

Publications

California Employers Must Notify Their Employees of COVID-19 Cases

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The California Department of Public Health already requires employers to notify local health departments if there are three or more cases of COVID-19 in their workplace within a two-week period. Recently, California enacted Assembly Bill 685 to impose additional notification requirements on employers relating to COVID-19 cases at work. These new requirements go into effect on January 1, 2021. Importantly, these are **in addition to** the regulations that went into effect on November 30, 2020, mandating employers implement a comprehensive COVID-19 prevention program (Read more about those regulations in [this Alert](#)). Contact your Vorys lawyer if you have questions about the notification requirements or about implementing your workplace COVID program.

What is a COVID-19 Case That Triggers the Notice Requirements?

A COVID-19 case is someone who: has a positive viral test for COVID-19; is diagnosed with COVID-19 by a licensed health care provider; is ordered to isolate for COVID-19 by a public health official; or dies due to COVID-19, as determined by a public health department. If an employer is notified of individual(s) in the workplace who meets any of those criteria, the employer must notify workers and the local health department as described below.

What Information Must Employers Give Workers?

Upon identifying a COVID-19 case in the workplace, employers need to provide the following **written** information:

1. Notice to employees (and the employer of any subcontracted workers) that they may have been exposed to COVID-19: Employers can inform other workers of the dates that an individual with COVID-19 was at the worksite but should not share information that could identify the affected individual. This information also must be provided to any exclusive representative – i.e. a labor union.
2. Information about benefits and options: Employers must provide information about COVID-19 benefits under federal, state, or local

laws, which includes workers' compensation, company sick leave, state-mandated leave, supplemental sick leave, negotiated leave, and anti-retaliation and anti-discrimination protections.

3. A disinfection and safety plan: Employers must inform employees (and the employer of any subcontracted workers) of the disinfection and safety plan for the worksite, in accordance with CDC guidelines. You must also provide this information to the exclusive labor representative, if any.

Employers must keep records of the above notifications for three years.

How and When Should Workers Be Notified?

Written notice is required within 1 business day of receiving notification of potential exposure. The written notice can be hand delivered or given by email or text message and should be in both English and any other language understood by the majority of employees.

Who Must Be Notified?

All employees (and employers of any subcontracted employees) who were at the same worksite as the worker diagnosed with COVID-19 during their infectious period must be notified.

For an individual **who develops symptoms**, the **infectious period** begins 2 days before they first develop symptoms. The infectious period ends when the following criteria are met: 10 days have passed since symptoms first appeared, and at least 24 hours have passed with no fever (without use of fever-reducing medications), and other symptoms have improved.

For an individual **who tests positive but never develops symptoms**, the infectious period for COVID-19 begins 2 days before and ends 10 days after the specimen for their first positive test for COVID-19 was collected.

When Do Employers Have to Report to the Local Health Department?

Employers must report COVID-19 outbreaks to the local health department. For non-healthcare workplaces, this is defined as 3 or more COVID-19 cases among workers at the same worksite within a 14-day period. Once this threshold is met, an employer has 48 hours to report to the local health department in the jurisdiction where the worksite is located. An employer also must continue to notify the local health department of additional COVID-19 cases identified among workers at the worksite.

What Information Should Be Reported to the Local Health Department?

Employers must provide local health departments with: information about the worksite – name of company/institution, business address, and North American Industry Classification System (NAICS) industry code; names and occupations of workers with COVID-19; and any requested additional information. The department will review the information and work with employers to reduce the risk of COVID-19 transmission. The department will also share information about workplace COVID-19 outbreaks with the California Department of Public Health, which is required to share information about COVID-19 workplace outbreaks by industry on their website.

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VORYS COVID-19 TASK FORCE

Vorys attorneys and professionals are counseling our clients in the myriad issues related to the coronavirus (COVID-19) outbreak. We have also established a comprehensive Coronavirus Task Force, which includes attorneys with deep experience in the niche disciplines that we have been and expect to continue receiving questions regarding coronavirus. Learn more and see the latest updates from the task force at vorys.com/coronavirus.