Executive Team

Dominic D. Brown, CPA, CFE
Chief Executive Officer

Daryn Miller, CFA
Chief Investment Officer

Jennifer Zahry, JD
Chief Legal Officer

Matthew Henry, CFE
Chief Operations Officer

KERN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

KCERA

PRUDENT INVESTMENT • QUALITY SERVICE

December 15, 2021

Members, Board of Retirement
Employee Bargaining Units
Requesting News Media
Other Interested Parties

Subject: Special Meeting of the Kern County Employees' Retirement Association Board of Retirement

Ladies and Gentlemen:

A special meeting of the Kern County Employees' Retirement Association Board of Retirement will be held on Monday, December 20, 2021 at 8:30 a.m. via teleconference pursuant to Assembly Bill 361, signed into law on September 16, 2021 as urgency legislation, Resolution 2021-04 adopted by the KCERA Board of Retirement at its Special Meeting held December 3, 2021 and Governor Newsom's March 4, 2020 proclaimed State of Emergency, which remains in effect. (Cal. Gov. Code section 54953, as amended by Assembly Bill 361).

If you wish to listen to the teleconference meeting, please dial one of the following numbers and enter Meeting ID# 289-998-6429:

- (669) 900-9128
- U.S. Toll-free: (888) 788-0099 or (877) 853-5247

Items of business will be limited to the matters shown on the attached agenda. If you have any questions or require additional service, please contact KCERA at (661) 381-7700 or send an email to administration@kcera.org.

Sincerely,

Dominic D. Brown
Chief Executive Officer

Attachment

AGENDA:

All agenda item supporting documentation is available for public review on KCERA's website at www.kcera.org following the posting of the agenda. Any supporting documentation that relates to an agenda item for an open session of any regular meeting that is distributed after the agenda is posted and prior to the meeting will also be available for review at the same location.

AMERICANS WITH DISABILITIES ACT
(Government Code §54953.2)

Disabled individuals who need special assistance to listen to and/or participate in the teleconference meeting of the Board of Retirement may request assistance by calling (661) 381-7700 or sending an email to administration@kcera.org. Every effort will be made to reasonably accommodate individuals with disabilities by making meeting materials and access available in alternative formats. Requests for assistance should be made at least two (2) days in advance of a meeting whenever possible.

ROLL CALL

MOMENT OF SILENCE

1. Discussion and appropriate action pursuant to California Government Code section 54953 of the Ralph M. Brown Act, as amended by Assembly Bill 361 presented by Chief Executive Officer Dominic Brown and Chief Legal Officer Jennifer Zahry – RECONSIDER THE CIRCUMSTANCES OF THE STATE OF EMERGENCY; FIND THAT THE STATE OF EMERGENCY CONTINUES TO DIRECTLY IMPACT THE ABILITY OF ATTENDEES TO MEET SAFELY IN PERSON AND/OR THAT SOCIAL DISTANCING MEASURES ARE BEING RECOMMENDED AT THE STATE LEVEL; ADOPT FINDINGS FOR THE BOARD OF RETIREMENTAND ALL KCERA STANDING COMMITTEES; APPROVE 30-DAY RESOLUTION

2. Discussion and appropriate action on recommended changes to DB Investors Fund IV[1] presented by Chief Investment Officer Daryn Miller, CFA, Senior Retirement Investment Officer Brian Long, CFA, and the Investment Committee – APPROVE CHANGES TO DB INVESTORS FUND IV; AUTHORIZE CHIEF EXECUTIVE OFFICER TO SIGN, SUBJECT TO LEGAL ADVICE AND REVIEW

REFERRALS TO STAFF, ANNOUNCEMENTS OR REPORTS

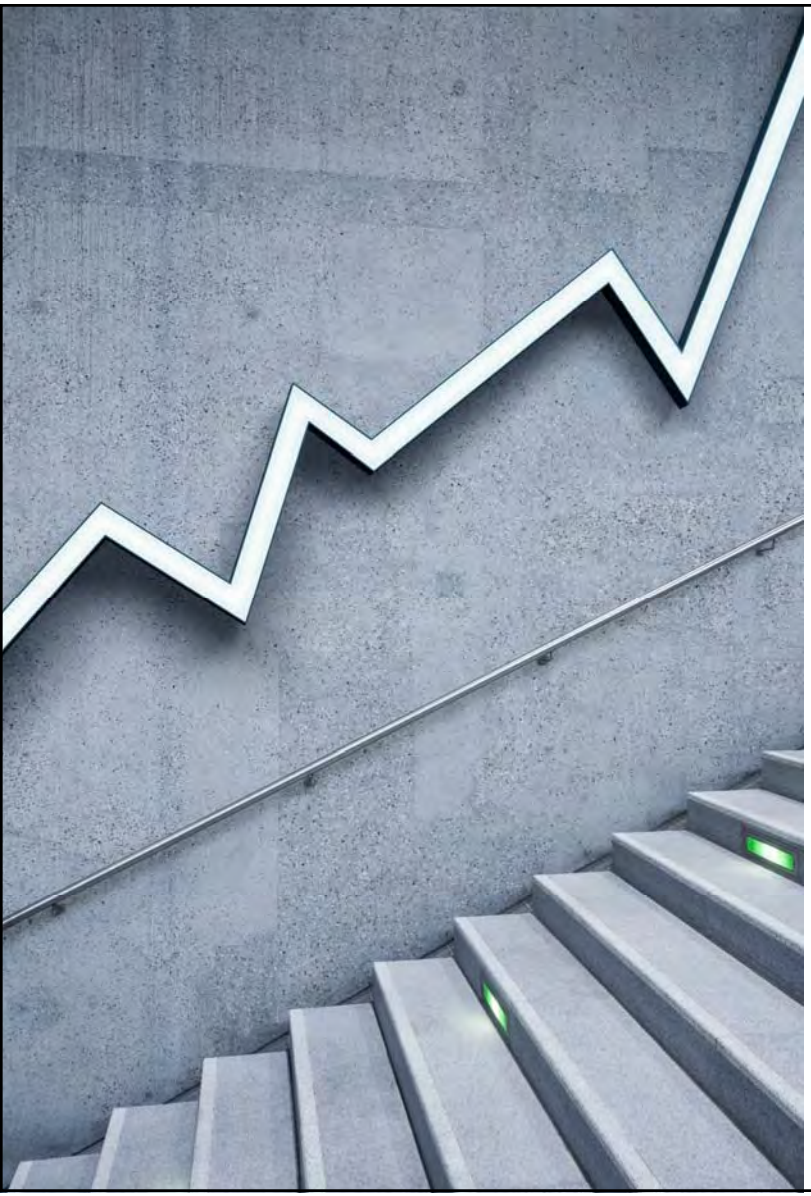
3. On their own initiative, Board members may make a brief announcement, refer matters to staff, subject to KCERA's rules and procedures, or make a brief report on their own activities.

1 Written materials and investment recommendations from the consultants, fund managers and KCERA investment staff relating to alternative investments are exempt from public disclosure pursuant to California Government Code §6254.26, §6255, and §54957.5.

NEW BUSINESS

4. Consider, discuss, and take possible action to agendize one or more items for future meetings of the Board of Retirement – CONSIDER, DISCUSS, AND TAKE ACTION ON WHETHER TO AGENDIZE PROPOSED ITEMS, IF ANY, FOR A FUTURE MEETING

5. Adjournment



Consideration of AB 361 Findings

JENNIFER ZAHRY, KCERA CHIEF LEGAL OFFICER

Issue:

The Board of Retirement must reconsider the circumstances of the current State of Emergency and determine whether any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the attendees to meet safely in person;

and/or

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

Legal Analysis

Purpose of Adopting Findings:

1) *statutory requirement to continue to meet virtually; and*

2) *evidentiary support for Board Decision*

Any challenge to Board Action would generally involve a writ proceeding in which a party would seek to compel the Board to perform a certain action.

Primary Writ Consideration for KCERA: are there sufficient facts (supported by evidence) to make findings?

Writ granted against Board if Board action is "arbitrary, capricious or totally lacking in evidentiary support."

On review of an agency's decision, generally, a judge must defer to an agency's decision, unless it is arbitrary, capricious, or totally lacking in evidentiary support. *Walker v City of San Clemente* (2015) 239 CA4th 1350, 1369.

A judge must accord non-adjudicatory acts "the most deferential level of judicial scrutiny." *Weinstein v County of Los Angeles* (2015) 237 CA4th 944, 964–965.

In applying this extremely deferential test, a judge must ensure that the agency adequately considered all relevant factors and demonstrated a rational connection between those factors, the choice made, and the purposes of the enabling statute. *Ruegg & Ellsworth v City of Berkeley, supra,* 63 CA5th 277, 298; *Manderson-Saleh v Regents of Univ. of Cal., supra,* 60 CA5th 674, 693; *Weinstein v County of Los Angeles, supra,* 237 CA4th at 965.

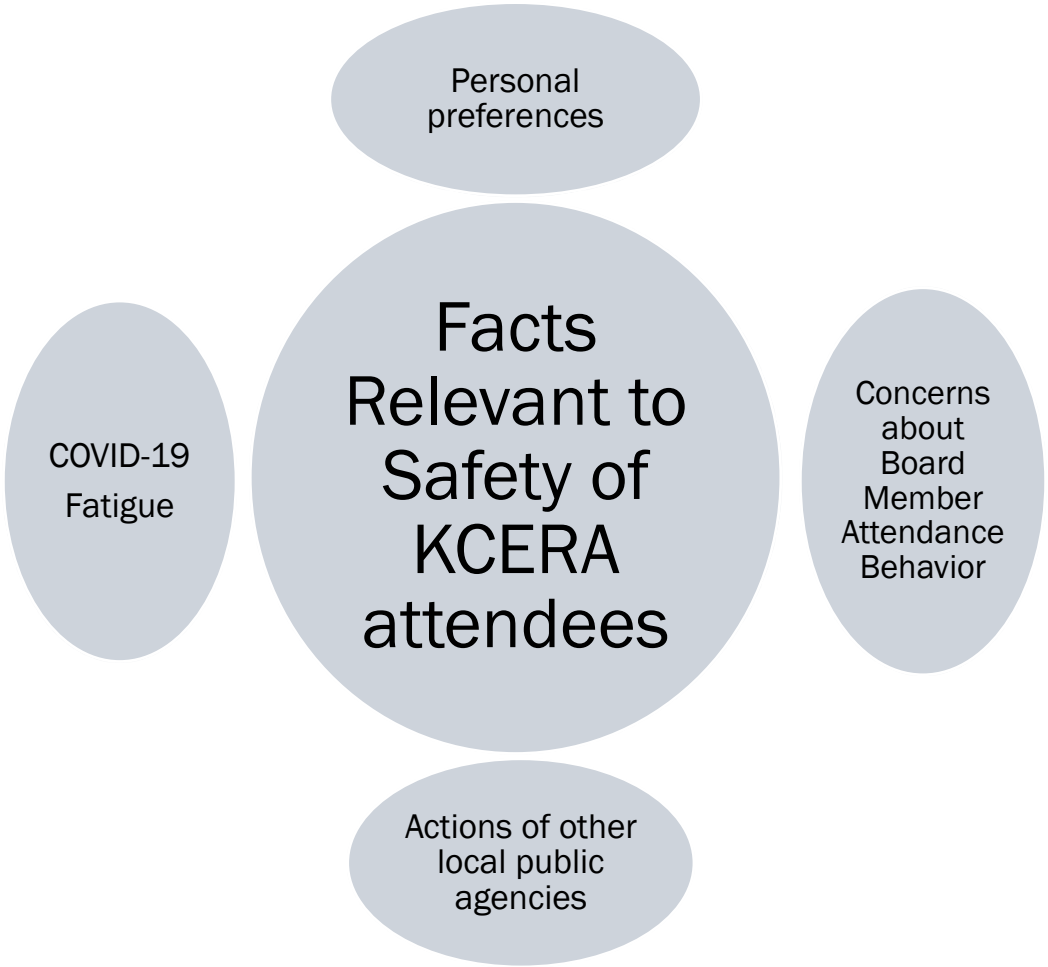
- *Facts relevant to Board's consideration of ability of attendees to meet safely in-person:*

- Local and State Public Health
+ Guidelines/Mandates
+ Masking

- Attendee Population
+ Risk Level
+ Vaccination rate

- Prevalence of COVID-19 and variants of concern locally
+ Infection Rate
+ Hospitalizations
+ Death Rate

- Meeting facility
+ capacity
+ space
+ ventilation



AB 361 Findings – Safety of Attendees

FACTS TO SUPPORT DIRECT IMPACT ON ABILITY OF ATTENDEES TO SAFELY MEET IN-PERSON

- Kern County Infection Rate – HIGH (CDC tracker – Case rate per 100k is 151.63)
- Kern County % of population fully vaccinated – 47.9% (CDC Tracker); 493,612 (unvaccinated) vs. 427,039 (vaccinated) (KCPHS website 12/14/21)
- 4-week state-wide universal mask mandate imposed to slow community spread (CDPH)
- Winter Surge modeling reported by local public health: 1,023 cases per day by February; 742 in March, bottoming out late-May (worst-cast scenario). (KCPHS)
- Some Public, Retired members, and Active Members may be at high risk for severe illness, if infected (CERL age at retirement 50+)
- Ventilation system not evaluated (CEO)
- Size of Board Room – 12 Trustees, 6+ Staff, and varying public attendance depending on agenda topic
- Duration of Indoor Meetings – 1 – 4 hours depending on agenda

FACTS TO SUPPORT LOWER IMPACT ON CERTAIN ATTENDEES SAFELY MEETING IN-PERSON

- For fully vaccinated individuals in Kern County: 1.41% positivity rate and .06% hospitalization rate (cumulative from 1/21/21).
- 78.8% of persons age 65+ in Kern County are fully vaccinated (CDC Tracker).

