersons, handypersons, and general contractors. The new Los Angeles County Health Officer Order and all updated Los Angeles County protocols and guidance documents related to COVID-19 are posted on [here](#). Additional information about COVID-19 and the vaccine can be found [here](#):

LOS ANGELES COUNTY

LA County Ends Mandated Quarantines For Fully Vaccinated Travelers

The County announced new travel guidelines after the Centers for Disease Control and Prevention last week said that as long as coronavirus precautions are taken, including mask-wearing, fully vaccinated people can take trips within the United States without getting tested for COVID-19 before or self-quarantining after.

Additional Re-Openings with Safety Measures

Los Angeles County has met the threshold for the less restrictive Orange Tier in the [State's Blueprint for a Safer Economy](#). A revised Los Angeles County Health Officer Order

went into effect on Monday to reflect newly permitted activities. This allows the County to follow the state guidelines and wait until three weeks are completed in the Red Tier to be sure that case numbers do not rise this third week since the County's earlier re-openings. The Health Officer Order and modified directives for businesses will be posted on the [Los Angeles County Department of Public Health's website](#). Public Health teams will be available this week and through the weekend to provide information about upcoming changes, allowing establishments to be prepared for full compliance with the required safety modifications. Below is a listing of what will be allowed to open on April 5.

Bars that do not provide meals will be allowed to open outdoors with distancing, masking and infection control safety measures.

- Indoor operations are not permitted.
- Masks are required except when people are eating or drinking.
- There can be no counter seating and people can eat or drink only when they are seated.
- Tables must be 8 feet apart, with a maximum of 6 people from up to 3 different households.
- There can be no live entertainment, television is permitted, and hours of operations are from 11:30 AM until 10:00 PM.

Breweries, Wineries, Distilleries that do not serve meals can remain open outdoors and can also open indoors at 25% capacity or 100 people, whichever is fewer. These establishments will follow the same public health directives as bars for their outdoor areas; however, there are additional requirements for indoor spaces.

- Reservations are required for indoor seating.
- There is a maximum of 6 people per table and they must be from the same household.
- There is no live entertainment or television viewing indoors.

Restaurants can increase capacity for indoor dining to 50% capacity or 200 people, whichever is less with continued safety modifications.

Cardrooms can operate indoors at 25% capacity. There must be 8-feet of distancing between tables and masks are always required. Food and beverages remain banned from card tables.

Places of Worship can hold services indoors at 50% capacity.

Fitness Centers can operate indoors at 25% capacity and indoor pools can now reopen. Masks are always required unless swimming.

Movie Theatres can increase capacity to 50% or 200 people, whichever is less.

- Seats must be reserved, and each group must have 6 feet of distance from other groups in all directions. Eating is allowed in only designated areas or in your reserved seat.

Family Entertainment Centers can open indoors at 25% capacity for distanced activities, such as bowling or escape rooms. Masks remain required.

Grocery and Retail Stores can increase capacity to 75%, although Public Health strongly recommends grocery stores remain at 50% capacity until April 15 to allow as many grocery store workers as possible get vaccinated.

Hair Salons, Barbershops and Personal Care Services can increase capacity to 75% with masks required, except for services where customers need to remove their masks. For services where customers must remove their face coverings, staff must wear a fitted N95 or a mask with a face shield.

Museums, Zoos and Aquariums can be open indoors at 50% capacity.

Youth and Adult Recreational Sports can apply to Public Health for approval for athletic events, tournaments or competitions that involve more than two teams or multiple individuals.

Just because certain activities are allowed or certain reopening protocols are revised, does not mean that those activities are “safe” and without risk. To keep yourself, your family, your friends and neighbors, and the broader community and local economy safe, continue following these core practices:

- Go outdoors. Outdoor activities are far safer than indoor ones.
- Stay masked. Consistent and correct use of masks, especially double-masking, both indoors and outdoors, is very effective at preventing the spread of COVID-19.
- Maintain at least a 6-foot distance from others. Physical distancing from those who do not live with you also helps to keep the virus away.
- Avoid crowds. The fewer people you encounter and the fewer interactions you have, the smaller the chance the virus will spread.

Get vaccinated when it's your turn. All federally-authorized vaccines work well and will help protect you, your family, and your friends against COVID-19

CITY OF LOS ANGELES

LA To Take Over Operation Of Mammoth Cal State LA Vaccination Site

A giant COVID-19 vaccination site at Cal State Los Angeles, which had been run by FEMA, had been set to close on April 11, but L.A. Mayor Eric Garcetti said the city would take over the operation, which will transition on April 12.

SACRAMENTO

California Counties Ease Restrictions As COVID-19 Cases Fall

Statewide, only three counties totaling more than 1 million people — San Joaquin, Merced and Inyo — remain in the state's most restricted purple tier, where the virus remains widespread. Thirty-six counties are in the red tier, including hard-hit Fresno County, where officials said Tuesday people could dine indoors and visit the movies and museums at 25% capacity starting Wednesday. Still, officials are urging caution. California, which has taken a careful approach to reopening businesses, has one of the lowest infection rates in the country even as caseloads rise in many other states.

