

**MPCC Roundtable
December 8, 2020 TPO Update**



*These updates are a small sample of important topics and information we provide and discuss with our members in helping manage to FFCRA and everything HR. For questions about this week's topic or information about TPO Membership and the products and services we provide, please contact Michaelle Stanford, PHR-ca, M.A. at michaelles@tpohr.com. **TPO Note:** As a reminder, these updates are for informational purposes only. For unique situations to your business, consult with your Human Resource provider or employment expert.*

**CDC Changes to Quarantine Duration after COVID Exposure
– Check with your Local Health Department! –**

While there are **new** federal CDC guidelines relating to a “possible” shortening of the 14-day quarantine after exposure, the CDC indicates that “local public health authorities determine and establish the quarantine options for their jurisdictions.”

State or local requirements and recommendations should be followed if they are more restrictive than the CDC's. This information can be found at the CA Department of Public Health at these links:

- **CDPH website:** Regional Stay At Home Order that went into effect December 5, 2020: <https://www.cdph.ca.gov/programs/cid/dcdc/pages/immunization/ncov2019.aspx>
- **CDPH site to launch county health department websites:** .
<https://www.cdph.ca.gov/Pages/LocalHealthServicesAndOffices.aspx#>
 - Monterey County: click here. <https://www.co.monterey.ca.us/government/departments-a-h/health/diseases/2019-novel-coronavirus-covid-19>
 - San Benito County: click here. <https://hhsa.cosb.us/public-health/covid-19/>
 - Santa Cruz County: click here.
<http://www.santacruzhealth.com/HSAHome/HSADivisions/PublicHealth/CommunicableDiseaseControl/CoronavirusHome.aspx>
- **CDPH COVID-19 Employer Playbook:** click here. <https://files.covid19.ca.gov/pdf/employer-playbook-for-safe-reopening--en.pdf>

TPO Note: It can take time for guidance to trickle down from the federal CDC, to the state CDPH, to the local county health departments. Therefore, the risk-adverse position would be to stay with the 14-day post exposure quarantine until local guidance is clearer.

Cal/OSHA COVID-19 Temporary Emergency Standards

Cal/OSHA's **preliminary** emergency regulations effective November 30, 2020 require employers to protect workers from hazards and set forth requirements related to COVID-19.

These regulations require that employers:

- Develop, implement, and maintain a written COVID-19 Prevention Program (CPP), which among other items must include:

- ✓ Employee exposures to COVID-19 health hazards.
 - ✓ Effective policies and procedures to correct unsafe and unhealthy conditions (such as safe physical distancing, modifying the workplace and staggering work schedules).
 - ✓ Providing and ensuring workers wear face coverings to prevent exposure in the workplace.
 - ✓ **Review of ventilation and air circulation in workplaces.**
- Provide effective training and instruction to employees and information regarding COVID-19-related benefits that affected employees may be entitled to (i.e. FFCRA Emergency Sick Leave, Company provided sick leave, etc.).
 - Apply notification and testing requirements of multiple COVID-19 infections and COVID-19 workplace “outbreaks” (three or more cases in a workplace in a 14-day period) and major outbreaks (20 or more cases within a 30-day period).
 - Offer COVID-19 testing to employees who had potential exposure in the workplace at no cost to their employees during their working hours.
 - Contact their local county health department immediately but no longer than 48 hours after learning of three or more COVID-19 cases to obtain guidance.
 - Maintain records of and track all COVID-19 cases, while ensuring medical information remains confidential. These records must be made available to employees and authorized employee representatives.
 - Immediately inform Cal/OSHA in the event a COVID-19-related serious illness (e.g., COVID-19 illness requiring inpatient hospitalization) or death occurs.

Cal/OSHA’s COVID-19 Emergency Temporary Standards FAQ includes continued earnings for employees! *NOTE from TPO:* Clarification is needed regarding the requirement of continued earnings for employees unable to work due to COVID-19 Exposure at work.

Q: Must an employer pay an employee while the employee is excluded from work?

A: If the employee is able and available to work, the employer must continue to provide the employee’s pay and benefits. An employer may require the employee to exhaust paid sick leave benefits before providing exclusion pay and may offset payments by the amount an employee receives in other benefit payments. (Please refer to the [Labor Commissioner’s COVID-19 Guidance and Resources](#) for information on paid sick leave requirements.). These obligations do not apply if an employer establishes the employee’s exposure was not work-related.

