



PRESENTERS







TEAM



Presentation Housekeeping







SAFETY / CAL-OSHA COMPLIANCE



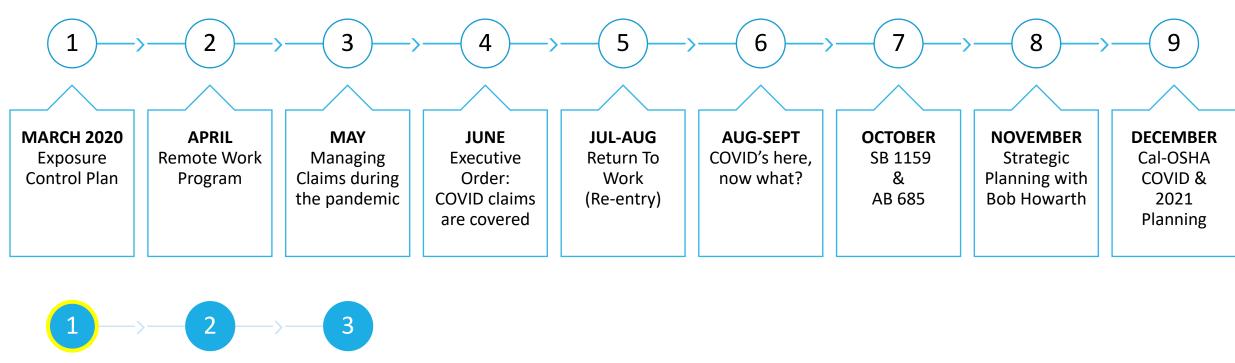
FRAMEWORK FOR COVID
RISK MANAGEMENT

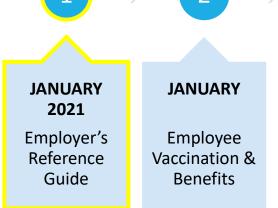


Q&A TO FOLLOW VIA EMAIL AFTER WEBINAR



COVID-19 WEBINAR SERIES: SUPPORTING OUR CUSTOMER'S NEEDS THROUGH THIS PANDEMIC JOURNEY







2020 COVID-19 Webinar Stats

Webinars Hosted

40+ 4,000+ 2,400+

Registered Attendees

Presentation Minutes



Today's Topics

- Senate Bill 1159
- Assembly Bill 685
- 3205 Cal-OSHA COVID Regulation
- FFCRA
- Resources
- Q&A
- Upcoming webinars



Setting the stage



CALIFORNIA FOCUSED



NO ONE SIZE FITS
ALL



CURATED
CONTENT BASED
ON CLIENT
INTERACTIONS,
CASES, FAQS, ETC.