California Plans To Retire Color-Coded Tiers

Details about a so-called green tier — which would presumably allow almost all activities to resume in counties with very low threat from the virus — will be “coming soon” as part of the state's transition toward shutting down the tiered system entirely, said Dee Dee Myers, the state's top economic adviser. “We said we would reopen the economy as soon as it was safe to do so,” Myers said during a Friday briefing during which she and the state health officer introduced guidance bringing back indoor events and large private gatherings. To read the full story, [click here](#).

Labor Commissioner Issues FAQs For Supplemental COVID-19 Paid Sick Leave Law

Michael Campbell, who is an associate in the Labor and Employment Practice Group at SherpparMullin's Century City office, wrote an informative article regarding the Senate Bill 95, which requires employers with more than 25 employees in California to provide COVID-19 Supplemental Paid Sick leave. This new COVID-19 Supplemental Paid Sick Leave law allows covered employees to take up to an **additional** 80 hours of paid COVID-19 related sick leave. The Labor Commissioner recently [posted](#) a frequently asked questions list addressing S.B. 95. It also provided this [poster](#). All employers with 25 or more employees **must display** in a conspicuous place in the workplace or must disseminate to the workforce through electronic means if employees are telecommuting

and do not physically report to work. Employers should seek legal advice as soon as possible to ensure compliance with this legislation.

Which employers are covered by S.B. 95?

All public or private employers with more than 25 employees are covered.

Which employees are covered?

An employee who works for a covered employer is entitled to COVID-19 Supplemental Paid Sick Leave if the employee *cannot work or telework* due to a COVID-19 related reason.

What are the reasons an employee may take COVID-19 Supplemental Paid Sick Leave?

There are three main categories of reasons: (1) caring for oneself; (2) caring for a family member; and (3) a vaccine-related absence.

(1) Caring for oneself. An employee is entitled to COVID-19 Supplemental Paid Sick Leave if the employee is unable to work or telework because the employee is subject to a quarantine or isolation period related to COVID-19, has been advised by a healthcare provider to quarantine due to COVID-19, or is experiencing symptoms and is seeking a medical diagnosis.

(2) Caring for a family member. An employee is entitled to COVID-19 Supplemental Paid Sick Leave if the employee is unable to work or telework because the employee is caring for a family member who is subject to a quarantine or isolation period related to COVID-19, or the employee is caring for a child whose school or daycare is closed or unavailable due to COVID-19.

(3) Vaccine. An employee is entitled to COVID-19 Supplemental Paid Sick Leave if the employee is unable to work or telework because the employee is attending a vaccine appointment, or is experiencing vaccine-related symptoms.

Being subject to a general stay-at-home order does not qualify an employee for COVID-19 Supplemental Paid Sick Leave. Rather, quarantines and isolation periods must meet the definition or guidelines set forth by the California Department of Public Health, the federal Centers for Disease Control and Prevention, or a local health office who has jurisdiction over the workplace.

What time period does S.B. 95 cover?

January 1, 2021 through September 30, 2021. As explained below, beginning on March 29, the requirement to provide COVID-19 Supplemental Paid Sick Leave reaches back to January 1, 2021, which means that covered employees who took qualifying leave

between January 1, 2021 and March 28, 2021, *may request retroactive payment* for that leave if it was not paid by the employer in the amount that is required under S.B. 95.

When is an employer required to begin paying COVID-19 Supplemental Paid Sick Leave?

The law goes into effect on March 29, 2021. Employers must begin providing payment for this specific sick leave *no later than the payday for the next regular payroll period*. Therefore, some employers will need to be ready to pay COVID-19 Supplemental Paid Sick Leave by the first full week of April 2021.

When does an employer have to make COVID-19 Supplemental Paid Sick Leave available to an employee?

Leave must be provided to a covered employee upon an oral or written request.

Can an employer require a medical certification prior to granting a request for COVID-19 Supplemental Paid Sick Leave?

No. The leave is *not* dependent upon a medical certification. However, in some circumstances, it may be reasonable to ask for documentation before paying the “sick” employee if the employer has other information indicating that the employee is not requesting COVID-19 Supplemental Paid Sick Leave for a valid reason.

When and how may an employee request retroactive payment of COVID-19 Supplemental Paid Sick Leave?

If a covered employee took a COVID-19 related leave on or after January 1, 2021, for one of the qualifying reasons above, but was not paid the amount required by S.B. 95, the employee has the right to ask for a retroactive payment equal to the paid sick leave amount required under the new law. The employer’s obligation to pay this amount does not go into effect until March 29, 2021. Thus, the employee must make an oral or written request for retroactive payment on or after March 29, 2021. A request before March 29 does not count. After the employee makes the request, the employer will have until the payday for the next full pay period to pay the retroactive COVID-19 Supplemental Paid Sick Leave amount owed. For example, if an eligible employee took three hours off work in February 2021 to attend a vaccine appointment, the employee may make an oral or written request for three hours of retroactive paid leave.

What is the maximum amount of COVID-19 Supplemental Paid Sick Leave under S.B. 95?

The maximum amount of paid leave is 80 hours.

