

§3205. COVID-19 Prevention.

(a) Scope.

(1) Until [2 years after effective date],¹ this section applies to all employees and places of employment. The following exceptions apply:

(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 3205.3.

(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 "infectious period" defined by this section, regardless of the use of face coverings, unless "close contact" is defined by order of the California Department of Public Health (CDPH). If so, the CDPH definition shall apply.

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:

¹ This could alternatively be three years after the effective date, with a goal of implementing a general infectious disease standard by that time.

(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 infectious 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 an electronic or physical copy of a vaccination record stating which COVID-19 vaccine was used and the date(s) upon which the person received a full course of that vaccine as determined by the Center for Disease Control and Prevention (CDC), including any booster doses. Vaccines must be FDA approved; have an emergency use authorization from the FDA; be eligible for a COVID-19 vaccination card from CDC; or, for persons fully vaccinated outside the United States, be listed for emergency use or approved by the World Health Organization (WHO).

(10) “Infectious period” means:

(A) The following period, unless otherwise defined by CDPH order.

(i) 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.

(ii) 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.

(B) If “infectious period” is defined by CDPH order, that definition applies.

(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 this section 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 subsection (e)(3)(B) only.

(c) Application of Section 3203. COVID-19 is a workplace hazard and shall be addressed as required by section 3203.

- (1) An employee is potentially exposed to COVID-19 hazards when near other persons, whether or not the employee is performing an assigned work task. The employer shall treat all persons as potentially infectious, regardless of symptoms, vaccination status, or negative COVID-19 test results. COVID-19 shall be considered a hazard specific to an employee’s job assignments and job duties if those assignments and duties bring the employee near other persons.
- (2) When determining measures to prevent COVID-19 transmission and to identify and correct COVID-19 hazards, employers shall review applicable orders and guidance from the State of California and the local health department related to COVID-19 and shall treat COVID-19 as an airborne infectious disease.
- (3) Employees shall receive training regarding COVID-19 in accordance with section 3203(b). Exception 1 to 3203(b)(2) shall not apply to COVID-19 related training.
- (4) The employer’s procedure to investigate COVID-19 illness at the workplace, as required by section 3203(a)(5), must include the following:
 - (A) The employer shall determine the day and time a 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.
 - (B) The employer shall effectively identify and respond to persons with COVID-19 symptoms at the workplace. Employees shall be encouraged to report COVID-19 symptoms and to stay home when ill.
- (5) Employers shall have effective methods and/or procedures for responding to a COVID-19 case at the workplace, including the following:
 - (A) Employers must immediately exclude from the workplace all COVID-19 cases for the isolation period required by CDPH. If no time period has been mandated by CDPH, employers shall exclude COVID-19 cases from the workplace as follows:
 - (i) COVID-19 cases with COVID-19 symptoms shall not return to work until 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 COVID-19 symptoms have improved; and at least 10 days have passed since COVID-19 symptoms first appeared.

- (ii) 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.
- (B) Employers must identify all persons who may have had a close contact and exclude those persons from the workplace for the quarantine period required by CDPH. If no time period has been mandated by CDPH, employers shall review CDPH quarantine guidance and shall develop and implement an effective policy to exclude persons with a close contact from the workplace while they are potentially infectious.
- (C) 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.
- (D) 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.
- (E) Upon excluding an employee from the workplace based on COVID-19 or a close contact, the employer shall give the employee 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, and leave guaranteed by contract

(d) Testing of close contacts. Employers must make COVID-19 tests 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 subsection (c)(5)(D).

EXCEPTION: COVID-19 cases who completed the period of exclusion under subsection (a)(5)(A) and remained free of COVID-19 symptoms after returning to work, 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.

(e) Notice of COVID-19 cases.

- (1) The employer shall provide notice of a COVID-19 case, in a form readily understandable to employees, as required by Labor Code section 6409.6(a)(1) and (4). The notice shall be given to all employees, employers, and independent contractors at the worksite during the infectious period.
- (2) 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 infectious period.

(f) Face coverings.

- (1) Employers shall provide face coverings and ensure they are worn by employees when required by CDPH. For all employees who are not fully vaccinated, employers shall provide face coverings and ensure they are worn when indoors or in vehicles. Face coverings shall be clean, undamaged, and worn over the nose and mouth.

(2) When employees are required to wear face coverings under this section or sections 3205.1 through 3205.3, the following exceptions apply:

(A) When an employee is alone in a room or vehicle.

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

(C) While employees are wearing respirators required by the employer and used in compliance with section 5144.

(D) 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. Such employees shall wear an effective non-restrictive alternative, such as a face shield with a drape on the bottom, if the condition or disability permits it.

(E) During 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.

(2) If an employee is not wearing a face covering pursuant to the exceptions in subsection (f)(2)(D) and (E) the employer shall assess COVID-19 hazards and take action as necessary based on subsection (c) and on section 3203.

