

Sweeney Mason

LLP

Coronavirus (COVID-19) Update:

CalOSHA Approves Revised Workplace COVID Rules

On Thursday, June 17, 2021, the California Occupational Safety and Health Standards (CalOSHA) Board adopted revisions to the COVID-19 Prevention Emergency Temporary Standards (ETS) that account for recent guidance from the California Department of Public Health (CDPH). Under the recent executive order from Governor Newsom, the revised ETS go into effect immediately, rather than after the normal 10-day review period.

CalOSHA Emergency Temporary Standards (ETS)

Revisions to the COVID-related ETS include the following:

- Fully vaccinated employees* do not need to wear face coverings in the workplace except for certain situations during outbreaks and in settings where CDPH requires all persons to wear them (such as at transportation hubs).

Employers must document the vaccination status of fully vaccinated employees if they do not wear face coverings indoors. The ETS does not mandate a particular documentation method, but the FAQs indicate that several methods are acceptable:

1. Employees self-attest to vaccination status and employer maintains a record of who self-attests;
 2. Employees provide proof of vaccination. The employer maintains a record of the employees who presented proof, but not the vaccine record itself;
 3. Employees provide proof of vaccination (vaccine card, image of vaccine card or health care document showing vaccination status) and employer maintains a copy.
- Fully vaccinated employees do not need to be offered testing or excluded from work after close contact unless they have COVID-19 symptoms.

- Employees who are not fully vaccinated may request respirators for voluntary use from their employers at no cost and without fear of retaliation from their employers
- Employees who are not fully vaccinated and exhibit COVID-19 symptoms must be offered testing by their employer.
- Employees are not required to wear face coverings when outdoors regardless of vaccination status except for certain employees during outbreaks.
- Employees are explicitly allowed to wear a face covering without fear of retaliation from employers.
- Physical distancing requirements have been eliminated except where an employer determines there is a hazard and for certain employees during major outbreaks.
- Employers must review the Interim guidance for Ventilation, Filtration, and Air Quality in Indoor Environments.
- Employers must evaluate ventilation systems to maximize outdoor air and increase filtration efficiency, and evaluate the use of additional air cleaning systems.

*full vaccination occurs two weeks after completion of the entire recommended series of vaccination, usually one or two doses, with a vaccine authorized to prevent COVID-19 by the federal Food and Drug Administration, including by way of an emergency use authorization).

CalOSHA has provided an updated fact sheet and FAQs for employers. It is also in the process of updating its Model COVID-19 Prevention Program. Sweeney Mason will continue to monitor and provide updates on the revised ETS as we receive more information.

Sweeney Mason LLP continues to monitor the rapidly evolving situation pertaining to the COVID-19 virus and resulting legal issues. We are finding that the laws and orders released by the Federal, State, County and Local governments are, in some cases, ambiguous, vague and/or contradictory, resulting in some confusion among a broad cross-section of our clients. At this juncture, and given the fast-paced changes to the applicable orders and mandates, as well as the ambiguities inherent in the orders there is no “one-size-fits-all” approach to COVID-19-related legal matters. As a result, contracts, employment issues, ongoing lawsuits and other matters impacted by the COVID-19 outbreak should be analyzed on a case-by-case basis and with the assistance of Sweeney Mason LLP.

Sweeney Mason LLP is in daily contact with governmental offices and various trade organizations to monitor the developments surrounding the COVID-19 outbreak. While much of our personnel continues to work remotely, Sweeney Mason LLP is fully operational and will

continue to assist our clients and community with their legally related issues and concerns during this uncertain time.

For more information, please contact our employment team at 408-356-3000 or via email: Roger Mason at rmason@smwb.com or Rachael Brown at reb@smwb.com.

The following links may assist you in evaluating some of the issues you may have. Stay safe!

Cal/OSHA:

[Preparing Your Workplace for COVID-19](#)
[Emergency Temporary Standards](#)
[Emergency Temporary Standards FAQs](#)

California:

[Blueprint for a Safer Economy](#)
[EDD COVID-19 Overview](#)
[EDD COVID-19 FAQs](#)
[Supplemental Paid Sick Leave FAQs](#)

Santa Clara County:

[Current Risk Reduction Order \(October 5, 2021\)](#)
[Risk Reduction Measures \(March 2, 2021\)](#)
[Social Distancing Protocol \(October 5, 2021\)](#)
[Public Health Department FAQs](#)
[Requirements for Businesses](#)
[Guidance for Businesses](#)

San Jose:

[Paid Sick Leave Ordinance](#)



The information provided in this publication is general in nature and is not intended to answer every question that may arise under different fact situations and should not be relied on in the place of professional advice in a given case. If you have specific questions, please contact Sweeney Mason LLP.

SWEENEY MASON LLP's philosophy is that by educating our clients, and other businesses, about their legal obligations, including changes in the law, we best serve our legal goal of minimizing or preventing expensive litigation.

Sweeney Mason LLP
983 University Ave, Suite 104C | Los Gatos, CA 95032 US
408.356.3000
www.smwb.com