NOT EMPLOYMENT LAW FOCUSED

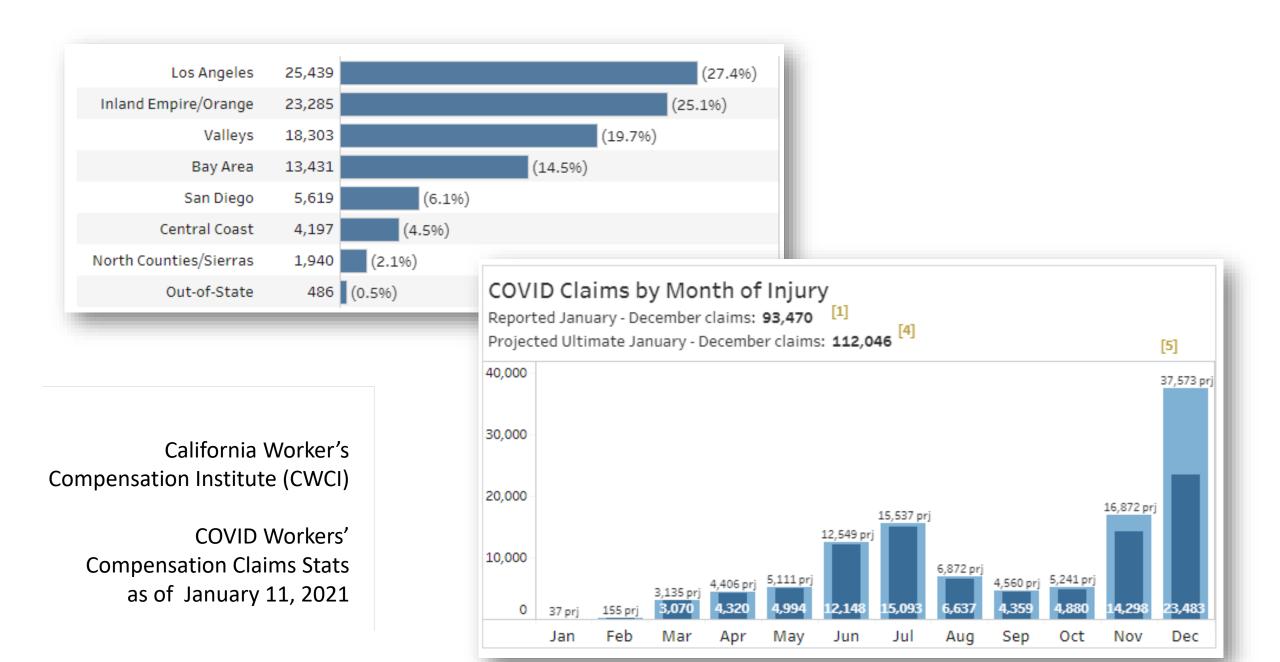


INFORMATION IS AS OF THIS WEEK



CAL-OSHA, FED-OSHA, DIR, LHD, LABOR COMMISSIONER, CDC, EEOC







SB 1159 Reporting to Carrier/TPA (signed into law 9/17/20)

Labor code: 3212.86, 3212.87, 3212.88

- Apples to employers with 5 or more employees
- Framework only applies if there is an "<u>outbreak</u>"
- Outbreak is <u>4 or more COVID-19 exposures within 2 weeks</u>, if you have under 100 employees; OR, for over 100 employees, 4% of employees exposed at a specific location
- Employee must have tested <u>positive within 14 days of working at an employer's direction</u>
- Within three days, the employer must alert the claims administrator
- Employer may not provide specifically identifying information about the employee(s) in question, *unless* that employee asserts the infection is work related.
- Contact your Workers' Compensation Insurance Carrier for the reporting protocols

More about 1159 here



1159: Reporting and "Alerting" differences

Qualifying employers under 1159 with 5 or more employees, need to alert their Carrier of any positive COVID-19 tests for employees working on-site (regardless of compensability).

- They do this by using the Carrier's 1159 form there are different variations of this; each carrier has created their
 own for CA cases.
- Maintain confidentiality on the 1159 form (use employee IDs or some reference number). Do not include any personal identifiable information including name, SSN, etc.
- The reason for the 1159 form is for the carrier determine whether there is an outbreak for Workers' Compensation purposes. IF so, then all of those positive cases are *presumed* to be work-related, but that presumption can be disputed with other evidence.
- There is a difference between **reporting** a claim and **alerting** the carrier with an 1159 form.
- If an employee alleges they were exposed at work, the employer also files a Workers' Comp claim, as with any other work-related injury or exposure allegation.



AB 685 Notice to Employees & Health Department (effective 1/1/21)

- Requires employer that receives a <u>notice of potential exposure to COVID-19</u>
 <u>from a "Qualified Individual"</u> to provide specified notifications to its employees
 <u>within one business day</u> of the notice of potential exposure.
- "Notice" may include any written notice, such as email, text message, or personal service, so long as it can be "reasonably anticipated" that the employee will receive the notice within one business day.
- Notify their <u>local public health agency of an "outbreak</u>" at the place of employment within 48 hours of knowledge of the outbreak
 - Outbreak: 3+ cases within a 2-week period
- Expanded Power of Cal/OSHA authority

More about 685 here



3205
Cal-OSHA
COVID-19
Prevention
Program
(effective 11/30/20)
(Grace Period: 2/1/2021)

Main Requirements: To comply with the regulation, an employer must develop a written COVID-19 Prevention Program, including:

- 1. Communication to employees about COVID-19 prevention procedures
- 2. Identify, evaluate and correct COVID-19 hazards
- 3. Physical distancing of at least six feet unless it is not possible
- 4. Use of face coverings
- 5. Use engineering controls, administrative controls and personal protective equipment
- 6. Procedures to investigate and respond to COVID-19 cases in the workplace
- 7. Provide COVID-19 training to employees
- 8. Provide testing to employees who are exposed, and in the case of multiple infections or a major outbreak, implement regular workplace testing for employees in the exposed work areas
- 9. Exclusion of COVID-19 cases and exposed employees from the workplace until they are no longer an infection risk
- 10. Return to work criteria
- 11. Maintain records of COVID-19 cases and report serious illnesses and multiple cases to Cal/OSHA and the local health department, as required



§ 3205: Definitions

COVID-19 Case

- (1) Has a positive "COVID-19 test" as defined in this section
- (2) Is subject to COVID-19related order to isolate issued by a local or state health official
- (3) 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.