Is COVID-19 Supplemental Paid Sick Leave calculated differently for full-time and part-time employees?

Yes. A covered employee who is considered full-time, or who worked or was scheduled to work an average of 40 hours or more in the two weeks preceding a COVID-19 related leave is entitled to 80 hours of paid leave. If a part-time covered employee works a variable schedule, there is a formula for calculating the employee's number of hours of leave. For example, the average number of hours the employee worked for the employer each day during the prior six months is multiplied by 14 to determine the number of hours attributable to the employee's COVID-19 Supplemental Paid Sick Leave.

How much is a covered employee paid for the COVID-19 Supplemental Paid Sick Leave?

For exempt employees, COVID-19 Supplemental Paid Sick Leave is calculated in the same manner that the employer calculates other forms of paid leave time. For non-exempt employees, COVID-19 Supplemental Paid Sick Leave is paid at the *HIGHEST* of the following:

- The employee's regular rate of pay for the workweek in which the leave is taken
- A rate calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment
- The State minimum wage
- The local minimum wage

MAXIMUM AMOUNT ALERT An employer is not required to pay more than \$511 per day and \$5,110 in total to a covered employee specifically for COVID-19 Supplemental Paid Sick Leave. However, an employee may utilize other types of paid leave after the employee reaches the maximum amount.

Does a retroactive payment of COVID-19 Supplemental Paid Sick Leave count as a credit toward the maximum amount?

Yes. The retroactive payment must be for a leave between January 1, 2021 and March 28, 2021, the leave must have been for a qualifying reason above, and the retroactive payment must be made at the correct rate described above.

What if the employer previously paid another supplemental benefit for COVID-19 related sick leave before the effective date of S.B. 95, may the employer receive a credit toward COVID-19 Supplemental Paid Sick Leave as well?

Yes, but this is more complex. For an employer to receive a credit, the employee's leave must have been for a qualifying reason. Further, the employer must not have required

the employee to use any other type of paid time off or vacation time. In addition, the employer must have paid the legally required rate (*i.e.*, the highest rate) described above. If the rate paid was lower than the legally required rate, the employer may voluntarily retroactively pay the difference to the employee to receive a credit. If an employee makes an oral or written request for such a “catchup” payment, the employer must make the payment in the next pay period. Essentially, the employee must be paid the difference as if the prior paid leave had been treated as COVID-19 Supplemental Paid Sick Leave.

What if a local law requires COVID-19 related paid sick leave be paid at a different rate?

The employer must pay the sick pay at whichever rate is higher to ensure compliance with both state and local law.

How should COVID-19 Supplemental Paid Sick Leave be denoted on a wage statement or separate statement?

COVID-19 Supplemental Paid Sick Leave must be set forth as a separate line item on either the employee’s itemized wage statement, or the separate writing provided to the employee to comply with California’s sick pay law.

Conclusion

All employers in California with more than 25 employees nationwide should review S.B. 95 and analyze its impact upon the employer’s supplemental paid sick leave requirements. Because this new legislation will go into effect on March 29, 2021, and is set to expire on September 30, 2021, time is of the essence. Employers should seek legal advice as soon as possible in connection with this legislation. The legal landscape continues to evolve quickly and there is a lack of clear-cut authority or bright-line rules on implementation. This article is not intended to be unequivocal, one-size-fits-all guidance but instead represents our interpretation of where applicable law currently and generally stands. This article does not address the potential impacts of the numerous other local, state and federal orders that have been issued in response to the COVID-19 pandemic, including, without limitation, potential liability should an employee become ill, requirements regarding family leave, sick pay and other issues.

NATIONAL

Cleaning and Disinfecting Your Home

According to the [CDC](#), cleaning with a household cleaner that contains soap or detergent reduces the amount of germs on surfaces and decreases risk of infection from surfaces. Disinfection to reduce transmission of COVID-19 at home is likely not needed

unless someone in your home is sick or if someone who is positive for COVID-19 has been in your home within the last 24 hours. Follow recommended steps for cleaning and disinfecting your home when someone is sick.

COVID-NET Laboratory-Confirmed COVID-19 Hospitalizations

The CDC's COVID-NET works with more than 250 hospitals in 14 states to monitor COVID-19-associated hospitalizations by age, race and ethnicity, sex, and underlying health conditions. Explore trends in COVID-19-associated hospitalizations through interactive dashboards on CDC's [COVID Data Tracker](#).

CDC Issues Updated Guidance on Travel for Fully Vaccinated People

The Centers for Disease Control and Prevention (CDC) updated its travel guidance for fully vaccinated people to reflect the latest evidence and science. Given [recent studies](#) evaluating the real-world effects of vaccination, CDC recommends that fully vaccinated people can travel at low risk to themselves. A person is considered fully vaccinated two weeks after receiving the last recommended dose of vaccine. Updates to CDC travel guidance for vaccinated people can be found [here](#) and [here](#).

