

JUNE 17 REVISIONS TO THE COVID-19 PREVENTION EMERGENCY TEMPORARY STANDARDS (ETS)

<https://www.dir.ca.gov/dosh/coronavirus/Revisions-FAQ.html#whatchanged>

CHANGES TO THE PREVIOUS ETS STANDARDS

Employers may allow fully vaccinated employees not to wear face coverings indoors, but must document their vaccination status.

- Employers must provide unvaccinated employees with approved respirators for voluntary use when working indoors or in a vehicle with others, upon request.
- No physical distancing or barrier requirements regardless of employee vaccination status.
- No face covering requirements outdoors (except during outbreaks), regardless of vaccination status, though workers must be trained on CDPH recommendations for outdoor use of face coverings.
- Employers must evaluate ventilation systems to maximize outdoor air and increase filtrations efficiency, and evaluate the use of additional air cleaning systems.
- Fully vaccinated employees without symptoms do not need to be tested or quarantined after close contacts with COVID-19 cases unless they have symptoms.
- Employers may not retaliate against employees for wearing face coverings.

CAL OSHA REQUIREMENTS THAT REMAIN IN PLACE

- An effective [written COVID-19 Protection Program](#).
- Providing effective training and instruction to employees on the employer's prevention plan and their rights under the ETS.
- Providing notification to public health departments of outbreaks.
- Providing notification to employees of exposure and close contacts.
- Requirements to [offer testing](#) after potential exposures.
- Requirements for responding to COVID-19 cases and outbreaks.
- Quarantine and exclusion pay requirements.

PHYSICAL DISTANCING REQUIREMENTS

The revised ETS is similar to rule changes for the general public in California that eliminate physical distancing and barrier requirements regardless of vaccination status. There are several exceptions that may apply:

- Nothing in the revised ETS prevents employers from implementing additional protective measures than are required, including the use of physical distancing and barriers.
- Employers are under an ongoing requirement to assess workplace hazards and implement controls to prevent transmission of disease. There may be circumstances in which employers determine that physical distancing is necessary in their workplace.

RESPIRATORS

An employer must provide respirators in two scenarios: (1) to any unvaccinated employee who works with others indoors or in a vehicle and who requests one and (2) where there is a major outbreak, to any employees in the exposed group for voluntary use.

An employer must be able to provide the respirator upon request. Initially, an employer may either stock respirators and offer them to employees or may poll workers to determine which employees wish to be provided a respirator before obtaining them. If an employee prefers to select and purchase their own respirator, an employer may permit this alternative, as long as the employer reimburses the employee in a timely manner.

Respirators must be replaced if they get damaged, deformed, dirty, or difficult to breathe through. CDC recommends replacing a disposable filtering facepiece respirator, such as an N95, after it has been taken on and off five times. Filtering facepiece respirators may not fit correctly after repeated use.

EXCEPTIONS TO WEARING THE FACE COVERINGS INDOORS INCLUDE:

- When alone in a room or vehicle
- When eating and drinking
- When an accommodation is required
- When job duties make a face covering infeasible or create a hazard

VACCINATION STATUS

Vaccination status must be documented by the employer. The revised ETS does not specify a particular method. The employer must record the vaccination status for any employee not wearing a face covering indoors and this record must be kept confidential. Acceptable options include:

- Employees provide proof of vaccination (vaccine card, image of vaccine card or health care document showing vaccination status) and employer maintains a copy.
- Employees provide proof of vaccination. The employer maintains a record of the employees who presented proof, but not the vaccine record itself.
- Employees self-attest to vaccination status and employer maintains a record of who self-attests.

Nothing in the revised ETS prevents an employer from requiring all employees to wear a face covering instead of having a documentation process.

If the employee declines to state their vaccination status, an employer is not obligated to require employees to submit proof of being fully vaccinated. In that case, the employer must treat the employee as unvaccinated and must not take disciplinary or discriminatory action against the employee.

TESTING REQUIREMENTS

Employers must offer testing at no cost to employees during paid time to:

- Symptomatic unvaccinated employees, regardless of whether there is a known exposure. This is a new requirement.
- Unvaccinated employees after an exposure.
- Vaccinated employees after an exposure if they develop symptoms.
- Unvaccinated employees in an outbreak.
- All employees in a major outbreak.

OUTBREAKS OF THE VIRUS

The revised ETS requires employers to implement more protective requirements if an outbreak or major outbreak occurs in a workplace. There are exceptions to many of the rules above if there is an outbreak, defined as 3 or more persons, or a major outbreak, defined as 20 or more persons.

ENFORCEMENT

Employers should implement the June 17 ETS as soon as possible. For those unable to implement the ETS immediately, the employer must implement or retain alternative controls to ensure the health of employees. If an employer is continuing to comply with the November ETS while implementing the revisions, Cal/OSHA will not cite the employer.

With respect to face coverings, the employers can comply by requiring face coverings for all employees while they gather documentation to allow fully vaccinated persons to go without face coverings.

If an employer is unable to provide NIOSH-approved respirators on the effective date of the ETS revisions, it is particularly important that the employer take alternative measures to protect unvaccinated employees until respirators are available.