AB 361 Findings

REQUIREMENTS - IF NO FINDINGS MADE

- Quorum of the Board Members Must Return to Board Room
  - Virtual attendance by some trustees possible, but
    - must post agenda at trustee's virtual location
    - must allow public to attend meeting from trustee's virtual location
- Must allow all public to attend meeting in-person
- May allow public/consultants to continue to participate via teleconference
- Staff members may attend in-person or virtually, per CEO direction
- Implementation and enforcement of proper masking by Chief Executive Officer and Chief Operating Officer

OPTIONS - IF STATUTORY FINDINGS MADE

- Continue meeting virtually – status quo
- Any Board Member may attend meeting in-person at KCERA (mandatory masking is required indoors through Jan. 15th)
- Public/Consultants may continue to participate via teleconference – status quo
- Staff may attend in-person or virtually, at CEO direction
- Implementation and enforcement of state-wide masking mandate by Chief Executive Officer and Chief Operating Officer

BEFORE THE BOARD OF RETIREMENT
KERN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
RESOLUTION No. 2021-06

In the matter of:

MEETINGS OF THE KCERA BOARD OF RETIREMENT AND ITS STANDING COMMITTEES PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54953, AS AMENDED BY ASSEMBLY BILL 361.

Ayes:

Noes:

Absent:

Dominic D. Brown,
Secretary to the Board of Retirement,
Kern County Employees' Retirement Association

RESOLUTION

Section 1. WHEREAS:

(a) The Kern County Employees' Retirement Association ("KCERA") is required by the Ralph M. Brown Act (Cal. Gov. Code[1] 54950 – 54963) ("the Brown Act") to conduct open and public meetings, so that any member of the public may attend, participate, and watch KCERA's legislative bodies conduct their business; and

[1] All statutory references are to the California Government code unless stated otherwise.

(b) All meetings of KCERA's Board of Retirement and its standing committees are open and public in accordance with the Brown Act or other governing authority; and

(c) KCERA is committed to preserving and encouraging public access and participation in meetings of the Board of Retirement; and

(d) The Brown Act, at section 54953(e) (as added by Assembly Bill 361), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the teleconference requirements of section 54953(b)(3), subject to the existence of certain conditions; and

(e) A state of emergency must have been declared by the Governor pursuant to section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in section 8558; and such state of emergency must be in effect at the time of the meeting in order to conduct a meeting under section 54953(e); and

(f) Governor Newsom proclaimed a State of Emergency on March 4, 2020, pursuant to section 8625 that remains active; and

(g) The KCERA Board of Retirement made findings on December 3, 2021, by majority vote, that it has reconsidered the circumstances of the state of emergency and found that the state of emergency continues to directly impact the ability of attendees to safely meet in person over the next 30 days and/or that Cal/OSHA continues to impose or recommend measures to promote social distancing in certain circumstances.

(h) To continue to teleconference without compliance with section 54953(b)(3), section 54953(e) requires the legislative body to make certain findings by majority vote within 30 days of December 3, 2021; and

(i) California's Division of Occupational Safety and Health, ("Cal/OSHA") COVID-19 Prevention Emergency Temporary Standards continue to include requirements for vaccinated and unvaccinated workers. (8 C.C.R. § 3205). These Standards continue to recommend physical distancing as part of training and instruction that must be given to employees. And, in some circumstances, the Standards continue to require physical distancing. (8 C.C.R. § 3205). These standards continue to apply to all workers in California with few exceptions. KCERA continues to follow the Cal/OSHA guidance; and

(j) Kern County continues to be designated as having "high" community transmission by the Centers for Disease Control and Prevention ("CDC") and the California Department of Public Health ("CDPH"); and

(k) The Delta variant remains the dominant variant in Kern County is documented to be at least two times as contagious as early COVID-19 variants, leading to increasing infections; and

(l) Additionally, a new variant of concern, Omicron, has been identified in California and is believed to be more transmissible than the Delta variant; and

(m) The Public Health Officer for the CDPH has issued a four-week state-wide mask mandate for all individuals in all indoor public settings regardless of vaccination status beginning December 15, 2021 to slow the spread of the virus at this time; and

(n) the Board finds that it has reconsidered the circumstances of the state of emergency and found that the state of emergency continues to directly impact the ability of attendees to safely meet in person over the next 30 days and/or that Cal/OSHA continues to impose or recommend measures to promote social distancing in certain circumstances.

Section 2. NOW, THEREFORE BE IT RESOLVED, by the Board of Retirement for the Kern County Employees' Retirement Association as follows:

Effective December 20, 2021, the following actions are authorized and required of KCERA:

1) Remote Teleconference Meetings. The Chief Executive Officer and legislative bodies of KCERA are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act in order to avoid directly impacting the ability of attendees to meet safely in person during the next 30 days of the current State of Emergency (proclaimed by the Governor on March 4, 2020).

2) Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) January 19, 2022, or such time the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of KCERA may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

RESOLUTION HISTORY

1) This Resolution was:
   a) Approved by the Board on October 13, 2021.
   b) Approved by the Board on November 3, 2021.
   c) Approved by the Board on December 3, 2021.
   d) Approved by the Board on December 20, 2021

Evidence in Support of Findings

EVIDENCE IN SUPPORT OF FINDINGS

TABLE OF CONTENTS

TOMÁS J. ARAGÓN, M.D., Dr.P.H.
State Public Health Officer & Director

State of California—Health and Human Services Agency

California Department of Public Health

GAVIN NEWSOM
Governor

December 13, 2021

TO: All Californians

SUBJECT: Guidance for the Use of Face Coverings

Note: This guidance is effective December 15, 2021, and will supersede all prior face coverings guidance.

Related Materials: Face Coverings Q&A | Face Coverings Fact Sheet (PDF) | Face Mask Tips and Resources | Face Shields Q&A (PDF) | Safe Schools for All Hub | More Home & Community Guidance | All Guidance | More Languages

Updates as of December 13, 2021:

- Adds requirement for universal masking indoors statewide December 15, 2021, through January 15, 2022.

Guidance For the Use of Masks

Background

The COVID-19 vaccines remain effective in preventing serious disease, hospitalization, and death from the SARS-CoV-2 virus. Unvaccinated persons are more likely to get infected and spread the virus which is transmitted through the air and concentrates indoors. To ensure that we collectively protect the health and well-being of all Californians; keep schools open for in-person instruction; and allow California's economy to remain open and thrive, the California Department of Public Health (CDPH) **is requiring masks to be worn in all indoor public settings, irrespective of vaccine status, for the next four weeks (December 15, 2021 through January 15, 2022).**

This new measure brings an added layer of mitigation as the Omicron variant, a Variant of Concern as labeled by the World Health Organization, is detected across California, the United States, and the world and is likely to spread more easily than the original SARS-CoV-2 virus and the Delta variant. Additionally, this new measure brings additional protection to individuals, families and communities during the holidays when more travel occurs, and time is spent indoors.

Since Thanksgiving, the statewide seven-day average case rate has increased by 47% and hospitalizations have increased by 14%. While the percentage of Californians fully vaccinated and boosted continues to increase, we continue to have areas of the state where vaccine coverage is low, putting individuals and communities at greater risk for COVID-19. Given the current hospital census, which is at or over capacity, even a moderate surge in cases and hospitalizations could

materially impact California's health care delivery system within certain regions of the state. Other states and countries with similar vaccination rates that have relaxed masking requirements are seeing surges in COVID-19 cases and increasing stress in their healthcare systems.

As recently noted in an updated Science Brief[1] by the Centers for Disease Control and Prevention (CDC), at least ten studies have confirmed the benefit of universal masking in community level analyses: in a unified hospital system,[2] a German city,[3] two U.S. states,[4], [5] a panel of 15 U.S. states and Washington, D.C.,[6], [7] as well as both Canada[8] and the U.S.[9], [10], [11] nationally. Each analysis demonstrated that, following directives for universal masking, new infections fell significantly. Two of these studies[12], [13] and an additional analysis of data from 200 countries that included the U.S.[14] also demonstrated reductions in mortality. Another 10-site study showed reductions in hospitalization growth rates following mask mandate implementation.[15]

Implementing a universal masking requirement not only has proven to decrease the rate of infections but is able to slow community transmission. A series of cross-sectional surveys in the U.S. suggested that a 10% increase in self-reported mask wearing tripled the likelihood of slowing community transmission.[16]
The masking requirement in California schools has allowed us to keep schools open when compared to other parts of the country. California accounts for roughly 12% of all U.S. students, but only 1% of COVID-19 related school closures. Nationally during the Delta surge in July and August 2021, jurisdictions without mask requirements in schools experienced larger increases in pediatric case rates, and school outbreaks were 3.5 times more likely than in areas without school mask requirements.[17], [18]

In workplaces, employers are subject to the Cal/OSHA COVID-19 Emergency Temporary Standards (ETS) or in some workplaces the Cal/OSHA Aerosol Transmissible Diseases (ATD) Standard and should consult those regulations for additional applicable requirements.

Masking Requirements

Masks are required for all individuals in all indoor public settings, regardless of vaccination status from December 15, 2021 through January 15, 2022 (surgical masks or higher-level respirators are recommended).

See State Health Officer Order, issued on July 26, 2021, for a full list of high-risk congregate and other healthcare settings where surgical masks are required for unvaccinated workers, and recommendations for respirator use for unvaccinated workers in healthcare and long-term care facilities in situations or settings not covered by Cal OSHA ETS or ATD.

For additional information on types of masks, the most effective masks, and ensuring a well-fitted mask, individuals should refer to CDPH Get the Most out of Masking and see CDPH Masking Guidance Frequently Asked Questions for more information.

No person can be prevented from wearing a mask as a condition of participation in an activity or entry into a business.

Exemptions to masks requirements

The following **individuals** are exempt from wearing masks at all times:

- Persons younger than two years old. Very young children must not wear a mask because of the risk of suffocation.
- Persons with a medical condition, mental health condition, or disability that prevents wearing a mask. This includes persons with a medical condition for whom wearing a mask could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a mask without assistance.
- Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
- Persons for whom wearing a mask would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.

[1] Science Brief: Community Use of Masks to Control the Spread of SARS-CoV-2 | CDC

[2] Wang X, Ferro EG, Zhou G, Hashimoto D, Bhatt DL. Association between universal masking in a health care system and SARS-CoV-2 positivity among health care workers. *JAMA*. 2020;324(7):703–704.

[3] Mitze T, Kosfeld R, Rode J, Wälde K. Face masks considerably reduce COVID-19 cases in Germany. *Proc Natl Acad Sci U S A*. 2020;117(51):32293–32301.

[4] Gallaway MS, Rigler J, Robinson S, et al. Trends in COVID-19 incidence after implementation of mitigation measures – Arizona, January 22-August 7, 2020. *MMWR Morb Mortal Wkly Rep*. 2020;69(40):1460–1463.

[5] Van Dyke ME, Rogers TM, Pevzner E, et al. Trends in county-level COVID-19 incidence in counties with and without a mask mandate – Kansas, June 1-August 23, 2020. *MMWR Morb Mortal Wkly Rep*. 2020;69(47):1777–1781.

[6] Lyu W, Wehby GL. Community use of face masks and COVID-19: evidence from a natural experiment of state mandates in the US. *Health Aff (Millwood)*. 2020;39(8):1419–1425.

[7] Hatzius J, Struyven D, Rosenberg I. Face masks and GDP. Updated June 29, 2020. Accessed July 8, 2020.

[8] Karaivanov A, Lu SE, Shigeoka H, Chen C, Pamplona S. Face masks, public policies and slowing the spread of COVID-19: evidence from Canada. *J Health Econ*. 2021;78:102475.

[9] Joo H, Miller GF, Sunshine G, et al. Decline in COVID-19 hospitalization growth rates associated with statewide mask mandates – 10 states, March-October 2020. *MMWR Morb Mortal Wkly Rep*. 2021;70(6):212–216.

[10] Chernozhukov V, Kasahara H, Schrimpf P. Causal impact of masks, policies, behavior on early COVID-19 pandemic in the U.S. *J Econom.* 2021;220(1):23–62.

[11] Guy GP Jr, Lee FC, Sunshine G, et al. Association of state-issued mask mandates and allowing on-premises restaurant dining with county-level COVID-19 case and death growth rates – United States, March 1-December 31, 2020. *MMWR Morb Mortal Wkly Rep*. 2021;70(10):350–354.

[12] Ibid, 6.

[13] Ibid, 7.

[14] Ibid, 11.

[15] Ibid, 9.