Americans Who Are Fully Vaccinated For COVID-19 Can Travel

People who are fully vaccinated against COVID-19 can safely travel within the United States and abroad as long as they continue to take precautions like wearing a mask in public, according to new guidance released by the the Centers for Disease Control and Prevention. In its [updated guidance](#), the agency still “recommends delaying travel until you are fully vaccinated, because travel increases your chance of getting and spreading COVID-19.

Johnson & Johnson's vaccine is delayed by a U.S. factory mixup

Workers at a plant in Baltimore manufacturing two coronavirus vaccines accidentally conflated the ingredients several weeks ago, contaminating up to 15 million doses of Johnson & Johnson's vaccine and forcing regulators to delay authorization of the plant's production lines. The plant is run by Emergent BioSolutions, a manufacturing partner to both Johnson & Johnson and AstraZeneca, the British-Swedish company whose vaccine has yet to be authorized for use in the United States. Federal officials attributed the mistake to human error. The mix-up has delayed future shipments of Johnson & Johnson doses in the United States while the Food and Drug Administration investigates what occurred. Johnson & Johnson has moved to strengthen its control over Emergent BioSolutions' work to avoid additional quality lapses.

EMPLOYER ISSUES

Employers Can Mandate COVID Vaccines

[Constangy Brooks & Smith](#) answers the question, may an employer require its California employees to be vaccinated against COVID-19? According to recent guidance from the state Department of Fair Employment and Housing, the short answer is yes. On March 4, the DFEH issued an updated [COVID-19 FAQ for Employers](#). According to the FAQs, an employer may require employees to receive an FDA-approved vaccination against COVID-19 as long as the employer complies with the Fair Employment and Housing Act. Note, however, that the DFEH did not advise about **whether** employers should mandate vaccinations. The FAQs provide specific guidance about accommodating employees with a disability or sincerely held religious belief. In particular, the FAQs state as follows:

- If an employee objects to getting vaccinated because of disability or on the basis of a sincerely-held religious belief or practice, the employer must engage in the interactive process with the employee to identify any reasonable accommodation that will allow the employee to continue working.
- Employers must provide a reasonable accommodation unless the employer can demonstrate (1) an undue hardship; (2) the employee is unable to perform the employee's essential duties even with reasonable accommodations, or (3) the employee cannot perform those duties in a manner that would not endanger the employee's health or safety or the health or safety of others even with reasonable accommodations.
- Employers cannot retaliate against employees who request an accommodation because of a disability or a sincerely held religious belief or practice.

The DFEH provides examples of reasonable accommodation options employers may consider, such as allowing the employee to work from home, implementing processes that would enable the employee to work without endangering the employee or others, job restructuring, job reassignment, or modification of work practices.

What about employees who “do not trust that the vaccine is safe?” According to the DFEH, a reasonable accommodation is unnecessary unless the employee objects to the vaccine for a disability-related reason or because of a sincerely held religious belief. However, although not specifically addressed by the DFEH, employers should also accommodate pregnant women who have been advised against getting vaccinated during their pregnancies.

Although employers may discipline employees who refuse to get vaccinated absent a disability or sincerely held religious belief, employers cannot retaliate against

employees for engaging in protected activity (*i.e.*, opposing practices prohibited by the FEHA). The Guidance states, “an employer may not retaliate against someone who alleges that the employer’s vaccination policy intentionally discriminates on the basis of race, national origin, or another protected characteristic, or has a disparate impact on a protected group.”

Finally, employers may ask employees to present proof of vaccination. However, asking for more may be considered an improper medical inquiry, which is strictly prohibited under most circumstances. Any proof of vaccination must be maintained in the employee’s confidential medical file.

The DFEH FAQs provide long-awaited guidance on for California employers on vaccination policies and related issues. Although employers can mandate that their employees be vaccinated, the decision to mandate vaccinations requires a detailed analysis of the workforce and the objectives that the employer seeks to achieve. Employers who are considering mandated vaccinations should consult with legal counsel.

Steps to Take for Safely Returning Employees to the Workplace

[Bianca Saad](#) with CalChamber posted an infomative article regarding what what COVID-19 safety measures do employers need to have in place before bringing employees back to the worksite from remote work. Employers who are bringing their employees back to the workplace have several steps and considerations to make. The article is below.

Written Prevention Program

One major safety component is developing a written COVID-19 Prevention Program, as required under the California Division of Occupational Safety and Health (Cal/OSHA) [Emergency Temporary Standards](#) (ETS) that took effect on November 30, 2020. In creating your written COVID-19 Prevention Program, you will need to address several topics, including but not limited to how you will: communicate your COVID-19 prevention procedures to your employees; identify, evaluate and correct COVID-19 hazards; implement physical distancing and face-covering requirements; investigate and respond to COVID-19 cases in the workplace; provide testing to employees who may have been exposed to COVID-19 in the workplace; and exclude COVID-19 cases and exposed employees from the workplace. Cal/OSHA has made a [Model COVID-19 Prevention Program](#) available for employers to use

COVID-19 Testing

Aside from addressing the topic of testing in the written COVID-19 Prevention Program, employers are required to provide COVID-19 testing for employees who were exposed

to COVID-19 at work (additional testing requirements are triggered by “major” or “multiple” outbreaks as defined by the ETS), exclude COVID-19 cases and exposed employees from the workplace (including maintaining pay and benefits), and ensuring specific criteria are met before COVID-19 cases and exposed employees may safely return to work.