COVID-19 Exposure

 Being within six feet of a COVID-19 case for a cumulative total of 15 minutes or greater in any 24-hour period

COVID 19 Symptoms

- Fever of
 - 100.4 degrees Fahrenheit or higher
 - o chills
 - o cough
 - shortness of breath or difficulty breathing,
 - fatigue
 - muscle or body aches,
 - o headache
 - o new loss of taste or smell
 - o sore throat
 - congestion or runny nose,
 - nausea or vomiting, or diarrhea, etc.

High-Risk Exposure Period

- For persons who develop COVID-19 symptoms: from two days before they first develop symptoms until 10 days after symptoms first appeared, and 24 hours have passed with no fever, without the use of feverreducing medications, and symptoms have improved
- For persons who test positive who never develop COVID-19 symptoms: from two days before until ten days after the specimen for their first positive test for COVID-19 was collected.



3205: Who needs to quarantine?

People who have been in close contact with someone who has COVID-19

What counts as close contact?

- You were within 6 feet of someone who has COVID-19 for a cumulative total of 15 minutes or more
- You provided care at home to someone who is sick with COVID-19
- You had direct physical contact with the person
- You shared eating or drinking utensils
- They sneezed, coughed, or somehow got respiratory droplets on you

Quarantine periods:

- CDC, LHD, CDPH, Cal-OSHA recommend quarantining for 14 days.
- However, under Executive Order N-84-20, 10 days is an option given certain return to work criteria has been satisfied.
 - Also check with your LHD for additional quarantine and return to work guidance.



3205: Return to Work Criteria

- COVID-19 cases with COVID-19 symptoms will not return to work until all the following have occurred:
 - At least 24 hours have passed since a fever of 100.4 or higher has resolved without the use of fever-reducing medications.
 - COVID-19 symptoms have improved.
 - At least <u>10 days have passed</u> since COVID-19 symptoms first appeared.
 - For employees without symptoms, at least 10 days have passed since the COVID-19 case's first positive test
 - If a licensed health care professional determines the person is not/is no longer a COVID-19 case
- COVID-19 cases who tested positive but never developed COVID-19 symptoms will 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.



Executive Order N-84-20 December 14, 2020



State of California—Health and Human Services Agency California Department of Public Health



December 14, 2020

Erica S. Pan, MD, MPH Acting State Health Officer

TO: California Local Health Departments

SUBJECT: COVID-19 Quarantine Guidance

- All asymptomatic close contacts (within 6 feet of an infected person for a cumulative total of 15 minutes or more over a 24-hour period) may
 discontinue quarantine after Day 10 from the date of last exposure with or without testing.
- During critical staffing shortages when there are not enough staff to provide safe patient care, essential critical infrastructure workers in the
 following categories are not prohibited from returning after Day 7 from the date of last exposure if they have received a negative PCR test result
 from a specimen collected after Day 5:

All asymptomatic close contacts (within 6 feet of an infected person for a cumulative total of 15 minutes or more over a 24-hour period) may discontinue quarantine after **Day 10** from the date of last exposure **with or without** testing.

are workers; and

icy response and social service workers who work face to face with clients in the child welfare system or in