(3) No employer shall prevent any employee from wearing a face covering, including a respirator, when not required by this section, unless it would create a safety hazard.

(g) Respirators for Employees with Elevated Risk. Upon request, employers shall provide an N95 respirator for voluntary use to any employee who has been identified by their physician or other health care professional as being at increased risk of severe illness from COVID-19, regardless of vaccination status.

(h) Ventilation.

(1) For indoor workplaces, employers shall review CDPH and Cal/OSHA guidance regarding ventilation, including the Interim Guidance for Ventilation, Filtration, and Air Quality in Indoor Environments, evaluate whether current ventilation is adequate to reduce the risk of transmission if a COVID-19 case enters the workplace, and where it is not adequate, implement changes as necessary. In addition to using other methods, the employer may take one or more of the following actions to improve ventilation:

(A) Maximizing the supply of outside air 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) In buildings and structures with mechanical ventilation, filter circulated air through filters at least as protective as MERV 13, or the highest level of filtration efficiency compatible with the existing mechanical ventilation system.

(C) Using high-efficiency particulate air (HEPA) filtration units in accordance with manufacturers' recommendations in indoor areas occupied by employees for extended periods, where ventilation is inadequate to reduce the risk of COVID-19 transmission.

(2) Employers subject to 5142 or 5143 shall review and comply with those sections, as applicable.

NOTE: Section 5142 requires HVAC systems to be operated continuously during working hours with limited exceptions.

(3) In vehicles, employers shall maximize the supply of outside air to the extent feasible, except when doing so would cause a hazard to employees or expose them to inclement weather.

(i) Aerosolizing procedures. 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 (i) include, but are not limited to, certain dental procedures and outpatient medical specialties not covered by section 5199.

(j) Reporting and recordkeeping.

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

(2) The employer shall retain a vaccination record for two years beyond the period in which the record is necessary to meet the requirements of this section or sections 3205.1 through 3205.3.

(3) 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.

(4) Employers shall retain the notice of a COVID-19 case required by subsection (e) in accordance with Labor Code section 6409.6(k).

(5) 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 3205.2, 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.

(k) Orders. Pursuant to section 332.3, the Division may require an employer to take additional actions to protect employees against COVID-19 hazards through the issuance of an Order to Take Special Action.

§3205.1. COVID-19 Outbreaks.

(a) Scope. This section applies until [2 years after effective date],

(1) This section applies to a workplace covered by section 3205 if three or more employee COVID-19 cases within an exposed group, as defined by section 3205(b), visited the workplace during their high-risk exposure period at any time during a 14-day period.

(2) Except for subsection (e), this section shall apply until there are no new COVID-19 cases detected in the exposed group for a 14-day period. The ventilation requirements in subsection (e) must remain in place in any place of employment that that becomes subject to this section.

(b) COVID-19 testing.

(1) Immediately upon being covered by this section, the employer shall make COVID-19 tests available at no cost to its employees within the exposed group, during employees' paid time, except:

(A) Employees who were not present at the workplace during the relevant 14-day period(s) under subsection (a).

(B) For COVID-19 cases who did not develop COVID-19 symptoms after returning to work pursuant to subsections 3205(c)(10)(A) or (B), no testing is required for 90 days after the initial onset of COVID-19 symptoms or, for COVID-19 cases who never developed symptoms, 90 days after the first positive test.

(2) Employer shall then make testing available on a weekly basis to all employees in the exposed group who remain at the workplace.

(c) Employees in the exposed group shall wear face coverings when indoors, or when outdoors and less than six feet from another person, unless one of the exceptions in subsection 3205(g)(1) applies.

(d) COVID-19 Investigation, review and hazard correction. The employer shall immediately perform a review of potentially relevant COVID-19 policies, procedures, and controls and implement changes as needed to prevent further spread of COVID-19. The investigation and review shall be documented and shall include:

(1) Investigation of new or unabated COVID-19 hazards including the employer's leave policies and practices and whether employees are discouraged from remaining home when sick; the employer's COVID-19 testing policies; insufficient supply of outdoor air to indoor workplaces; insufficient air filtration; and insufficient physical distancing.

(2) Updates every 30 days that this section continues to apply, in response to new information or to new or previously unrecognized COVID-19 hazards, or when otherwise necessary.

(3) Any changes implemented to reduce the transmission of COVID-19 based on the investigation and review, which may include moving indoor tasks outdoors or having them performed remotely; increasing the outdoor air supply when work is done indoors; improving air filtration; increasing physical distancing to the extent feasible; requiring respiratory protection in compliance with section 5144; and other applicable controls.

(e) In buildings or structures with mechanical ventilation, the employer shall filter circulated 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. The employer shall use HEPA air filtration units in accordance with manufacturers' recommendations in indoor areas occupied by employees for extended periods, where ventilation is inadequate to reduce the risk of COVID-19 transmission.

