

## e-Alert

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# Cal/OSHA Approves 2nd Readoption of ETS and Governor Issues Order Potentially Further Extending COVID Restrictions

## Background

In June 2021, California's Occupational Safety and Health (Cal/OSHA) Standards Board implemented an [Emergency Temporary Standard \(ETS\)](#) regarding the COVID-10 pandemic. With an initial expiration date of January 14, 2022, the ETS has been extended through mid-April 2022 with [amendments](#).

## Summary

### Face Coverings

The ETS tightens parameters for compliant face coverings. Face coverings must pass the "light test;" meaning that when you hold the face covering up to the light, you cannot see through it. Additionally, face coverings must be a solid piece of fabric that does not have any openings (e.g., holes, punctures, or slits) and fit snugly over the mouth, nose, and chin with no large gaps on the face. Employers should ensure employees who need an accommodation for wearing a face covering are practicing social distancing. Additionally, the ETS outlines that if an employee's condition or disability does not permit

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a face covering alternative, they either be fully vaccinated or required to undergo weekly testing for COVID-19 at no cost to the employee.

### **Testing Protocols**

The amended ETS requires employers to test all employees who have had close contact to a confirmed case of COVID-19. Testing is necessary for employees regardless of their vaccination status and/or the presence of symptoms. The following methods are acceptable testing standards under the Cal/OSHA ETS:

- Specimen collection and processing done and/or observed by an employer
- Specimens administered by a laboratory
- Proctored over the counter (OTC) tests
- Point of care tests

The 2<sup>nd</sup> Revised ETS notes that tests may not be self-administered and self-read unless the employer witnesses or permits a telehealth proctor.

### **Physical Distancing & Return to Work Criteria**

Under the 2<sup>nd</sup> Revised ETS, when a fully vaccinated employee is a close contact and is not experiencing symptoms, they may return to the workplace after 10 days following exposure provided that the employee wears a face covering, and practices social distancing for 14 days from the date of potential exposure. Alternatively, the 2<sup>nd</sup> Revised ETS outlines an employee can return to work after seven days of the last known contact if the employee tested negative for COVID-19 at least five days after their last known contact, wears a face covering, and maintains social distancing for 14 days following the last known contact. Close contact employees who experience COVID-19 symptoms should be treated as COVID-19 cases as it relates to return to work.

### **What's Next?**

Cal/OSHA has prioritized enforcement of the ETS and has already begun issuing fines to employers not in compliance. Although the current ETS is set to expire mid-April, California's governor issued an [executive order](#) that anticipates the ETS being extended through December 2022.

## Employer Next Steps

- Employers are encouraged to audit their current policies to ensure compliance with the amended ETS.
- Employers should continue to educate themselves and be alert of the everchanging landscape surrounding COVID-19.
- If you are a Full-Service or Virtual HR client and would like our assistance with updating your policies, please [email us](#).

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