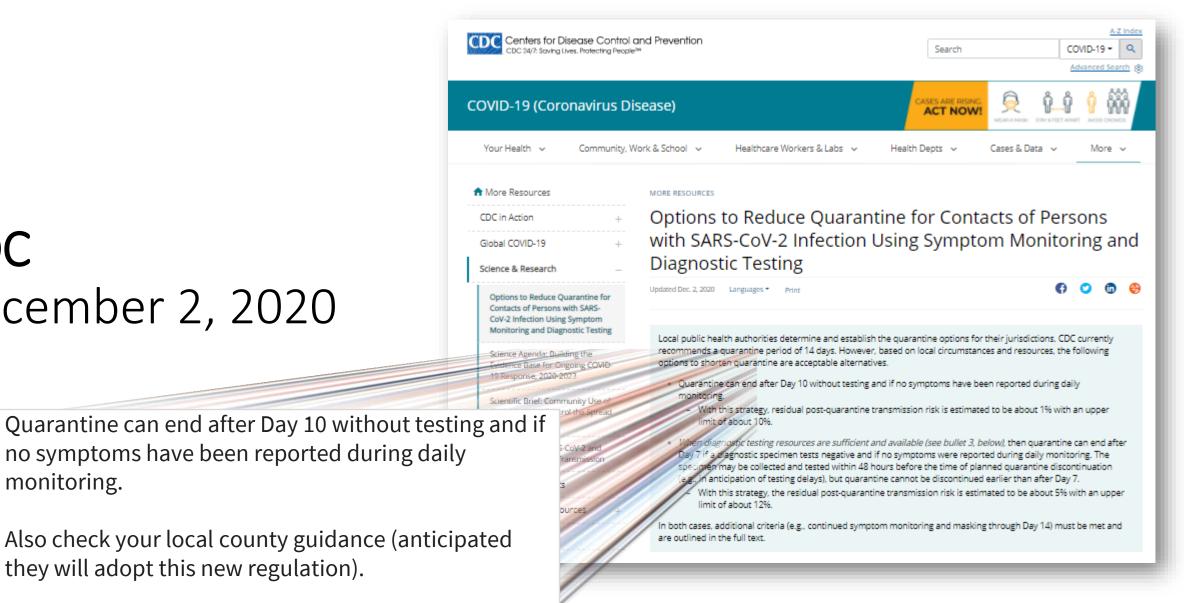
CDPH Notice here



December 2, 2020

they will adopt this new regulation).

monitoring.



CDC Guideline here



3205: COVID Testing (Employer)

- Non-Outbreak Settings: Provide testing at no cost to employees during their normal working hours
- Outbreak Setting (3+ COVID-19 cases within a 14-day period): In addition:
 - Immediately provide testing to all employees in the exposed workplace and exclude positive cases and exposures from work; repeat the testing one week later; and
 - Continue testing employees at least weekly until the workplace no longer qualifies as an outbreak.
- Major Outbreak Setting (20 + COVID-19 cases within a 30-day period)

Cal-OSHA FAQs here.



3205: COVID Testing (Employee)

- If you do NOT have COVID-19 symptoms:
 - Get tested around 6 days after your last exposure to the case.
 - If you got tested before that, get tested again towards the end of your 10-day quarantine period and monitor your symptoms for 14 days.
- If you have or develop COVID-19 symptoms:
 - o Get tested immediately and separate yourself from any household members as much as possible.
 - If your test result is positive, you must remain isolated at home until at least 10 days have passed since your symptoms began AND after at least 24 hours with no fever (without using fever-reducing medication) and any other symptoms have improved.
 - If your test is negative and you were tested earlier than 6 days from your last exposure to the case, you
 must quarantine at home for a full 10 days and get tested again towards the end of your 10-day
 quarantine period.
 - o If your test is negative, and it was done on day 6 or later from your last exposure to the case, no additional testing is needed, but you still must quarantine at home for a full 10 days.





3205: Reporting COVID claims to Cal/OSHA

• An "incident" is thus when an employee is exposed to the virus at work, as opposed to when the employee develops symptoms, or tests positive.

• In-patient hospitalizations:

- . . . in order to be reportable, an in-patient hospitalization due to COVID-19 must occur within 24 hours of an exposure to SARS-CoV-2 at work.
- The employer must report such hospitalization within 24 hours of knowing both that the employee has been in-patient hospitalized and that the reason for the hospitalization was a work-related case of COVID-19.

Fatalities related to COVID-19:

- In order to be reportable, a fatality due to COVID-19 must occur within 30 days of an exposure to SARS-CoV-2 at work.
- The employer must report the fatality within 8 hours of knowing both that the employee has died, and that the cause of death was a work-related case of COVID-19.