Notifications/Reporting

Employers should also be familiar and ready to comply with your various [notification and reporting requirements](#) related to COVID-19.

Under AB 685, and under the Cal/OSHA ETS, employers must notify all employees within one business day of learning of a positive case in the workplace. Additionally, employers have obligations to report all positive cases to their workers’ compensation carrier under SB 1159.

Sick Leave

Lastly, part of maintaining a safe and healthy workplace includes allowing employees who are sick or experiencing any COVID-19 symptoms to stay home. Available leave may include California mandated paid sick leave, leave under the federal [Families First Coronavirus Response Act](#) for those employers voluntarily providing it, local paid sick leave or supplemental paid sick leave ordinances, and most recently, California’s newly enacted [supplemental paid sick leave law](#).

Industry-Specific Standards

Keep in mind this is a general overview of some of the highlighted safety measures to have in place. Employers should also check for any [industry-specific standards](#), along with any requirements of their particular local health department.

LEGAL DEVELOPMENTS

Federal Appeals Court Refuses To Stay Decision Striking Down CDC Eviction Moratorium

The U.S. Court of Appeals for the Sixth Circuit on [denied](#) the federal government’s motion to stay a district court decision striking down the Centers for Disease Control and Prevention (CDC) eviction moratorium. In response to COVID-19, the CDC [ordered](#) a nationwide moratorium on residential evictions last fall. This moratorium covered tenants if they provided their landlord with a statement attesting that they incurred a substantial loss of income, applied for all available rent relief, and understood that the moratorium did not relieve of rental obligations. Congress extended the moratorium to January 31, 2021, and the CDC further extended it to March 31.

WHAT WE'RE READING

COVID-19 Relief Draws Criticism

Several cities across the nation received federal discretionary dollars last year to help cover COVID-19 related costs. L.A. received nearly \$700 million dollars in discretionary funds from the federal government, according to the U.S. Department of the Treasury. The city used nearly \$42 million of these CRF dollars to reimburse LAPD COVID-19 costs, according to data provided by Patricia Huber, assistant city administrative officer in L.A. This figure accounts for about 6% of the city's relief fund. To read the full story, click [here](#).

Fully Vaccinated Against COVID-19? CDC Says It's Safe To Travel But Still Recommends Staying Home

The Centers for Disease Control and Prevention said Americans who are fully vaccinated against COVID-19 can resume travel at low risk to themselves, but the agency is still not recommending travel given rising [case counts](#). CDC Director Rochelle Walensky, who earlier this week issued an [urgent plea](#) to limit travel due to [fears of another COVID surge](#), said Friday that the new guidance is based on studies showing the "real-world" effectiveness of COVID-19 vaccines. To read the full story, click [here](#).

New York Allows Them, Florida Bans Them. Will Californians Get COVID Vaccine Passports?

California officials have been silent on whether they are considering this type of credential, but other governments and industries already have taken up their own versions. The basic idea is that such a tool could ensure safety once businesses, entertainment venues and other places reopen. But some public health experts worry that vaccine passports could further harm communities of color, given that there are still widespread barriers for underserved communities to access the vaccine and the fact that California has vaccinated [more white people](#) than Black and Latino people combined thus far. To read the full story, click [here](#).

Third Stimulus Check: IRS To Begin Sending Payments For Social Security Recipients

The [Internal Revenue Service](#) and Treasury Department announced that stimulus checks for Social Security recipients and other federal beneficiaries will be issued this weekend. While [these payments](#) will be distributed in the coming days, [the agencies said](#) the majority of the checks will be sent electronically and received on Wednesday, April 7. To read the full story, click [here](#).

13 California Counties Move To Looser COVID-19 Tiers. El Dorado, 3 Others Miss Out

Thirteen California counties with a combined population of more than 17 million residents advanced to less restrictive tiers within the state's reopening framework in a

weekly update Tuesday, while four others that were positioned for possible promotion missed out. All five purple-tier counties that were eligible to move — Fresno, Glenn, Kings, Madera and Yuba counties — promoted into the red tier, allowing a number of indoor business openings including restaurant dining rooms, gyms and movie theaters. Eight other counties advanced from red to orange: Alameda, Butte, Colusa, Los Angeles, Modoc, Orange, Santa Cruz and Tuolumne. That move will loosen capacity limits from red-tier restriction levels and also allows a few more types of indoor entertainment businesses to open. All restriction changes take effect starting Wednesday, unless a county's health office chooses to impose its own tighter guidelines. To read the full story, click [here](#).

After a String of Bungled Tech Upgrades, California Tries a New Approach

Some of California's largest agencies rely on a 60-year-old computer programming language called COBOL for some of their operations. That includes EDD, the DMV and Medi-Cal's fee-for-service program. It's too late to prevent the unemployment disarray at EDD, but the state is hoping a new way of procuring and updating technology will help prevent similar computer meltdowns in the future. Some of these improvements are already underway, but reforms on some of the legacy systems may not bear fruit for at least three to five years. To read the full story, click [here](#).