[16] Rader B, White LF, Burns MR, et al. Mask-wearing and control of SARS-CoV-2 transmission in the USA: a cross-sectional study. *The Lancet Digital Health*. 2021;3(3):e148–e157.

[17] Jehn M, McCullough JM, Dale AP, Gue M, Eller B, Cullen T, Scott SE. Association between K–12 school mask policies and school-associated COVID-19 outbreaks — Maricopa and Pima Counties, Arizona, July–August 2021. *MMWR Morb Mortal Wkly Rep*. 2021; 70(39);1372–1373.

[18] Budzyn SE, Panaggio MJ, Parks SE, Papazian M, Magid J, Eng M, Barrios LC. Pediatric COVID-19 cases in counties with and without school mask requirements — United States, July 1–September 4, 2021. *MMWR Morb Mortal Wkly Rep*. 2021; 70(39);1377–1378.

California Department of Public Health
PO Box, 997377, MS 0500, Sacramento, CA 95899-7377
Department Website (cdph.ca.gov)

State or territory: California

County or metro area: Kern County

Kern County, California

State Health Department

7-day Metrics | 7-day Percent Change

Community Transmission — High

Everyone in **Kern County, California** should wear a mask in public, indoor settings. Mask requirements might vary from place to place. Make sure you follow local laws, rules, regulations or guidance.

How is community transmission calculated?

	December 14, 2021
Cases	1,451
Case Rate per 100k	161.19
% Positivity	3.5%
Deaths	42
% of population ≥ 5 years of age fully vaccinated	51.8%
New Hospital Admissions	76

KERN COUNTY
Public Health Services
DEPARTMENT

BRYNN CARRIGAN
DIRECTOR

KRISTOPHER LYON, MD
HEALTH OFFICER

1800 MT. VERNON AVENUE BAKERSFIELD, CALIFORNIA 93306-3302 661-321-3000 WWW.KERNPUBLICHEALTH.COM

November 3, 2021

NEWS RELEASE

Media Contact: Michelle Corson, 661-868-0288

Eligible Residents Urged to Get COVID-19 Booster and Help Avoid Winter Surge
Current state modeling projects a potentially dramatic increase in COVID-19 cases and hospitalizations this winter based on waning immunity and need for booster doses.

Recent modeling provided by the state indicates that another winter surge is a possibility and primarily influenced by waning immunity to COVID-19. During the pandemic, modeling has proven to be a valuable tool to help inform our local response as we shore up needed resources for public health, emergency medical and hospital systems during surges.

Specifically, the California COVID-19 Assessment Tool (CalCAT) shows a worst-case scenario of Kern County beginning another surge in early December 2021, reaching our peak on January 14, 2022 averaging 748 cases per day and hospitalizations peaking on January 20, 2022 with 559 hospitalizations. For context, at the height of our most recent surge, Kern peaked at an average of 411 cases per day with 336 hospitalizations and tended to follow the pessimistic modeling.

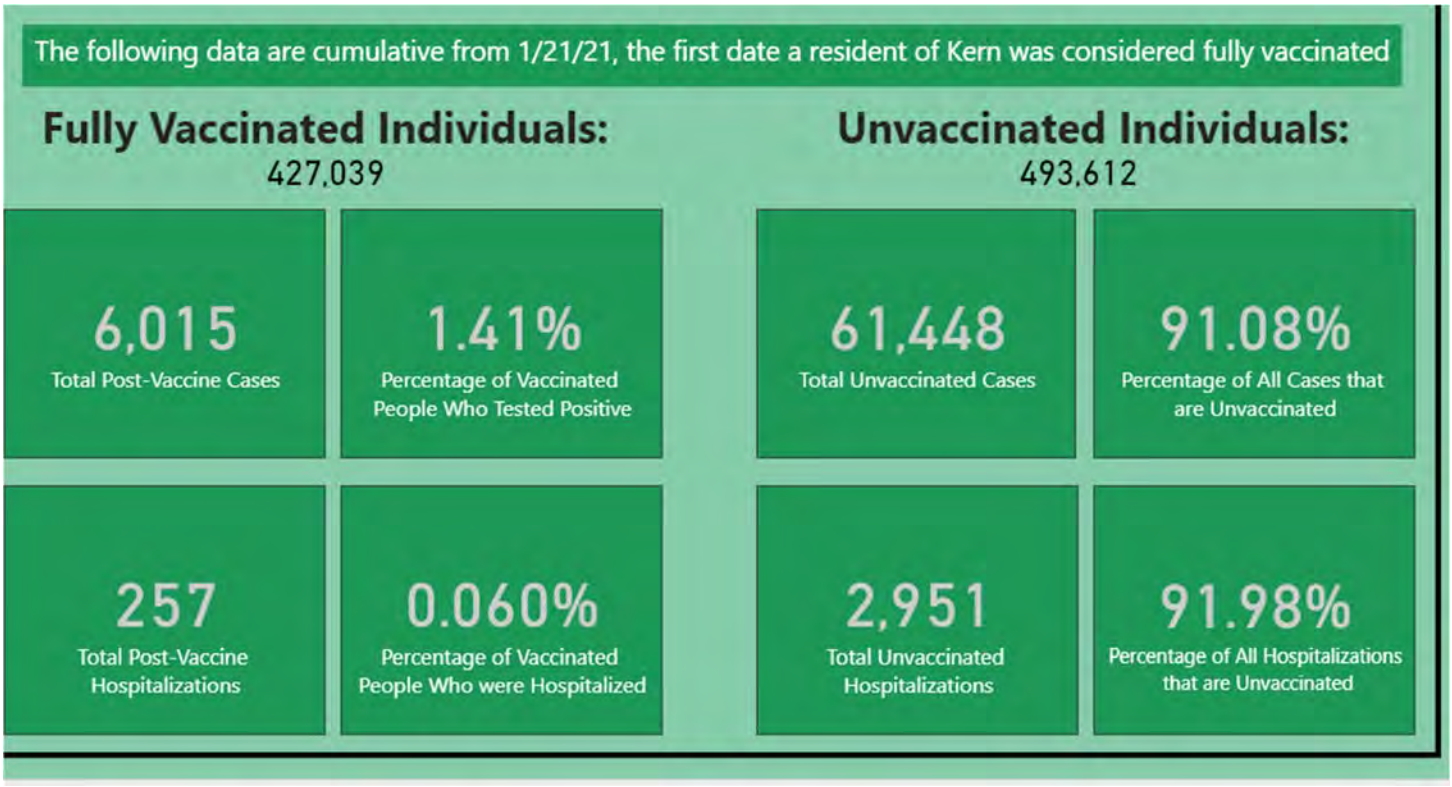
The determining factor in how Kern will trend in the modeling is the actions our community takes to ensure optimal immunity from this disease, which includes getting vaccinated and subsequently getting your booster dose when you are eligible. Additionally, the proven healthy practices of wearing a mask if not vaccinated, handwashing, staying home when sick and maintaining a healthy diet remain critical in our ongoing fight against COVID-19.

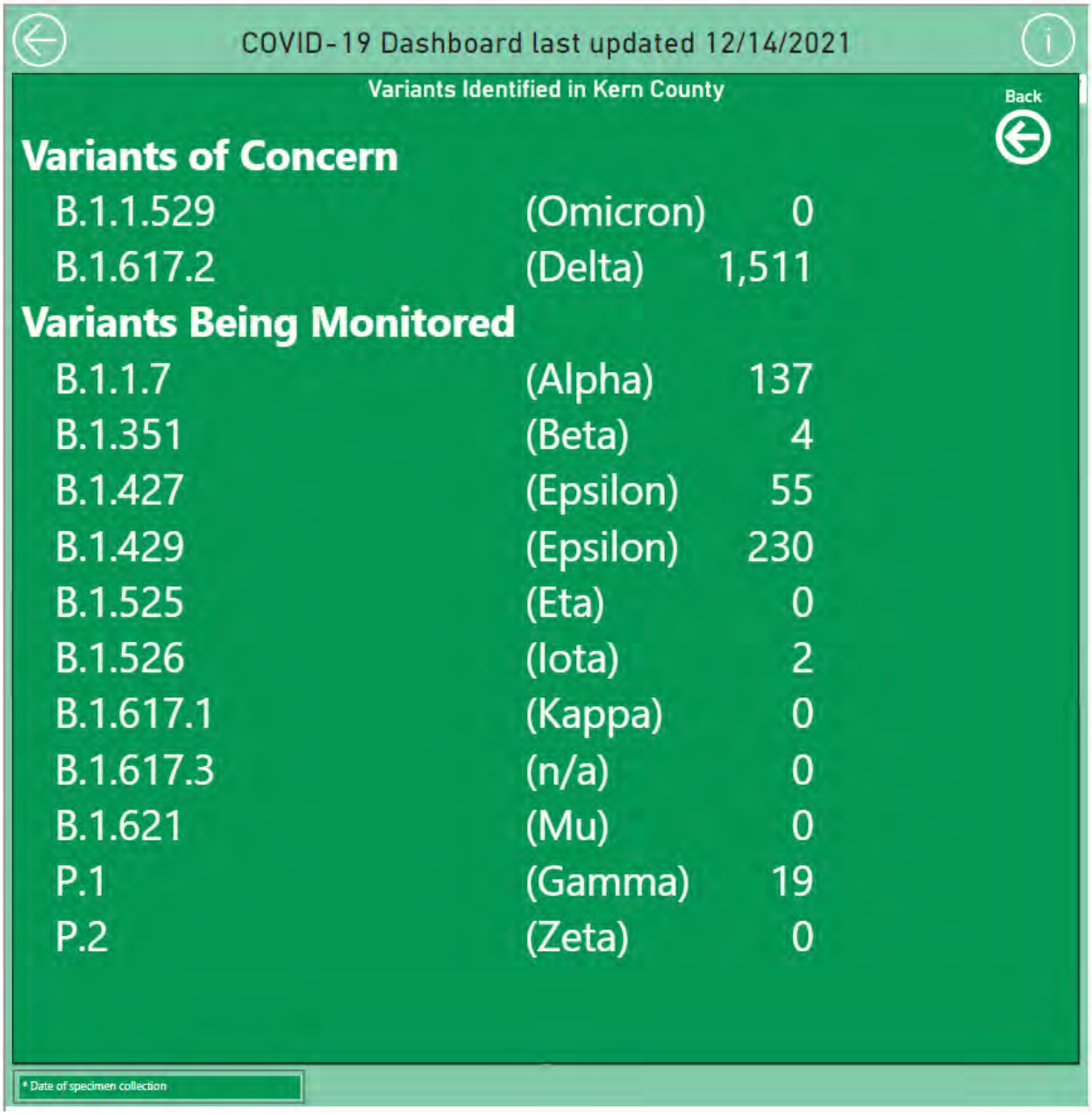
All COVID-19 vaccines continue to provide significant protection against severe illness, hospitalization, and death. However, certain populations are seeing a slight decrease in vaccine effectiveness against infection. Therefore, the CDC has recommended that certain populations obtain their booster to ensure optimal immunity. Booster doses of vaccines are very common. They are part of most childhood and adult vaccine series to ensure a person maintains immunity against infection from diseases.

A booster dose of the Pfizer or Moderna vaccine is recommended six months after your second dose if you:

- Are 65 or older, or
- Age 18+ living in long-term care settings, or
- Age 18+ and have underlying medical conditions, or
- Age 18+ and are at increased risk due to social inequity, or
- Age 18+ working or living in high-risk settings.

A booster dose of the Johnson & Johnson vaccine is recommended two months after your initial dose if you are 18 or older.
View state models by visiting this website: https://calcat.covid19.ca.gov/cacovidmodels/ and view attached graphs. To find a vaccination site near you or to make an appointment at vaccination sites, visit www.kernpublichealth.com or www.MyTurn.ca.gov. Kern County Public Health is operating a COVID-19 vaccination clinic at the Kern County Fairgrounds, Tuesday through Friday from 10:30AM to 6:00PM.


The following data are cumulative from 1/21/21, the first date a resident of Kern was considered fully vaccinated
Fully Vaccinated Individuals:
427,039
Unvaccinated Individuals:
493,612
6,015
Total Post-Vaccine Cases
1.41%
Percentage of Vaccinated People Who Tested Positive
61,448
Total Unvaccinated Cases
91.08%
Percentage of All Cases that are Unvaccinated
257
Total Post-Vaccine Hospitalizations
0.060%
Percentage of Vaccinated People Who were Hospitalized
2,951
Total Unvaccinated Hospitalizations
91.98%
Percentage of All Hospitalizations that are Unvaccinated


COVID-19 Dashboard last updated 12/14/2021
Variants Identified in Kern County
Back
Variants of Concern
B.1.1.529 (Omicron) 0
B.1.617.2 (Delta) 1,511
Variants Being Monitored
B.1.1.7 (Alpha) 137
B.1.351 (Beta) 4
B.1.427 (Epsilon) 55
B.1.429 (Epsilon) 230
B.1.525 (Eta) 0
B.1.526 (Iota) 2
B.1.617.1 (Kappa) 0
B.1.617.3 (n/a) 0
B.1.621 (Mu) 0
P.1 (Gamma) 19
P.2 (Zeta) 0
* Date of specimen collection

Department of Industrial Relations
STATE OF CALIFORNIA

NEWS RELEASE

Release Number: 2021-86 **Date:** August 25, 2021

Cal/OSHA Encourages Employers and Workers to Follow Updated CDPH Guidance Recommending Face Coverings Indoors

Oakland—In addition to the requirements of the COVID-19 Prevention Emergency Temporary Standards (ETS) and as a best practice, Cal/OSHA encourages employers and workers to follow the recent update from the California Department of Public Health (CDPH) recommending that all individuals wear face coverings while indoors regardless of vaccination status.