3205: Recording COVID claims on the OSHA 300

- To be recordable, an illness must be work-related and result in one of the following:
 - The case is a confirmed case of COVID-19, as defined by the CDC,
 - The case is work-related, as defined by 29 CFR § 1904.5,
 - Death,
 - Days away from work,
 - Restricted work or transfer to another job,
 - Medical treatment beyond first aid,
 - Loss of consciousness, or
 - A significant injury or illness diagnosed by a physician or other licensed health care professional.
- If a work-related COVID-19 case meets one of these criteria, then covered employers in California must record the case on their 300, 300A and 301 or equivalent forms.

OSHA FAQs <u>here</u>



Outbreak Reporting for the LHD

- Employers should notify the local health department if they have an outbreak of <u>3 or more employees at a specific location within a two-week period within 48 hours</u> if unsure or have employees travelling to different sites, err on the side of caution.
- ESM has <u>guidelines for local counties</u> but recommend employers should consult with any updated resources or guidance from their Specific LHD, as requirements are continually changing.
- CDC encourages employers to collaborate with health departments when investigating workplace exposures to infectious diseases, including COVID-19.
 - Quick and coordinated actions, including case investigation and contact tracing, may lower the need for business closures to prevent the spread of the disease.
- Employers' involvement with the official health department case investigation or contact tracing process may vary. It will depend on the authorities, responsibilities, and capacities of their health departments



FFCRA 2021 Options

The **Families First Coronavirus Response Act (FFCRA or Act)** requires certain employers to provide their employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19.

These provisions applied through December 31, 2020.

2021 Options:

- 1. Stop providing FFCRA leave after 12/31/2020
 - Would not be able to claim additional tax credits (other than for FFCRA leave provided through 12/31/2020).
- 2. Voluntarily extend FFCRA leave benefits to employees through 3/31/2021
 - a. Continue to claim tax credits for the additional FFCRA leave provided.
 - Only employees who have not exhausted their FFCRA leave entitlement through 12/31/2020 are eligible for extended FFCRA leave benefits.

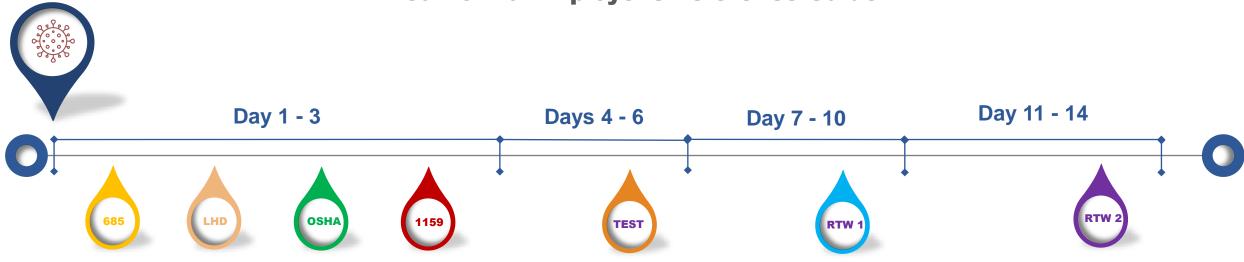
DIR Paid Lave Comparison <u>here</u>





COVID-19 REPORTING TIMELINE

A California Employer's Reference Guide





Notice Requirement.

Send a notice to exposed employees within 1 business day.



LHD

Notify the Local Health Department (LHD) within 48 hours of an "outbreak" (3+ cases)



OSHA

Report to OSHA any "serious" injuries within 24 hours of knowledge.



SB1159

Reporting Requirement.

Report all cases to the Work Comp carrier within 3 days. 4+ cases is considered an outbreak



TEST

Recommend exposed employees get tested day 6 +.



RTW 1

quarantine period is an option with asymptomatic employee with or without a test.



RTW 2

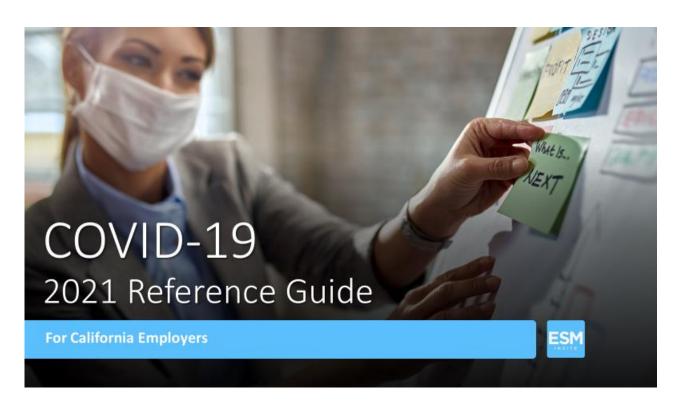
14-day quarantine period for symptomatic, close contact and positive cases.