Wells Fargo, S.F.'S Second-Largest Employer, Extends Remote Work Until September

Wells Fargo, San Francisco's second-largest private employer, will keep 200,000 of its workers home through September 6. Plans are subject to change based on health guidelines, but Wells Fargo is encouraged by vaccination availability, according to a memo the bank shared with The Chronicle. Banks are an essential business, and 60,000 Wells Fargo retail and office workers are currently working on site. The bank had previously extended remote work until May. To read the full story, click [here](#).

As Access Expands, California Is Set To Close 2 Mass Vaccination Sites In Oakland, LA

As COVID-19 vaccinations ramp up around the nation and more adults become eligible to get the shot, FEMA is slated to pull out of two of California's mass vaccination sites, taking thousands of vaccines with it. The reason? The state never asked the federal government to keep operating them. The Federal Emergency Management Agency supplies and administers as many as 7,500 doses per day each site — the Oakland Coliseum and California State University, Los Angeles. They were set up as pilot projects in February and were the first FEMA mass vaccination sites in the country. But as the eight-week pilot winds down, the sites will soon begin administering the one-dose Johnson & Johnson vaccines before FEMA withdraws on April 11. To read the full story, click [here](#).

California Okes In-Person Graduations This Year

After a tumultuous year of distanced learning and lost milestones, the Class of 2021 can look forward to next-to-normal commencement ceremonies following the release of new guidelines from the California Department of Public Health. All commencement ceremonies will adhere to the state's existing guidance for outdoor seated events and for gatherings. Attendees will be asked to wear masks, limit groups to a single household unit and maintain six feet of distance from people outside of their household. Unfortunately, this means no hugs and handshakes for the new graduates. To read the full story, click [here](#).

Federal Watchdog Calls For Centralized Covid-19 Data Website

Federal health agencies need to be more transparent about critical Covid-19 data, particularly on race and ethnicity and infections at nursing homes, the Government Accountability Office said Wednesday. The watchdog recommended those steps as part of its call for a sweeping overhaul of federal data on Covid-19, based on its probe of efforts to collect and analyze pandemic statistics across agencies. GAO wants the Department of Health and Human Services to create a centralized website for Covid-19 data from the CDC and other federal sources. The CDC has focused on tracking Covid-19 cases and deaths, along with vaccine distribution and equity efforts; HHS has led on tracking testing, hospitalization trends and other key supplies like personal protective equipment. To read the full story, click [here](#).

Pfizer-BioNTech Covid-19 Vaccine 100% Effective in Study of 12- to 15-Year-Olds, Companies Say

The Covid-19 vaccine from Pfizer Inc. and BioNTech SE safely protects kids 12 years and older, the companies said, results likely to lead to inoculating children before this summer. The vaccine was 100% effective in protecting against symptomatic disease in a study of more than 2,200 children, the companies said Wednesday. Researchers also didn't find any safety concerns, Pfizer and BioNTech said. Given the results, Pfizer said it would ask U.S. health regulators in the coming weeks to expand use of the shots to 12- to 15-year-olds. To read the full story, click [here](#).

A Third National Lockdown Seems Likely In France As Hospitals Are Overwhelmed

President Emmanuel Macron will address the country at 8 p.m. on Wednesday and is expected to announce new restrictions, possibly bringing in a third national lockdown, which he has long tried to avoid. France on Tuesday reported more than 5,000 people in intensive care units for the first time since last April, with bed shortages in hospitals in the most affected areas becoming acute. And the slow vaccine rollout has not prevented an outburst of infections, as an average of about 37,000 daily new cases have been reported over the past week. To read the full story, click [here](#).

Supervisor Barger: City's Rent Relief Stimulus Funds to be Distributed by State

Rental assistance funds from the \$1.9 trillion stimulus package will now be allocated to the city from the state, according to Los Angeles County Supervisor Kathryn Barger. Barger told the City Council in a joint meeting on Wednesday that the County originally planned to distribute the funds, but the state refused to set up a database that would show which jurisdictions had received the money. To read the full story, click [here](#).

Carrots, Sticks And Jabs: What Will California Do To Win Over Vaccine Skeptics?

Today all Californians 50 and older are now eligible to get their coveted COVID vaccine — including one politically imperiled 53-year-old governor. Gov. Gavin Newsom plans to celebrate this latest benchmark by getting a well-publicized jab himself, thus marking the beginning of the end of what has been a particularly thorny political challenge for the administration: How to make sure the millions of Californians eager to get a vaccine are able to get one. Now it's on to the next challenge: How to vaccinate the millions of Californians who aren't quite so eager. A survey released on Tuesday by the Public Policy Institute of California found that 14% of adult respondents said they would "definitely not get the vaccine." Another 7% said they "probably" wouldn't. That suggests that one in five Californians will need, at the very least, some extra convincing. To read the full story, click [here](#).