CDPH recently updated its Guidance for the Use of Face Coverings to include that recommendation due to the recent increase of COVID-19 infections in the workplace. For more specifics on the recent updates from CDPH, please refer to their fact sheet When Do You Need Your Mask in California?

Employers should ensure that any employee who requests a face covering at work is provided one, as required by the ETS.

Cal/OSHA helps protect workers from health and safety hazards on the job in almost every workplace in California. Employers who have questions or need assistance with workplace safety and health programs, including assistance with developing a COVID-19 prevention program at their worksite, can call Cal/OSHA's Consultation Services Branch at 800-963-9424.

Workers who have questions about COVID-19 hazards at work can call 833-579-0927 to speak with a Cal/OSHA representative during normal business hours. Complaints about workplace safety and health hazards can be filed confidentially with Cal/OSHA district offices.

Media Contact: Communications@dir.ca.gov, (510) 286-1161

Employers with Questions on Requirements May Contact: InfoCons@dir.ca.gov or call your local Cal/OSHA Consultation Office

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The California Department of Industrial Relations, established in 1927, protects and improves the health, safety, and economic well-being of over 18 million wage earners, and helps their employers comply with state labor laws. DIR is housed within the Labor & Workforce Development Agency

Fact Sheet: Omicron Variant

12/1/2021

Related Materials: Hoja informativa: la variante Ómicron | Tracking Variants Data

Updates as of December 1, 2021:

- To add first case detected in U.S. (California).

What do we know about the Omicron variant?

We are still learning about the new variant, including how it spreads and infects individuals as well as how it responds to vaccines. Here is what we know:

- New variants will continue to evolve as long as there are large proportions of unvaccinated people.
- This new variant has many mutations in important areas of the virus that impact infectiousness and the ability for immune systems to protect from infection. Some of the mutations are concerning to scientists because they are very different from other variants previously detected, and some are similar.
- We do not know at this time if this new variant causes more severe COVID-19 illness than other variants or how it might impact response to treatment.

What is California doing in response to the new Omicron variant?

The California Department of Public Health (CDPH) is taking the following steps to protect Californians against COVID-19 and the Omicron variant:

- Monitoring for the presence of the variant in California through the California SARS-CoV-2 Whole Genome Sequencing Initiative, known as COVIDNet. This is a public-private partnership that provides California with genomic sequencing to help understand and control the spread of COVID-19. COVIDNet gives us the ability to detect variants early.
- Partnering with the federal Centers for Disease Control and Prevention (CDC) to gather information and expertise to help the public, local public health departments and health care providers.
- Preparing to increase COVID-19 testing at airports across California for U.S. citizens and legal residents returning from South Africa, Botswana, Zimbabwe, Namibia, Lesotho, Eswatini, Mozambique and Malawi.
- Focusing on COVID-19 vaccination and booster efforts to ensure that all Californians have access to safe, effective, and free vaccines that can prevent serious illness and death from COVID-19. It's not too late for anyone eligible to get vaccinated or boosted to protect themselves and others against COVID-19.

What can Californians do to protect themselves from COVID-19 and the Omicron variant?

There are four specific actions that can be taken by all Californians today to help slow the spread of COVID-19, including the Omicron variant.

- **Get Vaccinated:** All COVID-19 vaccines currently available in California are safe and effective at preventing serious illness from COVID-19. Vaccination will protect you and those you love. Californians ages 5 and older are now eligible for vaccination. Additionally, those over the age of 18 who are at least six months since last does of Pfizer or Moderna, or at least two months since J&J, are eligible for a booster. To get vaccinated or get a booster call (833) 422-4255 or visit the My Turn website.
- **Wear Masks:** CDPH recommends everyone wear masks in indoor public places (such as grocery stores and movie theaters) regardless of vaccination status. Masks are required in indoor public places for everyone who is not fully vaccinated. More restrictive local and workplace rules may apply. Everyone must wear a mask on public transit (airports, planes, trains, buses, stations) and in healthcare settings, K-12 schools, childcare settings, correctional facilities, cooling centers, and shelters. Learn more about our masking recommendations.
- **Get Tested:** You should immediately get tested for COVID-19 if you are feeling any symptoms – regardless of your vaccination status. COVID-19 symptoms can feel like a common cold (including just "the sniffles"), seasonal allergies, or flu. COVID-19 testing in California is free to anyone who needs it. You can book a free test appointment, find a walk-in test clinic, or buy a self-test kit from your local drugstore. Find a testing site online or call (833) 422-4255 or 211. Learn more about COVID-19 tests.
- **Stay Home if Sick:** Stay home if you are feeling sick.

What is a Variant of Concern?

The WHO determines which variants are of concern based on having one or more of the following changes that could impact global public health.

- Increase in transmissibility or detrimental change in COVID-19 epidemiology; OR
- Increase in virulence or change in clinical disease presentation; OR
- Decrease in effectiveness of public health and social measures or available diagnostics, vaccines, or therapeutics.

More information: Tracking SARS-CoV-2 variants (who.int)

Can current COVID-19 tests detect the Omicron variant?

Yes, current understanding is that available PCR and antigen tests should detect this variant. The U.S. Food and Drug Administration (FDA) is currently confirming this information.

What should someone who is returning from a country of concern do?

The CDC recommends that travelers from Southern Africa, Botswana, Zimbabwe, Namibia, Lesotho, Eswatini, Mozambique and Malawi to test within 3-5 days after arrival, quarantine for 7 days, and isolate and test if COVID-19 symptoms develop.

Timeline of events related to the Omicron variant

- **November 9**
    - First known confirmed B.1.1.529 infection from a specimen collected in South Africa.
- **November 24**
    - South Africa announced the detection of a new variant, B.1.1.529 following genomic sequencing.
- **November 26**
    - World Health Organization designated B.1.1.529 a variant of concern and named it Omicron.
    - The U.S. government placed a travel ban for non-U.S. citizen travelers from South Africa, Botswana, Zimbabwe, Namibia, Lesotho, Eswatini, Mozambique and Malawi.
- **November 27**
    - At least 115 recorded cases identified, with most from Botswana and South Africa, and others from Hong Kong, Belgium, Israel, Germany, Netherlands and the United Kingdom.
- **December 1**
    - First case detected in U.S. (California).

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October 7, 2021

TO: All Californians

SUBJECT: Interim Guidance for Ventilation, Filtration, and Air Quality in Indoor Environments

Related Materials: More Employees & Workplaces Guidance | All Guidance | More Languages

Updates as of October 7, 2021:

- Incorporate Cal/OSHA revisions to the COVID-19 Emergency Temporary Standards.
- Clarify legal requirements pertaining to the guidance.
- Added additional resources.

This Guidance is intended to be used for buildings for which the state or local health department is permitting business, assembly, or other occupancy or use to occur indoors.

NOTE: On November 30, 2020, the California Division of Occupational Safety and Health (Cal/OSHA) implemented a mandatory emergency temporary standard (ETS) to prevent employee exposure to COVID-19 in California workplaces not covered by the Cal/OSHA Aerosol Transmissible Diseases standard; subsequently, a revised ETS was adopted and became effective June 17, 2021. Employers must become familiar with and implement all employee protection requirements covered in the ETS. Please see Section 9 of this document identifying the specific provisions of the ETS that pertain to ventilation.

The following guidance supplements the Cal/OSHA ETS by recommending practical steps building operators can take to promote better ventilation, filtration, and air quality in indoor environments for the purpose of reducing the spread of COVID-19. This interim guidance may change as scientific knowledge, experience, community transmission, and other conditions change. Other useful information on building ventilation and related issues is available from the Centers for Disease Control and Prevention (CDC) and Section 10 of this document, Resources.

The recommendations described below come with a range of initial costs and ongoing operating costs, which may affect decisions about which interventions to implement. Always consult with building engineering or maintenance staff prior to making changes to a mechanical ventilation system.

The following protocols are based on experience and principles that have a wide application. This guidance does not supersede any other mandatory requirements. Workplaces must continue to meet the requirements of the Cal/OSHA ETS and all other local and state directives regarding COVID-19.

The guidance is intended for use by non-healthcare organizations, including many types of businesses, companies, offices, restaurants, schools, faith-based organizations, etc. Healthcare facilities, which are expected to have infectious patients, require higher ventilation rates and employ higher filtration in order to ensure sufficient infection control; these requirements are not addressed in this guidance. Note that the recommendations contained in the guidance might not be applicable to your particular building or activity. Be aware that some of the recommendations could result in increased energy bills or increased wear and tear on ventilation system components.

1. COVID-19 Basics

COVID-19 is transmitted from person-to-person and may occur in the following scenarios:

- Large droplets from coughing and sneezing are propelled directly into the face, nose, eyes, or mouth of someone nearby, usually within six (6) feet. These droplets are sometimes called "ballistic droplets" because they tend to travel in straight lines and fall out of the air rapidly.
- Small particles (also known as aerosols) are released when a person breathes, talks or vocalizes, sings, coughs, or sneezes. These small particles can remain suspended in the air for a period of time and can move beyond six feet on air currents. Other people might inhale these small particles even if they are farther than six feet away.
- A person touches a surface that is contaminated and then touches a mucus membrane such as their nose, eyes, or mouth. Contaminated objects and surfaces are sometimes called "fomites." Aerosols deposited on surfaces may also be disturbed and introduced back into the air where they might be inhaled.

Effective ventilation is one of the most important ways to control small aerosol transmission. However, ventilation and other indoor air quality improvements are an addition to, and not a replacement for mandatory protections required by the Cal/OSHA ETS and state or local directives. Individuals at higher risk for severe illness from COVID-19 should exercise more caution regarding the time they spend in indoor environments outside of their home.

2. Definitions

Aerosol means solid or liquid particles suspended in a gas (typically air).

Air Changes per Hour (ACH, also called Air Change Rate) approximates how many times the air within a space is replaced each hour. ACH is a calculated value that allows standards, guidelines, and comparisons for ventilation to be made for rooms of different dimensions and which have different ventilation systems.

Using English units, the formula for ACH is:

ACH = (ventilation rate in CFM x 60 minutes/hour) / room volume in cubic feet

Air Cleaners are standalone devices that move air in a room through a filter. Some filters are capable of removing tiny particles, including virus particles and smoke. They are referred to in this document as Portable Air Cleaners (PACs) to differentiate them from filters and other devices in HVAC systems that provide air cleaning.

ASHRAE is the American Society for Heating, Refrigeration, and Air-Conditioning Engineers. Facilities staff, engineers, and health and safety professionals are familiar with this organization and its literature.

CADR, or Clean Air Delivery Rate, measures a Portable Air Cleaner's effectiveness based on room space and the volume of clean air produced per minute. Tested units have three CADR ratings; for COVID-19 purposes the "Smoke" CADR rating should be used.

CFM, or cubic feet per minute, is a measure of air flow into or out of a room.

In order to calculate how many cfm are required to obtain a desired ACH,
the formula is:

CFM = (ACH desired) x (room volume in cubic feet) / 60 minutes/hour

Room volume can be calculated by the following formula:

width x length x height to ceiling (all dimensions in feet)

Clean Air, for the purposes of this document, refers both to clean outside supplied air, and also to recirculated indoor supplied air that has been passed through a Portable Air Cleaner (PAC) with an appropriately rated CADR, or through an HVAC system equipped with a Minimum Efficiency Reporting Value (MERV) 13 or greater filter. Note that unfiltered outside air contaminated with wildfire smoke may not qualify as clean air.

Fans are devices that pull or push air in one direction. Fans can be rectangularly shaped for placement in windows or doorways, they may be "pedestal type" for placement anywhere in a room, or they may be attached to ceiling fixtures. Some fans have switches that allow the user to change the direction of airflow of the fan; fans that do not have such switches must be physically turned to change the direction of air.

HEPA Filter refers to a High-Efficiency Particulate Air Filter**.** This type of air filter is designed to meet a standard of removing at least 99.97% of dust, pollen, mold, bacteria, and any airborne particles with a size of 0.3 micron (µm). They are tested with 0.3 micron-sized particles as a "worst case" scenario, as this particle size penetrates through a filter most easily. Particles that are larger or smaller are trapped with even higher efficiency.

HVAC stands for Heating, Ventilation, and Air Conditioning system. Also referred to as "Mechanical Ventilation" because of the system's use of fans to move air in and out of rooms, typically through ducts and plenums.

Mechanical Ventilation is the active process of supplying air to or removing air from an indoor space by powered equipment such as motor-driven fans and blowers, but not by devices such as wind-driven turbine ventilators and mechanically operated windows.

Outside Air (outdoor air) refers to clean air drawn from outside the building either by natural or mechanical ventilation. Also referred to as "Fresh Air" or for selected applications "Makeup Air."