Asymptomatic self-monitor if returning at Day 10.



Today's webinar slides
These will be updated
throughout January.

(same link)



http://www.esminsite.com/s/ESM Covid-19-Reference-Guide 012021.pdf



§ 3205 Audit Checklist

(updated to included Exec order)

http://www.esminsite.com/s/ESM_Cal-OSHA_COVID-19-Prevention-Regulation-Checklist 20201.pdf

Editable form available in INSITE



Cal-OSHA §3205 COVID-19 Prevention Regulation audit checklist

The Cal-OSHA COVID-19 Prevention Standard became effective November 30, 2020. The following checklist is a comprehensive list of the regulation requirements. It can be used to cross-reference your Exposure Control Plan in order to determine compliance or modifications that might be needed.

NOTE: this checklist does not include the following sections. For more information on these sections, visit https://www.dir.ca.gov/oshsb/documents/noticeNov2020-COVID-19-Prevention-Emergency.pdf

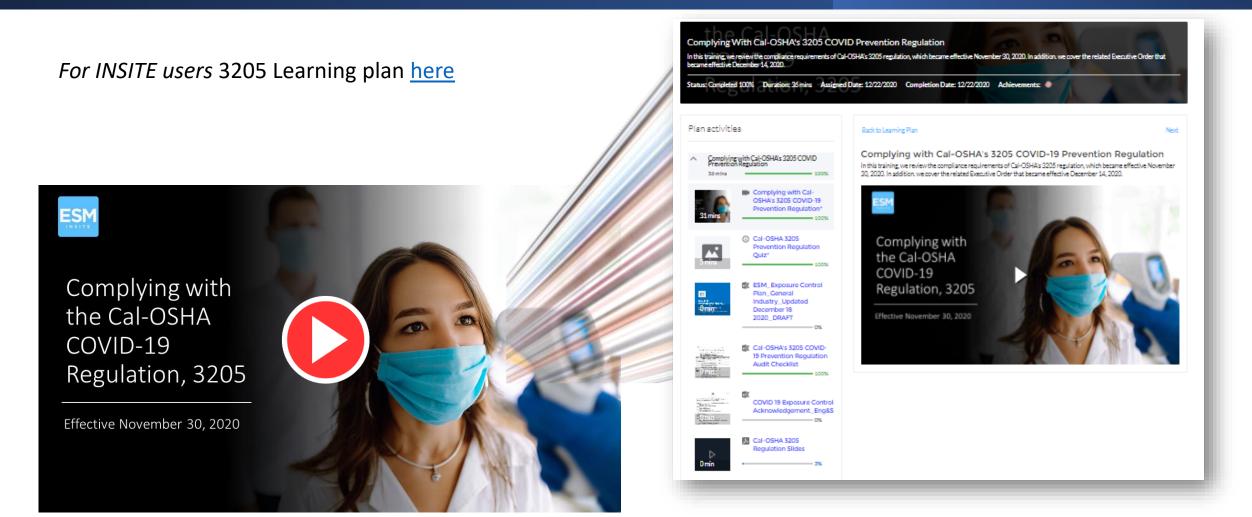
- 3205.1: Multiple COVID-19 Infections and COVID-19 Outbreaks
- 3205.2. Major COVID-19 Outbreaks
- 3205.3. COVID-19 Prevention in Employer-Provided Housing
- 3205.4. COVID-19 Prevention in Employer-Provided Transportation to and from Work

