California Relaxes The Cal/OSHA Emergency Temporary Standards

Article By

Kaleb N. Berhe

Foley & Lardner LLP

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On April 21, 2022, California’s Occupational Safety and Health Standards Board, the standard-setting body of California’s Occupational Safety and Health Administration (Cal/OSHA), once again revised the COVID-19 Emergency Temporary Standards (ETS) that we previously addressed in July 2021. The revised ETS, which took effect on May 6, 2022, and will remain in effect through December 31, 2022, consist of the most relaxed COVID-19 prevention workplace measures to come out of the Golden State since the inception of the original ETS on November 30, 2020.

Some of the most notable changes are as follows:

Face Coverings
Face covering requirements are now the same for vaccinated and unvaccinated employees, and employees are no longer required to wear face coverings at all times when indoors or when inside employer-provided vehicles. The revised ETS also do away with the requirement that face coverings must not let light pass through when held up to a light source.

These changes do not necessarily address other situations where face covering requirements remain in place, such as in the event of an outbreak. Employers should consult the California Department of Public Health’s Guidance for the Use of Face Masks to understand the various circumstances in which face coverings remain a requirement.

**Respirators**

Employers must provide free respirators to employees who request them for voluntary use regardless of their vaccination status.

**Physical Distancing**

Physical distancing is no longer required under the revised ETS, except for during an outbreak (three or more employees in an exposed group) or major outbreak (20 or more employees in an exposed group).

**Cleaning and Disinfection**

The prior requirements for cleaning and disinfection procedures as well as all references to objects or surfaces in the definition of a “COVID-19 Hazard” have been removed.

**Testing and Exclusion**

COVID-19 testing must be made available to all employees with COVID-19 symptoms. As with respirators, this now applies to all employees regardless of vaccination status instead of only applying to unvaccinated employees.

The previous detailed requirements for the return to work of persons who have had “close contact” to a COVID-19 case have been removed. The revised ETS directs employers to follow the CPDH guidelines for returning close contact employees to work.

Regardless of vaccination status, an employee who tests positive can return to work after five days if the employee has a negative test, their symptoms are improving, and they wear a face covering at work for an additional five days. Otherwise, most employees who test positive can return to work after 10 days.

The revised ETS have relaxed the criteria for an acceptable COVID-19 test. Previously, a test had to be observed by either the employer or an authorized telehealth proctor. Going forward, self-administered and self-read tests will be acceptable for assessing an employee’s ability to return to work so long as there is a means to independently verify the results, such as a time-stamped photograph of the


employee’s test results.

**Not Out of the Woods Yet**

Apart from the above changes, the revised ETS remain the same in several important respects. For example, employers are still required to establish, implement, and maintain an effective written COVID-19 Prevention Program that includes:

- Identifying and evaluating employee exposures to COVID-19 health hazards.
- Implementing effective policies and procedures to correct unsafe and unhealthy conditions.
- Allowing adequate time for handwashing.

Additionally, employers are still required to provide training and instruction to employees on how COVID-19 is spread, infection prevention techniques, and information regarding COVID-19 benefits that employees may be entitled to under applicable federal, state, or local laws.

Employers are encouraged to review the revised ETS and related state guidelines referenced in this article and consult with their counsel to ensure their COVID-19 workplace policies and procedures are in full compliance.

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