PACs are Portable Air Cleaners, devices that can be moved within a building or room to provide air cleaning. PACs are generally sold with some form of highly efficient filter such as a HEPA filter. The portability of PACs allows them to be placed where air cleaning will be most beneficial to room occupants.

Natural Ventilation refers to ventilation that is accomplished by opening windows and doors to the outside.

Recirculated Air refers to air that has been drawn from the inside of the building, passed through filters, conditioned, and reintroduced into the building. Unless passed through MERV-13 or greater efficiency filters, recirculated air is not considered when assessing building ventilation for COVID-19 purposes.

3. General Considerations

Our understanding of the role that the built environment plays in the transmission of COVID-19 is evolving; recent literature has clearly demonstrated small aerosols can be carried well beyond the six (6) foot physical radius and remain suspended in room air where they can be inhaled. With the possible exception of hospitals, healthcare facilities, and research facilities that employ exhaust hoods, existing ventilation requirements, such as those established in the California Building Code and Title 24, were not intended to control exposures to small aerosols of hazardous infectious agents such as COVID-19. Consequently, code compliance should be considered as the baseline, or starting point, in creating more protective environments. Ventilation should be maximized to levels as far above code requirements as is feasible, particularly for areas where people are unmasked (e.g., while eating in restaurants) and/or where there is mixing of people from different households, regardless of mask use.

In general, the greater the number of people in an indoor environment, the greater the need for ventilation with outdoor air. Efforts should be focused on providing fresh air ventilation to the spaces with the highest density of occupants, as well as where occupants may be unmasked. Decrease occupancy in areas where outdoor ventilation cannot be increased. Other changes that can be considered in buildings with specific ventilation features include:

- For buildings with mechanical ventilation systems, see Section 5. Improving Mechanical Ventilation.
- Inspect and maintain exhaust ventilation in support areas such as laundry rooms or kitchens.
- Ensure exhaust fans in restrooms and other areas are functioning properly and operating continuously or as needed. Since the virus can be present in fecal matter, closing toilet lids (if available) during flushing is advised.
- Keep windows and other sources of natural ventilation open to the greatest extent possible.
- Consider adding Portable Air Cleaners (PACs) in areas where fresh air ventilation cannot be increased.

To help you in improving your building's ventilation, some of the following professionals may be able to assist:

- Facilities ("Stationary") Engineers,
- Building Maintenance and Repair Staff,
- Mechanical Engineers,
- Mechanical (HVAC) Contractors,
- General Contractors,
- Architects, and/or
- Indoor Air Quality or Industrial Hygiene Consultants

Schools and other interested parties are encouraged to read the Yale School of Public Health's web page Ventilation Key to Reducing Risk, part of Yale's Public Health Guidance for Reopening Schools in 2020.

4. Improving Natural Ventilation and Proper Use of Fans

Consider implementing any of the following to improve the supply of outside air into a space, using caution on days with poor air quality:

- When weather and air quality conditions allow, increase fresh outdoor air by opening windows and doors. Do not open windows and doors if doing so poses a safety or health risk to anyone using the facility.
- Use fans to increase the effectiveness of open windows. Position fans securely and carefully in or near windows. Take care with electrical cords; look out for tripping or wet conditions, which can create electrocution hazards. Position fans so that air does not blow from one person to another. Window fans placed in exhaust mode can help draw fresh air into a room via other open windows and doors without generating strong room air currents. NOTE: For buildings with both operable windows and mechanical ventilation systems, the interactions between the two need to be carefully considered.
- Some rooms have high ceiling fans. There is not enough scientific evidence supporting their effectiveness in diluting potentially contaminated air with cleaner air in the higher parts of the room. Ceiling fans do not bring additional fresh air into an indoor space and are not considered to be equivalent to fresh air

ventilation. Given this uncertainty about their effect, ceiling fans should be turned off unless necessary for the thermal comfort of building occupants. Ceiling fans may result in improved air mixing, provided outdoor air is being introduced into the space.
- For information on the use of portable air cleaners, please see Section 7. Portable Air Cleaners ("HEPA Air Filters").

5. Improving Mechanical Ventilation

Consider mechanical ventilation system upgrades or improvements and other steps to 1) increase the delivery of clean air and 2) remove or dilute concentrations of COVID-19 or other contaminants in the building air. The amount of outdoor air brought into the mechanical system should be maximized.

MERV 13 or greater filtration is efficient at capturing airborne viruses and should be the target minimum level of filtration. If the air handling system cannot function with such a high level of filtration, increase the filtration in the equipment to the maximum allowable for the system.

Note that (regardless of COVID-19) CCR Title 8, Section 5142, requires that mechanical ventilation systems be maintained and operated to provide at least the quantity of outdoor air required by the State Building Standards Code, Title 24, Part 2, California Administrative Code, in effect at the time the building permit was issued.

Obtain consultation from experienced HVAC professionals when considering changes to HVAC systems and equipment. Some of the recommendations below are based on ASHRAE's Guidance for Building Operations During the COVID-19 Pandemic. Review additional ASHRAE Guidelines for Schools and Universities for further information on ventilation recommendations for different types of buildings and building readiness for occupancy. Not all steps are applicable for all scenarios.

- Fully open outdoor air dampers and close recirculation dampers to reduce or eliminate air recirculation. Set economizers at 100% outdoor air. In mild weather, this will not affect thermal comfort or humidity, but in cold, hot, or humid weather this may result in changes to indoor air, so expect a need for adjustments regarding clothing and/or space heaters.
- Improve central air filtration to as high as possible without significantly diminishing design airflow. Target air filtration should be MERV 13 or greater.
    - Inspect filter housings and racks to ensure appropriate filter fit and check for ways that air could bypass the filter.
    - Clean or replace filters and check filters to ensure they are appropriately installed, seated, functioning, and are not torn. Note that during poor air quality events caused by wildfire smoke, for example, higher efficiency filters will load faster and will need closer monitoring. Since filters may be contaminated with virus particles, anyone changing filters must wear, at a minimum, a fit-tested N95 respirator in accordance with the requirements of CCR Title 8, Section 5144 or Section 5199, as well as eye protection (face shield or goggles), and disposable gloves.
- Disable "demand controls" and occupancy sensors on ventilation systems so that fans operate continuously, independently of heating or cooling needs. This is done by setting the fan on the system’s thermostat to the “ON” position instead of “AUTO.”
    - If HVAC systems operate on day/night or other pre-programmed cycles, consider running the HVAC system at maximum outside airflow for 1-2 hours before the building opens and for 2-3 hours after the building is closed.
    - Consider running HVAC fans 24/7.
    - Continuous operation of the HVAC system is required regardless of COVID-19 when employees are present under CCR Title 8, Section 5142.
- Generate clean-to-less-clean air movement by adjusting the settings of supply and exhaust air diffusers and/or dampers in higher risk areas, so that potentially contaminated air is moved away from occupants.

- Typically, in-room, wall-mounted fan coil systems do not remove virus particles; this could allow virus particles to accumulate in a space. Such systems should not be operated in occupied rooms unless the fan coils have MERV 13 filtration as a minimum.
- The amount of outdoor air brought into the mechanical system should always be maximized regardless of air filtration.

6. Determining Mechanical System Function

- Small pieces of ribbon or tissue paper can be affixed to ventilation supply registers to verify that the system is operating.
- A lightweight (down) feather on the end of a stick or dowel can be used to trace air currents such as from fans or PACs to verify that air is not being blown from person to person.
- Carbon dioxide (CO_2) levels increase as mechanical ventilation systems fail to keep up with the occupancy of a space. Therefore, the measurement of CO_2 levels in a space may be used to determine the effectiveness of the ventilation system in more densely occupied indoor spaces. However, CO_2 level is a lagging indicator since it takes time for it to increase after a space becomes occupied. Consultation with a knowledgeable professional mechanical engineer or industrial hygienist on how to best to use CO_2 monitoring technology in a facility is recommended.
- If you need assistance in evaluating your system, see the professionals listed in Section 3. General Considerations.

7. Portable Air Cleaners ("HEPA Air Filters")

Portable Air Cleaners (PACs) should be considered in rooms and areas where mechanical and passive ventilation cannot be improved. PACs come in a range of sizes, features, and prices; higher-priced units may not necessarily provide greater improvements to air quality. Depending on the quantity, quality, and condition of existing ventilation, PACs providing 2-5 additional ACH may be needed. Review these key points about effective use of PACs:

- Purchase PACs that are certified for ozone emissions and electrical safety by the California Air Resources Board (CARB).
- Ensure PACs are appropriately sized for the room or area they are deployed in. One method for selecting the appropriate size unit is the Association of Home Appliance Manufacturer's (AHAM) Clean Air Delivery Rate (CADR). The authors of the CADR standard suggest that a unit should have a CADR at least 2/3 of the room's floor area (in square feet), with adjustments made if the room's ceiling is more than eight feet in height. If this method is used, the unit's CADRs for Smoke should be used. A list of all units with CADR ratings (with the rating values) can be found on AHAM's "Verifide" website. It's possible that a room may need more than one PAC.
- PACs are very efficient at capturing coronavirus-size particles, but the particles must first physically travel to the filter. The faster a PAC can cycle air through the filter, the better its chances of catching virus particles. CADR reflects, in cubic feet per minute, the volume of clean air the PAC produces at its highest speed setting. (The efficiency of the PAC in cleaning the air decreases at lower speeds). PACs have three CADR ratings; smoke, dust and pollen, which represent small, medium and larger particles, respectively. For purposes of COVID-19, the smoke CADR rating should be used. Smoke particles are similar in size to the smallest virus droplets, while larger virus droplets are closer to the pollen size range. A PAC with a CADR of 250 for smoke reduces smoke particle levels to the same concentration that would be achieved by adding 250 cubic feet of clean air each minute.
- For more in-depth help determining the correct size of PACs for COVID-19, Harvard University and the University of Colorado, Boulder have jointly developed a spreadsheet for identifying the correct PAC, using the CADR. If using this spreadsheet, please note that the PACs listed on the third tab are only examples of

verified manufacturers and models; you can input your CADR (using the smoke value) for any unit on the second tab of the spreadsheet.
- Manufacturer's specifications, CADR values, and the Harvard/CU spreadsheet all base their estimates on the PAC operating at maximum fan speed. Reducing fan speed may reduce the noise generated by the unit but will also decrease the amount of air filtration the unit will provide.
- For effective air cleaning, a PAC should be placed towards the center of where people sit or gather with the unit exhaust directed so that it will not blow air from person to person. PACs that exhaust straight up should be used to avoid blowing air from one person to another. Placing air filtration units in unused corners of rooms or beneath tables will not effectively clean the air. Do not create a tripping hazard with the PAC or associated electrical cords.
- Industrial air cleaners that use high efficiency particulate air (HEPA) filtration can be used and are particularly well-suited for larger rooms and areas:

Commercial/Industrial units, sometimes referred to as "Negative Air Machines (NAMs)" or "hogs," may already be available in larger facilities; check with Facilities/Maintenance personnel, who may also be able to order this type of unit through their equipment suppliers. All such units should be inspected for proper discharge of exhaust.

Industrial air cleaners typically do not have CADR ratings. Instead, the manufacturer's rated airflow (in CFM) is incorporated into the Air Changes per Hour calculation provided in Section 2. *Definitions*. Depending on the fresh air ventilation in the room, ACHs of 2.5-6 are needed, with lower values working for well-ventilated rooms, and ACHs of 4-6 for rooms with marginal ventilation.

8. Ventilation During Wildfire Smoke Events

- Ventilation and filtration can be very effective in reducing indoor air concentrations of both wildfire smoke particles and coronavirus-sized particles; however, these strategies should be used in conjunction with physical distancing protocols, face coverings or masks, frequent hand washing, and other practices.
- When used with windows and doors closed, and when properly installed and maintained and operated, an HVAC system with MERV 13 filters will effectively reduce indoor exposure to both wildfire smoke and virus particles.
- Where buildings are not equipped with HVAC systems, PACs can effectively reduce the concentration of both smoke and corona virus-sized particles in indoor air. As noted above, more than one portable air filter might be needed to meet the air filtration rate recommended by the Association of Home Appliance Manufacturers (AHAM).
- To filter wildfire smoke and coronavirus-sized particles, the PAC should have a CADR for tobacco smoke (0.9-1.0 µm).

9. Requirements on Ventilation in Cal/OSHA COVID-19 Prevention Standards

On June 17, 2021, Cal/OSHA implemented a revised version of the mandatory emergency temporary standard (ETS) originally implemented on November 30, 2020, to prevent employee exposure to COVID-19 in California workplaces, with the following exceptions: (1) when employees are covered by CCR Title 8, Section 5199, the Aerosol Transmissible Diseases standard; (2) when employees are working from home; or (3) in work locations with one employee who does not have contact with other persons; or (4) when employees are teleworking from a location of the employee's choice which is not under control of the employer.

The ETS appears in CCR Title 8, Sections 3205 *COVID-19 Prevention*; 3205.1 *Multiple COVID-19 Infections and COVID-19 Outbreaks*; 3205.2 *Major COVID-19 Outbreaks*; 3205.3 *COVID-19 Prevention in Employer-Provided Housing*; and 3205.4 *COVID-19 Prevention in Employer-Provided Transportation to and from Work*.