Hundreds Missed Out On Rent Relief When Landlords Didn't Take The Money

The city and County of San Diego set aside more than \$47 million in federal coronavirus aid last fall to pay landlords whose low-income tenants were behind on rent. But some eligible renters didn't get any help because their landlords didn't take the money and they weren't required to explain why. Public records obtained by inewssource show 1,268 eligible households were denied assistance from the County's rent relief program because their landlords either refused to participate or missed deadlines. The city's program, overseen by the San Diego Housing Commission, had 19 households with landlords who wouldn't accept payments, an agency spokesperson said. To read the full story, click [here](#).

J&J Vaccine On Hold As State Expands Eligibility

Public health officials across California must rethink their COVID vaccine distribution plans after learning Wednesday that future U.S. shipments of the long-awaited, single-dose Johnson & Johnson vaccine have been abruptly halted over quality concerns. The news couldn't have come at a worse time as California dramatically expands vaccine eligibility to people 50 and older starting today. All Californians 16 and older become qualified on April 15. California was allocated 572,700 doses of Johnson & Johnson vaccine for next week. That shipment will still arrive. To read the full story, click [here](#).

U.S. Jobless Claims Remain Near Lowest Levels Since Covid-19's Onset

Filings for unemployment benefits rose last week but remained near their lowest levels since the pandemic's onset, amid signs of a broader U.S. economic recovery. Workers filed 719,000 initial jobless claims, on a seasonally adjusted basis, in the week ended March 27, the Labor Department said Thursday. The increase followed a downward revision to 658,000 initial claims the prior week, the lowest point of the pandemic. The four-week moving average, which smooths out volatility in the numbers, fell to 719,000, its lowest point since the pandemic hit in March 2020. Initial jobless claims, a proxy for layoffs, remain well above pre-pandemic levels—the weekly average in 2019 was 218,000—but have trended downward since the start of the year. To read the full story, click [here](#).

Still Don't Have A Stimulus Check? Here's How To Track Yours.

As major banks started delivering \$1,400 stimulus checks this month, the timing of the federal relief payments has aroused concerns among many people who are struggling to make ends meet amid the coronavirus-hobbled economy. The Internal Revenue Service has delivered 127 million payments worth approximately \$325 billion, the agency said. But among those still waiting for payments are about 30 million Social Security recipients, who have reached out to CBS MoneyWatch with concerns about delays. To read the full story, click [here](#).

The DOJ is Continuing to Target PPP Recipients for Fraud

The federal Paycheck Protection Program (PPP) established by the Coronavirus Aid, Relief, and Economic Security (CARES) Act provided a total of \$934 billion in Thank funding to companies impacted by the COVID-19 pandemic. As of September 2020, Congress had already identified billions of dollars in suspect loans issued under the PPP; and, in the months since, the U.S. Department of Justice (DOJ) has continued to pursue fraud investigations targeting PPP loan recipients across the country. To read the full story, click [here](#).

L.A. County's Lawyers Argue Against Complete Lifting Of Injunction Against Sun Valley Church

Lawyers for Los Angeles County state in new court papers that a preliminary injunction issued by a judge last summer directing a Sun Valley church to refrain from holding indoor church services should be modified only to allow 25% capacity. The county lawyers are challenging a motion by attorneys for Grace Community Church, who cite two recent U.S. Supreme Court decisions in their argument to lift the preliminary injunction in its entirety. To read the full story, click [here](#).

Employers Under Pressure as Covid Retaliation Court Claims Rise

Jovan Alvarez filed a wrongful termination [lawsuit](#) against Valley Presbyterian Hospital in a California state court on March 15, claiming he was fired in retaliation for bringing Covid-19 safety issues, including a lack of personal protective equipment, to his now-former supervisors. Alvarez, who worked at the Van Nuys facility since 2012, claims wrongful termination, intentional infliction of emotional distress, and a variety of state labor code violations. He is calling for millions in damages, and he's not alone. To read the full story, click [here](#).

Amid California's Unemployment Crisis, A-Tech Gold Rush

In California, it's not easy to track who's getting paid for what, because there is no easily accessible public list of all state unemployment contracts. The state and its contractors stress that both the demand for benefits and volume of fraud are unprecedented. Still, ongoing confusion adds to what state lawmakers have called the Employment Development Department's "very poor history" of paying outside entities to patch holes in the safety net as workers try to survive in financial limbo. The \$236 million in contracts that the department has signed since last March pay for outside companies to help track jobless claims, verify worker identities, analyze records for potential fraud, assist with customer service and more. CalMatters requested and analyzed detailed contract records for five vendors working on key customer service and anti-fraud projects — Deloitte, Maximus, Thomson Reuters, ID.me vendor V3Gate and Salesforce vendor Outreach Solutions as a Service — which total at least \$103.8 million and have ballooned in cost over time, but which the state says were crucial in a crisis. To read the full story, click [here](#).

California Oks Indoor Sports, Concerts As COVID Cases Plunge

Most of the state's 58 counties will be permitted to allow at least some indoor seating because they fall into the lower three levels of California's four-tiered COVID-19 restriction plan. Big population centers like San Francisco, Santa Clara County and Los Angeles County are in the second-least restrictive orange tier. Only three counties — San Joaquin, Merced and Inyo — remain in the highest purple tier, indicating "widespread" COVID-19 risk. The others will be permitted some indoor seating "with capacity limits and modifications including physical distancing, advance ticket purchases, designated areas for eating and drinking, and attendance limited to in-state visitors," according to a state public health announcement. To read the full story, click [here](#).

