

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
Tel: (916) 274-5721 Fax: (916) 274-5743
www.dir.ca.gov/oshsb



June 9, 2021 – Finding of Necessity

This meeting has been called and noticed pursuant to the special meeting provision of the Bagley-Keene Open Meeting Act (Act), which allows for a meeting on less than 10 days' notice under certain circumstances.

The Occupational Safety and Health Standards Board (Board) held a regular meeting on June 3, 2021, in which it voted to re-adopt the COVID-19 Prevention Emergency Temporary Standard (ETS). The regulatory package was then submitted to OAL, where it is currently pending review.

On Monday, June 7, 2021, the Board received notification from the California Department of Public Health (CDPH) regarding imminent changes to the state's requirements on the use of face coverings, to align with guidance issued by the Centers for Disease Control and Prevention (CDC), effective June 15, 2021. According to the CDPH notification, as of June 15, face coverings will no longer be required for fully vaccinated Californians in public settings, except in the settings where CDC advises that all individuals should wear face coverings regardless of vaccination status, such as healthcare settings and long-term care facilities, public transit, and sheltering operations. The Board was not aware of these imminent changes when it voted at its June 3, 2021 meeting.

Immediate action is required to protect the public interest in preventing the spread of COVID-19 in the workplace, by ensuring that the COVID-19 related regulations are consistent with, and reflective of, the most up to date health and safety guidance on the COVID-19 pandemic. Therefore, in order to ensure the COVID-19 prevention emergency temporary standards are in conformance with the most recent guidance, the Board requires immediate briefing from both CDPH and the Division of Occupational Safety and Health.

Immediate action is also required to protect the public interest to avoid confusion regarding the requirements of the workplace safety standards, which would make both enforcement and compliance unduly difficult. The Occupational Safety and Health Act's purpose is to assure safe and healthful working conditions for all Californians. The Board furthers this purpose through the promulgation of effective and enforceable standards. Because state public health guidance will change on June 15, to avoid confusion, the Board should consider before that date whether changes to the ETS are necessary.

Finally, complying with the 10-day notice requirements of Bagley-Keene would impose a substantial hardship on the Board. The Board's ability to meet, receive briefing, and take necessary action prior to finalization of the re-adoption of the COVID-19 prevention emergency

temporary standards, is incumbent upon the Board holding a meeting prior to June 15, when the above-mentioned requirements from CDPH will go into effect.

Based on the immediate need for briefing from CDPH and Cal/OSHA prior to June 15, the Board finds that it would create a substantial hardship to delay this meeting, as further changes to the COVID-19 prevention emergency temporary standards may be necessary for those reasons stated above.

For all of these reasons, the Board has properly called and noticed this special meeting pursuant to the act.