The ETS requires covered employers to establish, implement and maintain an effective, written COVID-19 Prevention Program that includes elements pertaining specifically to ventilation and filtration, as follows:

- Section 3205 (c)(2)(E): *For indoor locations, the employer shall evaluate how to maximize ventilation with outdoor air; the highest level of filtration efficiency compatible with the existing ventilation system; and whether the use of portable or mounted High Efficiency Particulate Air (HEPA) filtration units, or other air cleaning systems, would reduce the risk of COVID-19 transmission.*

- Section 3205 (c)(2)(F): *The employer shall review applicable orders and guidance from the State of California and the local health department related to COVID-19 hazards and prevention. These orders and guidance are both information of general application, including Interim guidance for Ventilation, Filtration, and Air Quality in Indoor Environments by the California Department of Public Health (CDPH), and information specific to the employer's industry, location, and operations.*

- Section 3205 (c)(7)(A): *For buildings with mechanical or natural ventilation, or both, employers shall maximize the quantity of outside air provided to the extent feasible, except when the United States Environmental Protection Agency (EPA) Air Quality Index is greater than 100 for any pollutant or if opening windows or maximazing outdoor air by other means would cause a hazard to employees, for instance from excessive heat or cold.*

Under Sections 3205.1, *Multiple COVID-19 Infections and COVID-19 Outbreaks,* employers have additional ventilation and filtration requirements in the event of a COVID-19 outbreak, as follows (note: these provisions also apply to major outbreaks, addressed under Section 3205.2):

- Section 3205.1 (e)(3): *Multiple COVID-19 Infections and COVID-19 Outbreaks. The employer shall implement changes to reduce the transmission of COVID-19 based on the investigation and review required by subsections (e)(1) and (e)(2). The employer shall consider moving indoor tasks outdoors or having them performed remotely, increasing outdoor air supply when work is done indoors, improving air filtration, increasing physical distancing as much as feasible, requiring respiratory protection in compliance with section 5144, and other applicable controls.*

- Section 3205.1 (f): *In buildings or structures with mechanical ventilation, employers shall filter recirculated air with Minimum Efficiency Reporting Value (MERV) 13 or higher efficiency filters if compatible with the ventilation system. If MERV-13 or higher filters are not compatible with the ventilation system, employers shall use filters with the highest compatible filtering efficiency. Employers shall also evaluate whether portable or mounted High Efficiency Particulate Air (HEPA) filtration units or other air cleaning systems would reduce the risk of transmission and, if so, shall implement their use to the degree feasible.*

Under Sections 3205.3 and 3205.4, employers must implement ventilation requirements for employer-provided housing and transportation, as follows:

Section 3205.3 COVID-19 Prevention in Employer-Provided Housing …

… (c) Ventilation. In housing units, employers shall maximize the quantity and supply of outdoor air and increase filtration efficiency to the highest level compatible with the existing ventilation system. If there is not a Minimum Efficiency Reporting Value (MERV) 13 or higher filter in use, portable or mounted High Efficiency Particulate Air (HEPA) filtration units shall be used, to the extent feasible, in all sleeping areas in which there are two or more residents who are not fully vaccinated.

Section 3205.4 COVID-19 Prevention in Employer-Provided Transportation …
…(f) Ventilation. Employers shall ensure that vehicle windows are kept open, and the ventilation system set to maximize outdoor air and not set to recirculate air. Windows do not have to be kept open if one or more of the

following conditions exist:

(1) The vehicle has functioning air conditioning in use and excessive outdoor heat would create a hazard to employees.

(2) The vehicle has functioning heating in use and excessive outdoor cold would create a hazard to employees.

(3) Protection is needed from weather conditions, such as rain or snow.

(4) The vehicle has a cabin air filter in use and the U.S. EPA Air Quality Index for any pollutant is greater than 100.

10. Resources

State of California

- www.covid19.ca.gov

Cal/OSHA (Division of Occupational Safety and Health, Department of Industrial Relations) workplace safety regulations

- Cal/OSHA Emergency Temporary Standards - Fact Sheets, Model Program, and Other Resources
- CCR Title 8, Section 3205 COVID-19 Prevention; 3205.1 Multiple COVID-19 Infections and COVID-19 Outbreaks; 3205.2 Major COVID-19 Outbreaks; 3205.3 COVID-19 Prevention in Employer-Provided Housing; and 3205.4 COVID-19 Prevention in Employer-Provided Transportation to and from Work
- CCR Title 8, Section 5142 Mechanically Driven Heating, Ventilating and Air Conditioning (HVAC) Systems to Provide Minimum Building Ventilation.
- CCR Title 8, Section 5143 General Requirements of Mechanical Ventilation Systems.
- CCR Title 8, Section 5144 Respiratory Protection

Centers for Disease Control and Prevention

- Ventilation in Buildings
- Operating Schools during COVID-19: CDC's Considerations
- Wildfire Smoke and COVID-19: Frequently Asked Questions and Resources for Air Resource Advisors and Other Environmental Health Professionals

AIHA (formerly the American Industrial Hygiene Association)

- Reducing the Risk of COVID-19 Using Engineering Controls

American Conference of Governmental Industrial Hygienists

- White Paper on Ventilation for Industrial Settings during the COVID-19 Pandemic

American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE)

- Guidance for Building Operations During the COVID-19 Pandemic
- ASHRAE Resources Available to Address COVID-19 Concerns
- ASHRAE Reopening Schools and Universities C19 Guidance
- Standard 62.1-2019 Ventilation for Acceptable Indoor Air Quality (*Note: This is a for-fee document. ASHRAE provides free web access to a read-only version from the linked web page; look for Standard 62.1-2019)*

Association of Home Appliance Manufacturers

- Directory of Certified Portable Air Cleaners
- Information Regarding Portable Air Cleaner Testing

California Air Resources Board (CARB)

- Air Cleaners & Ozone Generating Products

Environmental Protection Agency (EPA)

- Ventilation and COVID-19
- Indoor Air in Homes and COVID-19

Harvard University School of Public Health and University of Colorado, Boulder School of Engineering

- Harvard-CU Boulder Portable Air Cleaner Calculator for Schools

Johns Hopkins Bloomberg School of Public Health Center for Health Security

- School Ventilation: A Vital Tool to Reduce COVID-19 Spread

World Health Organization

- Q&A: Ventilation and Air Conditioning in Public Spaces and Buildings and COVID-19

Yale University School of Public Health

- Reopening Schools - Ventilation Key to Reducing Risk

This Interim Guidance for Ventilation, Filtration, and Air Quality in Indoor Environments was adapted with permission from a similar document prepared by the San Francisco Department of Public Health (SFDPH): SFDPH COVID-19 Information and Guidance

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Department Website (cdph.ca.gov)

8 CCR § 3205

§ 3205. COVID-19 Prevention.

NOTE: *See Executive Order N-84-20 (2019 CA EO 84-20), issued in response to the COVID-19 pandemic, which suspends certain provisions relating to the exclusion of COVID-19 cases from the workplace.*

(a) Scope.

(1) This section applies to all employees and places of employment, with the following exceptions:

(A) Work locations with one employee who does not have contact with other persons.

(B) Employees working from home.

(C) Employees with occupational exposure as defined by section 5199, when covered by that section.

(D) Employees teleworking from a location of the employee's choice, which is not under the control of the employer.

(2) Nothing in this section is intended to limit more protective or stringent state or local health department mandates or guidance.

(b) Definitions. The following definitions apply to this section and to sections 3205.1 through 3205.4.

(1) "Close contact" means being within six feet of a COVID-19 case for a cumulative total of 15 minutes or greater in any 24-hour period within or overlapping with the "high-risk exposure period" defined by this section. This definition applies regardless of the use of face coverings.

EXCEPTION: Employees have not had a close contact if they wore a respirator required by the employer and used in compliance with section 5144, whenever they were within six feet of the COVID-19 case during the high-risk exposure period.

(2) "COVID-19" means coronavirus disease, an infectious disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

(3) "COVID-19 case" means a person who:

(A) Has a positive "COVID-19 test" as defined in this section; or

(B) Has a positive COVID-19 diagnosis from a licensed health care provider; or

(C) Is subject to a COVID-19-related order to isolate issued by a local or state health official; or

(D) Has died due to COVID-19, in the determination of a local health department or per inclusion in the COVID-19 statistics of a county.

(4) "COVID-19 hazard" means potentially infectious material that may contain SARS-CoV-2, the virus that causes COVID-19. Potentially infectious materials include airborne droplets, small particle aerosols, and airborne droplet nuclei, which most commonly result from a person or persons exhaling, talking or vocalizing, coughing, or sneezing, or from

procedures performed on persons which may aerosolize saliva or respiratory tract fluids. This also includes objects or surfaces that may be contaminated with SARS-CoV-2.

(5) “COVID-19 symptoms” means fever of 100.4 degrees Fahrenheit or higher, chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or diarrhea, unless a licensed health care professional determines the person's symptoms were caused by a known condition other than COVID-19.

(6) “COVID-19 test” means a viral test for SARS-CoV-2 that is:

(A) Approved by the United States Food and Drug Administration (FDA) or has an Emergency Use Authorization from the FDA to diagnose current infection with the SARS-CoV-2 virus; and

(B) Administered in accordance with the FDA approval or the FDA Emergency Use Authorization as applicable.

(7) “Exposed group” means all employees at a work location, working area, or a common area at work, where an employee COVID-19 case was present at any time during the high-risk exposure period. A common area at work includes bathrooms, walkways, hallways, aisles, break or eating areas, and waiting areas. The following exceptions apply:

(A) For the purpose of determining the exposed group, a place where persons momentarily pass through while everyone is wearing face coverings, without congregating, is not a work location, working area, or a common area at work.

(B) If the COVID-19 case was part of a distinct group of employees who are not present at the workplace at the same time as other employees, for instance a work crew or shift that does not overlap with another work crew or shift, only employees within that distinct group are part of the exposed group.

(C) If the COVID-19 case visited a work location, working area, or a common area at work for less than 15 minutes during the high-risk exposure period, and the COVID-19 case was

wearing a face covering during the entire visit, other people at the work location, working area, or common area are not part of the exposed group.

NOTE: An exposed group may include the employees of more than one employer. See Labor Code sections 6303 and 6304.1.

(8) "Face covering" means a surgical mask, a medical procedure mask, a respirator worn voluntarily, or a tightly woven fabric or non-woven material of at least two layers. A face covering has no visible holes or openings and must cover the nose and mouth. A face covering does not include a scarf, ski mask, balaclava, bandana, turtleneck, collar, or single layer of fabric.

(9) "Fully vaccinated" means the employer has documented that the person received, at least 14 days prior, either the second dose in a two-dose COVID-19 vaccine series or a single-dose COVID-19 vaccine. Vaccines must be FDA approved; have an emergency use authorization from the FDA; or, for persons fully vaccinated outside the United States, be listed for emergency use by the World Health Organization (WHO).

(10) "High-risk exposure period" means the following time period:

(A) For COVID-19 cases who develop COVID-19 symptoms, from two days before they first develop symptoms until all of the following are true: it has been 10 days since symptoms first appeared; 24 hours have passed with no fever, without the use of fever-reducing medications; and symptoms have improved.

(B) For COVID-19 cases who never develop COVID-19 symptoms, from two days before until 10 days after the specimen for their first positive test for COVID-19 was collected.

(11) "Respirator" means a respiratory protection device approved by the National Institute for Occupational Safety and Health (NIOSH) to protect the wearer from particulate matter, such as an N95 filtering facepiece respirator.

(12) "Worksite," for the limited purposes of COVID-19 prevention regulations only, means the building, store, facility, agricultural field, or other location where a COVID-19 case was

present during the high-risk exposure period. It does not apply to buildings, floors, or other locations of the employer that a COVID-19 case did not enter.

NOTE: The term worksite is used for the purpose of notice requirements in subsections (c)(3)(B)3. and 4. only.

(c) Written COVID-19 Prevention Program. Employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the employer's Injury and Illness Prevention Program required by section 3203, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program shall include:

(1) System for communicating. The employer shall do all of the following in a form readily understandable by employees:

(A) Ask employees to report to the employer, without fear of reprisal, COVID-19 symptoms, possible close contacts, and possible COVID-19 hazards at the workplace.

(B) Describe how employees with medical or other conditions that put them at increased risk of severe COVID-19 illness can request accommodations.

(C) Provide information about access to COVID-19 testing as described in subsection (c)(5)(I) when testing is required under this section, section 3205.1, or section 3205.2.

(D) In accordance with subsection (c)(3)(B), communicate information about COVID-19 hazards and the employer's COVID-19 policies and procedures to employees and to other employers, persons, and entities within or in contact with the employer's workplace.

NOTE: See subsection (c)(3)(C) for confidentiality requirements for COVID-19 cases.

(2) Identification and evaluation of COVID-19 hazards.

(A) The employer shall allow for employee and authorized employee representative participation in the identification and evaluation of COVID-19 hazards.

(B) The employer shall develop and implement a process for screening employees for and responding to employees with COVID-19 symptoms. The employer may ask employees to evaluate their own symptoms before reporting to work. If the employer conducts screening indoors at the workplace, the employer shall ensure that face coverings are used during screening by both screeners and employees who are not fully vaccinated and, if temperatures are measured, that non-contact thermometers are used.