§3205 PART 1 11 SECTIONS	REGULATION REQUIREMENT	CONTAINED IN ECP YES / NO	COMMENTS
(1) SYSTEM FOR COMMUNICATING	Asks employees to report to the employer, without fear of reprisal, COVID-19 symptoms, exposures and hazards.	Yes □ No □	
	Describes procedures or policies for accommodating employees with medical or other conditions that put them at increased risk.	Yes □ No □	
	Provides information about access to COVID-19 testing.	Yes □ No □	
	Communicates information about COVID-19 hazards and the employer's COVID-19 policies and procedures to employees.	Yes □ No □	
(2) IDENTIFICATION AND EVALUATION OF COVID-19 HAZARDS	Allows for employee and authorized employee representative participation in the identification and evaluation of COVID-19 hazards.	Yes □ No □	
	Has a process for screening employees for and responding to employees with COVID-19 symptoms? (self-evaluation or worksite screening).	Yes □ No □	
	Requires that non-contact thermometers are used in worksite screening (if applicable).	Yes □ No □	
	Contains 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.	Yes □ No □	
	Conducts workplace-specific identification of all interactions, areas, activities, processes, equipment, and materials that could potentially expose employees to COVID-19 hazards (including places and times where people congregate and an evaluation of how employees and other persons enter, leave, and travel through the workplace.)	Yes □ No □	
	Identifies how to maximize the quantity of outdoor air and whether it is possible to increase filtration efficiency.	Yes □ No □	
	Conducts periodic inspections as needed to identify unhealthy conditions, work practices, and work procedures.	Yes □ No □	
(3) INVESTIGATING AND RESPONDING TO COVID-19 CASES IN THE WORKPLACE	Has a procedure to investigate COVID-19 cases in the workplace. This includes procedures for verifying COVID-19 case status, receiving information regarding COVID-19 test results and onset of COVID-19 symptoms, and identifying and recording COVID-19 cases.	Yes □ No □	
	When there has been a COVID-19 case, identifies 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) or diagnosis	Yes □ No □	
	Determines who may have had a COVID-19 exposure	Yes □ No □	
	Gives notice of the potential COVID-19 exposure, within one business day, in a way that does not reveal any personal identifying information of the COVID-19 case to employees and contractors.	Yes □ No □	
	Offers COVID-19 testing at no cost to employees during their working hours to all employees who had potential COVID-19 exposure in the workplace.	Yes □ No □	
	Investigates whether any workplace conditions could have contributed to the risk of COVID-19 exposure.	Yes □ No □	
	Maintains that personal identifying information of COVID-19 cases and medical information and/or persons with COVID-19 symptoms is kept confidential.	Yes □ No □	
www.esminsite.com		1	age

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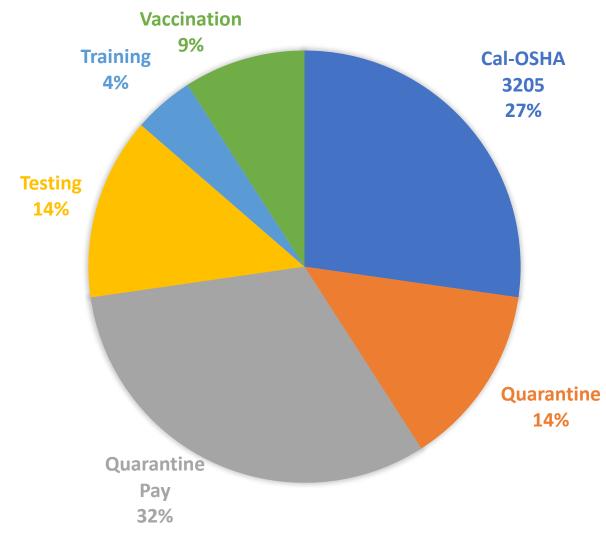


3205: Learning Plan Available in INSITE





Q&A Breakdown



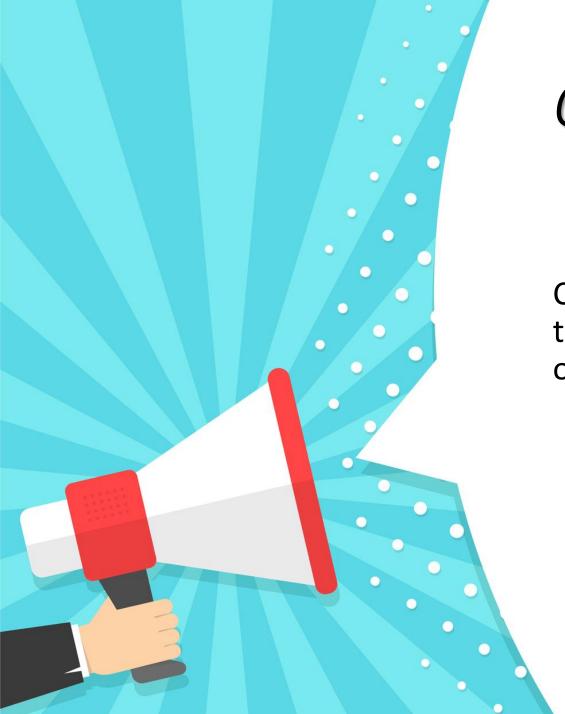




Can an employer ask an employee who is physically coming into the workplace whether they have family members who have COVID-19 or symptoms associated with COVID-19?