(f) If 20 or more employee COVID-19 cases in an exposed group, as defined by section 3205(b), visited the workplace during their high-risk exposure period within a 30-day period, the employer shall do the following:

(1) The COVID-19 testing described in section 3205.1(b) shall be made available to employees in the exposed group twice a week or more frequently if recommended by the local health department.

(2) The employer shall report the outbreak to the Division. This subsection does not limit the employer's obligation to report employee deaths, serious injuries, or serious illnesses when required by section 342(a).

(3) The employer shall provide respirators for voluntary use in compliance with subsection 5144(c)(2) to employees in the exposed group and shall encourage their use. Employees provided respirators for voluntary use shall be trained how to properly wear the respirator provided; 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.

(3) The employer shall evaluate whether to implement physical distancing of at least six feet between persons or, where six feet of physical distancing is not practicable, as much physical distancing as is feasible.

§3205.2 COVID-19 Prevention in Employee Housing.

(a) Scope. Until [insert date two years after effective date], this section applies to employer-provided housing. Employer-provided housing is any place or area of land, any portion of any housing accommodation, or

property upon which a housing accommodation is located, consisting of: living quarters, dwelling, boardinghouse, tent, bunkhouse, maintenance-of-way car, mobile home, manufactured home, recreational vehicle, travel trailer, or other housing accommodations. Employer-provided housing includes a “labor camp” as that term is used in title 8 of the California Code of Regulations or other regulations or codes. The employer-provided housing may be maintained in one or more buildings or one or more sites, including hotels and motels, and the premises upon which they are situated, or the area set aside and provided for parking of mobile homes or camping. Employer-provided housing is housing that is arranged for or provided by an employer, other person, or entity to workers, and in some cases to workers and persons in their households, in connection with the workers' employment, whether or not rent or fees are paid or collected.

The following exceptions apply:

(1) This section does not apply to housing provided for the purpose of emergency response, including firefighting, rescue, and evacuation, and support activities directly aiding response such as utilities, communications, and medical operations, if:

(A) The employer is a government entity; or

(B) The housing is provided temporarily by a private employer and is necessary to conduct the emergency response operations.

(2) This section does not apply to housing in which all residents maintained a household together prior to residing in employer-provided housing, such as family members.

(3) Only subsection (g) applies to housing in which all residents are fully vaccinated.

(4) This section does not apply to employees with occupational exposure as defined by section 5199, when covered by that section.

(5) This section does not apply to employee housing used exclusively to house COVID-19 cases or where a housing unit houses one employee.

(b) Assignment of housing units. To the extent feasible, employers shall assign employee housing to cohorts that travel and work in groups separate from other workers. To the extent feasible, residents who usually maintain a household together shall be housed in a single housing unit without other persons.

(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.

(d) Face coverings. Employers shall provide face coverings to all residents and provide information to residents on when they should be used in accordance with state or local health officer orders or guidance.

(e) Screening. The employer shall encourage residents to report COVID-19 symptoms to the employer.

(f) COVID-19 testing. The employer shall establish, implement, and maintain effective policies and procedures for COVID-19 testing of residents who had a close contact or COVID-19 symptoms. These policies and procedures shall be communicated to the residents.

(g) COVID-19 cases and close contacts.

(1) Employers shall effectively isolate COVID-19 cases from all residents who are not COVID-19 cases, for the period established by section 3205(c)(5)(A). Effective isolation shall include housing COVID-19

cases only with other COVID-19 cases, and providing COVID-19 case residents with a sleeping area and bathroom that is not shared by non-COVID-19 case residents.

(2) Employers shall effectively quarantine residents who have had a close contact from all other residents, for the time period required by section 3205(c)(5)(B). Effective quarantine shall include providing residents who had a close contact with a private bathroom and sleeping area.

§3205.3. COVID-19 Prevention in Employer-Provided Transportation.

(a) Scope. Until [insert date two years after effective date], this section applies to employer-provided motor vehicle transportation to and from work, during the course and scope of employment, which is provided, arranged for, or secured by an employer regardless of the travel distance or duration involved, with the following exceptions:

(1) Employees alone in a vehicle, employees taking public transportation, or vehicles in which the driver and all passengers are from the same household outside of work, such as family members.

(2) Employer-provided transportation necessary for emergency response, including firefighting, rescue, and evacuation, and support activities directly aiding response such as utilities, communications, and medical operations.

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

(b) Employers shall comply with the requirements of section 3205 within the motor vehicle transportation and shall respond to a COVID-19 case within the vehicle in accordance with the requirements of that section.

(c) Assignment of transportation. To the extent feasible, employers shall assign transportation such that cohorts travel and work in groups separate from other workers. To the extent feasible, employees who usually maintain a household together shall travel together.