(C) The employer shall develop COVID-19 policies and procedures to respond effectively and immediately to individuals at the workplace who are a COVID-19 case to prevent or reduce the risk of transmission of COVID-19 in the workplace.

(D) The employer shall conduct a workplace-specific identification of all interactions, areas, activities, processes, equipment, and materials that could potentially expose employees to COVID-19 hazards. Employers shall treat all persons, regardless of symptoms or negative COVID-19 test results, as potentially infectious.

1. This shall include identification of places and times when people may congregate or come in contact with one another, regardless of whether employees are performing an assigned work task or not, for instance during meetings or trainings and including in and around entrances, bathrooms, hallways, aisles, walkways, elevators, break or eating areas, cool-down areas, and waiting areas.

2. This shall include an evaluation of employees' potential workplace exposure to all persons at the workplace or who may enter the workplace, including coworkers, employees of other entities, members of the public, customers or clients, and independent contractors. Employers shall consider how employees and other persons enter, leave, and travel through the workplace, in addition to addressing stationary work.

(E) For indoor locations, the employer shall evaluate how to maximize ventilation with outdoor air; the highest level of filtration efficiency compatible with the existing ventilation system; and whether the use of portable or mounted High Efficiency Particulate Air (HEPA) filtration units, or other air cleaning systems, would reduce the risk of COVID-19 transmission.

(F) The employer shall review applicable orders and guidance from the State of California and the local health department related to COVID-19 hazards and prevention. These orders and guidance are both information of general application, including Interim guidance for Ventilation, Filtration, and Air Quality in Indoor Environments by the California Department of Public Health (CDPH), and information specific to the employer's industry, location, and operations.

(G) The employer shall evaluate existing COVID-19 prevention controls at the workplace and the need for different or additional controls. This includes evaluation of controls in subsections (c)(4), (c)(6), and (c)(7).

(H) The employer shall conduct periodic inspections as needed to identify unhealthy conditions, work practices, and work procedures related to COVID-19 and to ensure compliance with employers' COVID-19 policies and procedures.

(3) Investigating and responding to COVID-19 cases in the workplace.

(A) Employers shall have an effective procedure to investigate COVID-19 cases in the workplace. This includes procedures for seeking information from employees regarding COVID-19 cases and close contacts, COVID-19 test results, and onset of COVID-19 symptoms, and identifying and recording COVID-19 cases.

(B) The employer shall take the following actions when there has been a COVID-19 case at the place of employment:

1. Determine the day and time the COVID-19 case was last present and, to the extent possible, the date of the positive COVID-19 test(s) and/or diagnosis, and the date the COVID-19 case first had one or more COVID-19 symptoms, if any were experienced.

2. Determine who may have had a close contact. This requires an evaluation of the activities of the COVID-19 case and all locations at the workplace which may have been visited by the COVID-19 case during the high-risk exposure period.

NOTE: See subsection (c)(9) for exclusion requirements for employees after a close contact.

3. Within one business day of the time the employer knew or should have known of a COVID-19 case, the employer shall give written notice, in a form readily understandable by employees, that people at the worksite may have been exposed to COVID-19. The notice shall be written in a way that does not reveal any personal identifying information of the COVID-19 case. Written notice may include, but is not limited to, personal service, email, or text message if it can reasonably be anticipated to be received by the employee within one business day of sending. The notice shall include the disinfection plan required by Labor Code section 6409.6(a)(4). The notice must be sent to the following:

a. All employees at the worksite during the high-risk exposure period. If the employer should reasonably know that an employee has not received the notice, or has limited literacy in the language used in the notice, the employer shall provide verbal notice, as soon as practicable, in a language understandable by the employee.

b. Independent contractors and other employers at the worksite during the high-risk exposure period.

4. Within one business day of the time the employer knew or should have known of the COVID-19 case, the employer shall provide the notice required by Labor Code section 6409.6(a)(2) and (c) to the authorized representative of any employee at the worksite during the high-risk exposure period.

5. Make COVID-19 testing available at no cost, during paid time, to all employees of the employer who had a close contact in the workplace and provide them with the information on benefits described in subsections (c)(5)(B) and (c)(9)(C), with the following exceptions:

a. Employees who were fully vaccinated before the close contact and do not have COVID-19 symptoms.

b. COVID-19 cases who returned to work pursuant to subsection 3205(c)(10)(A) or (B) and have remained free of COVID-19 symptoms, for 90 days after the initial onset of COVID-19 symptoms or, for COVID-19 cases who never developed symptoms, for 90 days after the first positive test.

6. Investigate whether workplace conditions could have contributed to the risk of COVID-19 exposure and what could be done to reduce exposure to COVID-19 hazards.

(C) Personal identifying information of COVID-19 cases or persons with COVID-19 symptoms, and any employee medical records required by this section or by sections 3205.1 through 3205.4, shall be kept confidential unless disclosure is required or permitted by law. Unredacted information on COVID-19 cases shall be provided to the local health department, CDPH, the Division, and NIOSH immediately upon request, and when required by law.

(4) Correction of COVID-19 hazards. Employers shall implement effective policies and/or procedures for correcting unsafe or unhealthy conditions, work practices, policies and procedures in a timely manner based on the severity of the hazard. This includes, but is not limited to, implementing controls and/or policies and procedures in response to the evaluations conducted under subsections (c)(2) and (c)(3) and implementing the controls required by subsections (c)(6) and (c)(7).

(5) Training and instruction. The employer shall provide effective training and instruction to employees that includes the following:

(A) The employer's COVID-19 policies and procedures to protect employees from COVID-19 hazards, and how to participate in the identification and evaluation of COVID-19 hazards under subsection (c)(2)(A).

(B) Information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws. This includes any benefits available under legally mandated sick and vaccination leave, if applicable, workers' compensation law, local governmental requirements, the employer's own leave policies, leave guaranteed by contract, and this section.

(C) The fact that COVID-19 is an infectious disease that can be spread through the air when an infectious person talks or vocalizes, sneezes, coughs, or exhales; that COVID-19 may be transmitted when a person touches a contaminated object and then touches their eyes, nose, or mouth, although that is less common; and that an infectious person may have no symptoms.

(D) The fact that particles containing the virus can travel more than six feet, especially indoors, so physical distancing, face coverings, increased ventilation indoors, and respiratory protection decrease the spread of COVID-19, but are most effective when used in combination.

(E) The employer's policies for providing respirators, and the right of employees who are not fully vaccinated to request a respirator for voluntary use as stated in this section, without fear of retaliation and at no cost to employees. Whenever respirators are provided for voluntary use under this section or sections 3205.1 through 3205.4:

1. How to properly wear the respirator provided;

2. How to perform a seal check according to the manufacturer's instructions each time a respirator is worn, and the fact that facial hair interferes with a seal.

(F) The importance of frequent hand washing with soap and water for at least 20 seconds and using hand sanitizer when employees do not have immediate access to a sink or hand washing facility, and that hand sanitizer does not work if the hands are soiled.

(G) Proper use of face coverings and the fact that face coverings are not respiratory protective equipment. COVID-19 is an airborne disease. N95s and more protective respirators protect the users from airborne disease while face coverings primarily protect people around the user.

(H) COVID-19 symptoms, and the importance of not coming to work and obtaining a COVID-19 test if the employee has COVID-19 symptoms.

(I) Information on the employer's COVID-19 policies; how to access COVID-19 testing and vaccination; and the fact that vaccination is effective at preventing COVID-19, protecting against both transmission and serious illness or death.

(J) The conditions under which face coverings must be worn at the workplace and that face coverings are additionally recommended outdoors for people who are not fully vaccinated if six feet of distance between people cannot be maintained. Employees can request face coverings from the employer at no cost to the employee and can wear them at work, regardless of vaccination status, without fear of retaliation.

(6) Face coverings.

(A) For all employees who are not fully vaccinated, employers shall provide face coverings and ensure they are worn when indoors or in vehicles.

(B) Employers shall provide face coverings and ensure they are worn by employees when required by orders from the CDPH.

(C) Employers shall ensure that required face coverings are clean and undamaged, and that they are worn over the nose and mouth. Face shields are not a replacement for face coverings, although they may be worn together for additional protection.

(D) When employees are required to wear face coverings under this section or sections 3205.1 through 3205.4, the following exceptions apply:

1. When an employee is alone in a room or vehicle.

2. While eating or drinking at the workplace, provided employees are at least six feet apart and outside air supply to the area, if indoors, has been maximized to the extent feasible.

3. Employees wearing respirators required by the employer and used in compliance with section 5144.

4. Employees who cannot wear face coverings due to a medical or mental health condition or disability, or who are hearing-impaired or communicating with a hearing-impaired person.

5. Specific tasks which cannot feasibly be performed with a face covering. This exception is limited to the time period in which such tasks are actually being performed.

(E) Employees exempted from wearing face coverings due to a medical condition, mental health condition, or disability shall wear an effective non-restrictive alternative, such as a face shield with a drape on the bottom, if their condition or disability permits it.

(F) Any employee not wearing a face covering, pursuant to the exceptions in subsections (c)(6)(D)4. or 5., and not wearing a non-restrictive alternative when allowed by subsection (c)(6)(E), shall be at least six feet apart from all other persons unless the unmasked employee is either fully vaccinated or tested at least weekly for COVID-19 during paid time and at no cost to the employee. Employers may not use the provisions of subsection (c)(6)(F) as an alternative to face coverings when face coverings are otherwise required by this section.

(G) No employer shall prevent any employee from wearing a face covering when not required by this section, unless it would create a safety hazard, such as interfering with the safe operation of equipment.

(H) When face coverings are not required by this section or by sections 3205.1 through 3205.4, employers shall provide face coverings to employees upon request, regardless of vaccination status.

(I) Employers shall implement measures to communicate to non-employees the face coverings requirements on their premises.

(7) Other engineering controls, administrative controls, and personal protective equipment.

(A) For buildings with mechanical or natural ventilation, or both, employers shall maximize the quantity of outside air provided to the extent feasible, except when the United States Environmental Protection Agency (EPA) Air Quality Index is greater than 100 for any pollutant or if opening windows or maximizing outdoor air by other means would cause a hazard to employees, for instance from excessive heat or cold.

(B) Employers shall implement cleaning and disinfecting procedures, which require:

1. Identifying and regularly cleaning frequently touched surfaces and objects, such as doorknobs, elevator buttons, equipment, tools, handrails, handles, controls, phones, headsets, bathroom surfaces, and steering wheels. The employer shall inform employees and authorized employee representatives of cleaning and disinfection protocols, including the planned frequency and scope of cleaning and disinfection.

2. Cleaning of areas, material, and equipment used by a COVID-19 case during the high-risk exposure period, and disinfection if the area, material, or equipment is indoors and will be used by another employee within 24 hours of the COVID-19 case.

NOTE: Cleaning and disinfecting must be done in a manner that does not create a hazard to employees. See Group 2 and Group 16 of the General Industry Safety Orders for further information.

(C) To protect employees from COVID-19 hazards, the employer shall evaluate its handwashing facilities, determine the need for additional facilities, encourage and allow time for employee handwashing, and provide employees with an effective hand sanitizer. Employers shall encourage employees to wash their hands for at least 20 seconds each time. Provision or use of hand sanitizers with methyl alcohol is prohibited.

(D) Personal protective equipment.

1. Employers shall evaluate the need for personal protective equipment to prevent exposure to COVID-19 hazards, such as gloves, goggles, and face shields, and provide such personal protective equipment as needed.

2. Upon request, employers shall provide respirators for voluntary use in compliance with subsection 5144(c)(2) to all employees who are not fully vaccinated and who are working indoors or in vehicles with more than one person. Whenever an employer makes respirators for voluntary use available, under this section or sections 3205.1 through 3205.4, the employer shall encourage their use and shall ensure that employees are provided with a respirator of the correct size.

3. Employers shall provide and ensure use of respirators in compliance with section 5144 when deemed necessary by the Division through the Issuance of Order to Take Special Action, in accordance with title 8, section 332.3.

4. Employers shall provide and ensure use of eye protection and respiratory protection in compliance with section 5144 when employees are exposed to procedures that may aerosolize potentially infectious material such as saliva or respiratory tract fluids.

NOTE: Examples of work covered by subsection (c)(7)(D)4. include, but are not limited to, certain dental procedures and outpatient medical specialties not covered by section 5199.

(E) Testing of symptomatic employees. Employers shall make COVID-19 testing available at no cost to employees with COVID-19 symptoms who are not fully vaccinated, during employees' paid time.

(8) Reporting, recordkeeping, and access.

(A) The employer shall report information about COVID-19 cases and outbreaks at the workplace to the local health department whenever required by law, and shall provide any related information requested by the local health department. The employer shall report all information to the local health department as required by Labor Code section 6409.6.

(B) The employer shall maintain records of the steps taken to implement the written COVID-19 Prevention Program in accordance with section 3203(b).

(C) The written COVID-19 Prevention Program shall be made available at the workplace to employees, authorized employee representatives, and to representatives of the Division immediately upon request.