Reference **EEOC FAQ**





Can an employer administer a COVID-19 test when evaluating an employee's initial or continued presence in the workplace?

Reference **EEOC FAQ**





If an employee calls to advise a household member has tested positive, but the employee has not tested and has no plans to test, how should an employer respond?

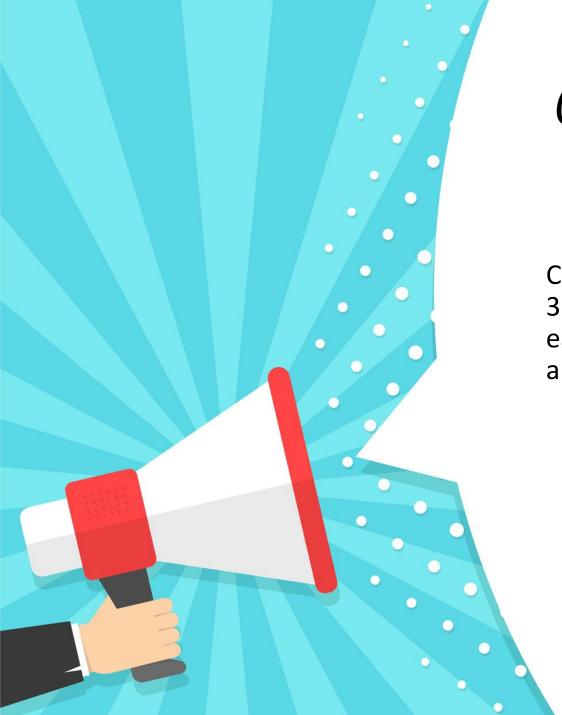
Is a paid 10-day quarantine now applicable?

Is co-worker exposure notification under AB 685 and/or Cal OSHA triggered?

Is a Cal-OSHA 300 log entry required?

Reference: Cal-OSHA 3205 FAQs





Can you provide more clarity on the Cal-OSHA 3205 requirement to maintain an employee's earnings, seniority, and all other employee rights and benefits?

Reference: Cal-OSHA 3205 FAQs

Q&A: 51 - 60

Reference: <u>Labor Commissioner Guidance</u>



Upcoming Webinars





Strategic HR Partner Silvers HR

www.silvershr.com

Register Here

Please join ESM INSITE, in partnership with Silvers HR, for a free webinar



An Employer's Reference Guide to Managing COVID-19 Regulations + Q&A

January 19, 2021 9:00 a.m.





January 21st, 2021 9- 10am

Can Employers Require Employee Vaccinations?

Register Here

Join ESM and strategic partner Littler Mendelson where we will review an employer's option to require their employees to get vaccinated as well as additional guidance by the EEOC.

Topics include:

- Quarantining and benefits
- EEOC Frequently Asked Questions
- Addressing employee vaccination concerns:
 - Religious
 - Medical
 - Political
- An employer's next step in managing and mitigating the virus in their workplace.
- Audience Q&A please submit your questions 3 days prior to webinar.

Special host: Kennell ("Kenny") Sambour, JD Littler Mendelson





February 4th, 2021 Webinar

Workplace Crisis Intervention

Moving back into the workplace

Register Here

Catastrophic life events can have significant and lasting impacts on the workplace; stress, loss, injuries even fatalities are all issues your teams may have to deal with from time to time.

Research has shown that 1 in 4 of your employees may experience some form of mental health disorder, injury or illness in any given year.

This will be an awareness level presentation intended to broaden the understanding of the issue and will cover these topics:

- Overview of common mental health issues and how they may impact the workplace
- Tips and strategies for recognizing somebody in crisis
- Review a range of support and intervention options

Special host: Hector Alvarez. Mr. Alvarez is a nationally recognized security expert who specializes in workplace violence prevention and is a Certified Threat Manager by the Association of Threat Assessment Professionals. He holds a MS in Forensic Psychology and a BS in Criminal Justice.







Thank you!





Need assistance with mitigating risk? We're here to help.

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