California scrambles as maskless crowds flood vacation hotspots

Authorities across southern California are scrambling to contain large holiday crowds on beaches, boardwalks and piers this weekend, anxious about a possible new surge in Covid-19 cases. But they face a restive public eager to party in the sun after more than a

year of lockdowns, and appear to have few tools at their disposal to enforce mask-wearing and social distancing. Images of hundreds of largely maskless people crammed on to the Santa Monica pier or huddled around street performers on the Venice boardwalk over the past few days have raised concerns that spring break in the Golden state could spiral out of control, much as it has in Miami Beach, Florida, and trigger a super-spreader event. To read the full story, click [here](#).

Have You Seen A Doctor Lately? Delays Likely To Trigger Deaths, Poor Health

As the coronavirus swept through California last spring, many people canceled their in-person medical appointments or their providers temporarily closed their doors. Telehealth visits boomed in the past year, but there's only so much that doctors and nurses can do through a screen. Dental visits, mammograms and annual wellness checks were put on hold. About a third of Californians who had an urgent health problem unrelated to COVID-19 and wanted to see a physician did not receive care, according to a poll of 2,249 adults conducted last summer by the California Health Care Foundation. And almost half of those surveyed didn't receive care for their nonurgent physical health problem. To read the full story, click [here](#).

California Teachers' Latest Demand: Free Child Care

As part of school reopening agreements in San Diego, Sacramento and San Jose, unions successfully fought for policies that allow employees to bring their children to the classroom as in-person instruction resumes. Now, the United Teachers of Los Angeles is asking for more than that. The union is calling on Los Angeles Unified to allow educators with young children to continue working from home until the district can provide them subsidized child care and a proper child care program for teachers by the fall. Parent groups worry the child care ask could bubble up in other districts, complicating hard-fought reopening plans and limiting how much in-person instruction schools can offer. To read the full story, click [here](#).

U.S. Taps Johnson & Johnson To Run Troubled Vaccine Plant

The Biden administration on Saturday put Johnson & Johnson in charge of a troubled Baltimore manufacturing plant that ruined 15 million doses of the Johnson & Johnson coronavirus vaccine and moved to stop the plant from making another vaccine by AstraZeneca, senior federal health officials said. The extraordinary move by the Department of Health and Human Services came just days after officials had learned that Emergent BioSolutions, a contract manufacturer that has been making both the Johnson & Johnson and the AstraZeneca vaccines, mixed up ingredients from the two, which led regulators to delay authorization of the plant's production lines. To read the full story, click [here](#).

You Should Think Twice Before Laminating Your Vaccine Card

Vaccine eligibility in the U.S. is expanding quickly, and so is the popularity of the Centers for Disease Control and Prevention's little white card. While plans to establish standardized vaccination proof are still being developed, many are holding to their Covid-19 vaccine cards as a potential form of social currency. And companies, like Staples and Office Depot, are offering to help keep them safe with free lamination. While it may be tempting to get your vaccine card laminated as soon as possible, you should take your time and make sure you've considered a few things beforehand. To read the full story, click [here](#).

Coronavirus Infections On The Rise In The Bay Area, Following National Trend

Coronavirus infections trended up in the Bay Area for the week ending Friday, with the average number of daily new cases at 475, up 8.7% from the prior week ending March 26. The data could indicate that California is beginning to fall in line with the rest of the United States, where coronavirus infections have steadily plateaued or increased due to more infectious variants. "On the West Coast, we see a leveling off," which is not a bad thing, said Dr. George Rutherford, an infectious disease expert at UCSF. "We may go back up a little bit. We may hit bottom and bounce up a little bit." This is the fourth straight week of rising cases nationwide, according to Dr. Rochelle Walensky, director of the U.S. Centers for Disease Control and Prevention. To read the full story, click [here](#).

Timing For Student Stimulus Checks Varies By Campus

The variance means that a student at one college received \$1,000, give or take, weeks ago while a student attending a school crosstown still waits for their share, according to information CalMatters requested from several dozen California public institutions and a review of their websites. That means the soonest any students received their portion of the \$21 billion higher-education relief package Congress approved December 27 was two months after the funds were approved, and it could be three months or longer for a significant portion of California college students. To read the full story, click [here](#).

Note: While EKA monitors governmental announcements, guidelines and recommendations, our updates are prepared for informational purposes and are compiled from publicly available sources. Our updates should not be considered health, medical, legal, or tax advice. Always consult a qualified professional regarding any specific questions you may have. All hyperlinks are live and will bring you to the information mentioned. If you are not interested in receiving future emails from us, then please reply with a "Remove" in the subject line and note the email addresses to be removed.

Previous Updates

Our previous COVID-19 updates can be found [here](#). Feel free to share our updates with friends and colleagues. We hope you find the information in the EKA updates and the questions they raise to be informative. If you have any COVID-19 government or communications questions, please reach out to any EKA team members.