(D) The employer shall keep a record of and track all COVID-19 cases with the employee's name, contact information, occupation, location where the employee worked, the date of the last day at the workplace, and the date of a positive COVID-19 test.

(9) Exclusion of COVID-19 cases and employees who had a close contact. The purpose of this subsection is to limit transmission of COVID-19 in the workplace.

(A) Employers shall ensure that COVID-19 cases are excluded from the workplace until the return to work requirements of subsection (c)(10) are met.

(B) Employers shall exclude from the workplace employees who had a close contact until the return to work requirements of subsection (c)(10) are met, with the following exceptions:

1. Employees who were fully vaccinated before the close contact and who do not develop COVID-19 symptoms; and

2. COVID-19 cases who returned to work pursuant to subsection (c)(10)(A) or (B) and have remained free of COVID-19 symptoms, for 90 days after the initial onset of COVID-19 symptoms or, for COVID-19 cases who never developed COVID-19 symptoms, for 90 days after the first positive test.

(C) For employees excluded from work under subsection (c)(9), employers shall continue and maintain an employee's earnings, wages, seniority, and all other employee rights and benefits, including the employee's right to their former job status, as if the employee had not been removed from their job. Employers may use employer-provided employee sick leave for this purpose to the extent permitted by law. Wages due under this subsection are subject to existing wage payment obligations and must be paid at the employee's regular rate of pay no later than the regular pay day for the pay period(s) in which the employee is excluded. Unpaid wages owed under this subsection are subject to enforcement through procedures available

in existing law. If an employer determines that one of the exceptions below applies, it shall inform the employee of the denial and the applicable exception.

EXCEPTION 1: Subsection (c)(9)(C) does not apply where the employee received disability payments or was covered by workers' compensation and received temporary disability.

EXCEPTION 2: Subsection (c)(9)(C) does not apply where the employer demonstrates that the close contact is not work related.

(D) Subsection (c)(9) does not limit any other applicable law, employer policy, or collective bargaining agreement that provides for greater protections.

(E) At the time of exclusion, the employer shall provide the employee the information on benefits described in subsections (c)(5)(B) and (c)(9)(C).

(10) Return to work criteria.

(A) COVID-19 cases with COVID-19 symptoms shall not return to work until:

1. At least 24 hours have passed since a fever of 100.4 degrees Fahrenheit or higher has resolved without the use of fever-reducing medications; and

2. COVID-19 symptoms have improved; and

3. At least 10 days have passed since COVID-19 symptoms first appeared.

(B) COVID-19 cases who tested positive but never developed COVID-19 symptoms shall not return to work until a minimum of 10 days have passed since the date of specimen collection of their first positive COVID-19 test.

(C) Once a COVID-19 case has met the requirements of subsection (c)(10)(A) or (B), as applicable, a negative COVID-19 test shall not be required for an employee to return to work.

(D) Persons who had a close contact may return to work as follows:

1. Persons who had a close contact but never developed any COVID-19 symptoms may return to work when 10 days have passed since the last known close contact.

2. Persons who had a close contact and developed any COVID-19 symptom cannot return to work until the requirements of subsection (c)(10)(A) have been met, unless all of the following are true:

a. The person tested negative for COVID-19 using a polymerase chain reaction (PCR) COVID-19 test with specimen taken after the onset of symptoms; and

b. At least 10 days have passed since the last known close contact; and

c. The person has been symptom-free for at least 24 hours, without using fever-reducing medications.

3. During critical staffing shortages, when there are not enough staff to provide safe patient care, essential critical infrastructure workers in the following categories may return after Day 7 from the date of last exposure if they have received a negative PCR COVID-19 test result from a specimen collected after Day 5:

a. Health care workers who did not develop COVID-19 symptoms;

b. Emergency response workers who did not develop COVID-19 symptoms; and

c. Social service workers who did not develop COVID-19 symptoms and who work face to face with clients in child welfare or assisted living.

(E) If an order to isolate, quarantine, or exclude an employee is issued by a local or state health official, the employee shall not return to work until the period of isolation or quarantine

is completed or the order is lifted. If no period was specified, then the period shall be in accordance with the return to work periods in subsection (c)(10)(A), (c)(10)(B), or (c)(10)(D), as applicable.

(F) If no violations of local or state health officer orders for isolation, quarantine, or exclusion would result, the Division may, upon request, allow employees to return to work on the basis that the removal of an employee would create undue risk to a community's health and safety. In such cases, the employer shall develop, implement, and maintain effective control measures to prevent transmission in the workplace including providing isolation for the employee at the workplace and, if isolation is not feasible, the use of respirators in the workplace.

Note: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3, 144.6 and 6409.6, Labor Code.

HISTORY

1. New section filed 11-30-2020 as an emergency; operative 11-30-2020. Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20) (Register 2020, No. 49). A Certificate of Compliance must be transmitted to OAL by 10-1-2021 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 74, No. 43.

2. Governor Newsom issued Executive Order N-84-20 (2019 CA EO 84-20), dated December 14, 2020, which suspended certain provisions relating to the exclusion of COVID-19 cases from the workplace.

3. Editorial correction of punctuation errors in subsections (b)(1), (c)(3)(D), (c)(10)(C) and (c)(10)(E) (Register 2021, No. 24).

4. New section refiled with amendments 6-17-2021 as an emergency; operative 6-17-2021 pursuant to Executive Order N-09-21 (Register 2021, No. 25). Exempt from the APA pursuant to Government Code sections 8567, 8571 and 8627 (Executive Order N-09-21). Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20). A Certificate of Compliance must be transmitted to OAL by 1-13-2022 or emergency language will be repealed by operation of law on the following day.

This database is current through 9/17/21 Register 2021, No. 38

8 CCR § 3205, 8 CA ADC § 3205

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EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, impacting more than 75 countries, including the United States; and

WHEREAS the State of California has been working in close collaboration with the national Centers for Disease Control and Prevention (CDC), with the United States Health and Human Services Agency, and with local health departments since December 2019 to monitor and plan for the potential spread of COVID-19 to the United States; and

WHEREAS on January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country; and

WHEREAS on January 24, 2020, the California Department of Public Health activated its Medical and Health Coordination Center and on March 2, 2020, the Office of Emergency Services activated the State Operations Center to support and guide state and local actions to preserve public health; and

WHEREAS the California Department of Public Health has been in regular communication with hospitals, clinics and other health providers and has provided guidance to health facilities and providers regarding COVID-19; and

WHEREAS as of March 4, 2020, across the globe, there are more than 94,000 confirmed cases of COVID-19, tragically resulting in more than 3,000 deaths worldwide; and

WHEREAS as of March 4, 2020, there are 129 confirmed cases of COVID-19 in the United States, including 53 in California, and more than 9,400 Californians across 49 counties are in home monitoring based on possible travel-based exposure to the virus, and officials expect the number of cases in California, the United States, and worldwide to increase; and

WHEREAS for more than a decade California has had a robust pandemic influenza plan, supported local governments in the development of local plans, and required that state and local plans be regularly updated and exercised; and

WHEREAS California has a strong federal, state and local public health and health care delivery system that has effectively responded to prior events including the H1N1 influenza virus in 2009, and most recently Ebola; and

WHEREAS experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases in California, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS if COVID-19 spreads in California at a rate comparable to the rate of spread in other countries, the number of persons requiring medical care may exceed locally available resources, and controlling outbreaks minimizes the risk to the public, maintains the health and safety of the people of California, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS personal protective equipment (PPE) is not necessary for use by the general population but appropriate PPE is one of the most effective ways to preserve and protect California's healthcare workforce at this critical time and to prevent the spread of COVID-19 broadly; and

WHEREAS state and local health departments must use all available preventative measures to combat the spread of COVID-19, which will require access to services, personnel, equipment, facilities, and other resources, potentially including resources beyond those currently available, to prepare for and respond to any potential cases and the spread of the virus; and

WHEREAS I find that conditions of Government Code section 8558(b), relating to the declaration of a State of Emergency, have been met; and

WHEREAS I find that the conditions caused by COVID-19 are likely to require the combined forces of a mutual aid region or regions to appropriately respond; and

WHEREAS under the provisions of Government Code section 8625(c), I find that local authority is inadequate to cope with the threat posed by COVID-19; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code section 8625, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in California.

IT IS HEREBY ORDERED THAT:

1. In preparing for and responding to COVID-19, all agencies of the state government use and employ state personnel, equipment, and facilities or perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan, as well as the California Department of Public Health and the Emergency Medical Services Authority. Also, all residents are to heed the advice of emergency officials with regard to this emergency in order to protect their safety.

2. As necessary to assist local governments and for the protection of public health, state agencies shall enter into contracts to arrange for the procurement of materials, goods, and services needed to assist in preparing for, containing, responding to, mitigating the effects of, and recovering from the spread of COVID-19. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to address the effects of COVID-19.

3. Any out-of-state personnel, including, but not limited to, medical personnel, entering California to assist in preparing for, responding to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in Government Code section 179.5, with respect to licensing and certification. Permission for any such individual rendering service is subject to the approval of the Director of the Emergency Medical Services Authority for medical personnel and the Director of the Office of Emergency Services for non-medical personnel and shall be in effect for a period of time not to exceed the duration of this emergency.

4. The time limitation set forth in Penal Code section 396, subdivision (b), prohibiting price gouging in time of emergency is hereby waived as it relates to emergency supplies and medical supplies. These price gouging protections shall be in effect through September 4, 2020.

5. Any state-owned properties that the Office of Emergency Services determines are suitable for use to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services for this purpose, notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.

6. Any fairgrounds that the Office of Emergency Services determines are suitable to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services pursuant to the Emergency Services Act, Government Code section 8589. The Office of Emergency Services shall notify the fairgrounds of the intended use and can immediately use the fairgrounds without the fairground board of directors' approval, and

notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.

7. The 30-day time period in Health and Safety Code section 101080, within which a local governing authority must renew a local health emergency, is hereby waived for the duration of this statewide emergency. Any such local health emergency will remain in effect until each local governing authority terminates its respective local health emergency.

8. The 60-day time period in Government Code section 8630, within which local government authorities must renew a local emergency, is hereby waived for the duration of this statewide emergency. Any local emergency proclaimed will remain in effect until each local governing authority terminates its respective local emergency.

9. The Office of Emergency Services shall provide assistance to local governments that have demonstrated extraordinary or disproportionate impacts from COVID-19, if appropriate and necessary, under the authority of the California Disaster Assistance Act, Government Code section 8680 et seq., and California Code of Regulations, Title 19, section 2900 et seq.

10. To ensure hospitals and other health facilities are able to adequately treat patients legally isolated as a result of COVID-19, the Director of the California Department of Public Health may waive any of the licensing requirements of Chapter 2 of Division 2 of the Health and Safety Code and accompanying regulations with respect to any hospital or health facility identified in Health and Safety Code section 1250. Any waiver shall include alternative measures that, under the circumstances, will allow the facilities to treat legally isolated patients while protecting public health and safety. Any facilities being granted a waiver shall be established and operated in accordance with the facility's required disaster and mass casualty plan. Any waivers granted pursuant to this paragraph shall be posted on the Department's website.

11. To support consistent practices across California, state departments, in coordination with the Office of Emergency Services, shall provide updated and specific guidance relating to preventing and mitigating COVID-19 to schools, employers, employees, first responders and community care facilities by no later than March 10, 2020.

12. To promptly respond for the protection of public health, state entities are, notwithstanding any other state or local law, authorized to share relevant medical information, limited to the patient's underlying health conditions, age, current condition, date of exposure, and possible contact tracing, as necessary to address the effect of the COVID-19 outbreak with state, local, federal, and nongovernmental partners, with such information to be used for the limited purposes of monitoring, investigation and control, and treatment and coordination of care. The

notification requirement of Civil Code section 1798.24, subdivision (i), is suspended.

13. Notwithstanding Health and Safety Code sections 1797.52 and 1797.218, during the course of this emergency, any EMT-P licensees shall have the authority to transport patients to medical facilities other than acute care hospitals when approved by the California EMS Authority. In order to carry out this order, to the extent that the provisions of Health and Safety Code sections 1797.52 and 1797.218 may prohibit EMT-P licensees from transporting patients to facilities other than acute care hospitals, those statutes are hereby suspended until the termination of this State of Emergency.

14. The Department of Social Services may, to the extent the Department deems necessary to respond to the threat of COVID-19, waive any provisions of the Health and Safety Code or Welfare and Institutions Code, and accompanying regulations, interim licensing standards, or other written policies or procedures with respect to the use, licensing, or approval of facilities or homes within the Department's jurisdiction set forth in the California Community Care Facilities Act (Health and Safety Code section 1500 et seq.), the California Child Day Care Facilities Act (Health and Safety Code section 1596.70 et seq.), and the California Residential Care Facilities for the Elderly Act (Health and Safety Code section 1569 et seq.). Any waivers granted pursuant to this paragraph shall be posted on the Department's website.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of March 2020.

GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

ALTERNATIVE INVESTMENTS RECORDS

EXEMPT FROM PUBLIC DISCLOSURE

(CA Gov. Code §6254.26)
(CA Gov. Code §6255)
(CA Gov. Code §54957.5)

DO NOT REPRODUCE

DO NOT DISTRIBUTE