The requirement to continue to provide pay and benefits is significant and controversial. There could be legal challenges questioning the authority of Cal/OSHA to mandate such a requirement. However, in the meantime, it is best to work closely with employment counsel to evaluate whether such a requirement applies.

Detailed information about Cal/OSHA’s emergency standards and guidance:

Cal/OSHA COVID-19 Emergency Temporary Standards Fact Sheet:
https://www.dir.ca.gov/dosh/dosh_publications/COVIDOnePageFS.pdf

COVID1-19 Emergency Temporary Standards Q&A
<https://www.dir.ca.gov/dosh/coronavirus/COVID19FAQs.html>

Cal/OSHA Free COVID-19 Online Training for Employers and Employees:
<https://trainingacademy.dir.ca.gov/page/on-demand-training-covid19>

What next? Stay tuned.....

Cal/OSHA announced that this initial guidance is just the beginning and they will provide more details and clarification after their next meeting in December!

Reminders:

- **SB 1159 Reporting Requirements.** When an employer “*knows or reasonably should know*” that an employee has tested positive for COVID-19, the employer shall **report to their Workers Compensation claims administrator** in writing via electronic mail or facsimile within 3 business days
- We highly recommend you work with the person responsible for your company’s Safety Injury and Illness Prevention Program (IIPP), and, your Workers Compensation Broker/Carrier to organize a COVID-19 plan and an effective reporting procedure.

A Reminder From Our October Update ..“Just when you thought 2020 would not end soon enough ... are you ready for 2021?”

At TPO, we continue to monitor the many different federal, state and local COVID-19 and all other HR changes and updates. Beginning January 1, 2021 multiple California Laws and Regulations will go into effect impacting employers of all sizes. The below provides a partial listing of what is coming. Due to extensive number of changes and impact they will have on employers, it is strongly recommended businesses that do not have Human Resource support, secure these services.

***COVID-19 RELATED**

AB 685 – establishes stringent COVID-19 reporting requirements upon notice of potential employee COVID-19 exposure at the workplace. The bill includes but is not limited to requiring employers to provide a number of notices to different employee groups within one business day after receiving notice of potential COVID-19 exposure. Employers must also notify their local public health department if an “outbreak” occurs.

***TPO Note:** *For information on related COVID-19 laws signed into law in September and effective immediately, contact your HR Representative, Workers Compensation Provider and/or give TPO HR a call.*

LEAVES OF ABSENCE

SB 1383 significantly expands the California Family Rights Act (CFRA) to include employers with five or more employees. **This is a MAJOR development and small businesses will need to quickly get up to speed to be ready by January 1 as employers are expected to have written policies in place.** And, as SB 1383 expands the definition of “family members” beyond what is covered under the federal Family Medical Leave Act (FMLA) larger employers (with 50 or more employees) will need to address “stacking” challenges; e.g., the change in definitions will make it possible for employees to take up to 24 weeks of job protected leave.

AB 2992 expands the existing benefit to include prohibiting discrimination and retaliation against employees that are victims of crime or abuse when they take time off for judicial proceedings or to seek medical attention or related relief for domestic violence, sexual assault, stalking or other crimes that cause physical or mental injury.

AB 2017 revises the law stating an employee can designate sick leave as “kin care” – or not.

WORKER CLASSIFICATION – WAGE & HOUR – PAY DATA - EMPLOYEE TRAINING

AB 2257 adds exceptions to the 2020 AB5 laws which codified the “ABC” used in determining independent contractors to include 100+ exceptions.

TPO Note: *Proposition 22 on the California ballot in November will determine if app-based delivery service drivers can be exempt from AB5.*

AB 1947 extends the time an individual can file a complaint of discrimination or retaliation with the California Division of Labor Standards Enforcement (DLSE) from six months to one year.

SB 973 requires private employers with 100+ employees and who are required to file an annual Employer Information Report (EEO-1) under federal law, to submit a pay data report to the Department of Fair Employment and Housing (DFEH) that contains information about employees’ race, ethnicity and gender in various job categories on or before March 31, 2021. The report must further include a breakdown of employee compensation in one of the 11 pay bands used by the United States Bureau of Labor Statistics in its Occupational Employee Survey.

AB 1963 lists as mandated reporters of child abuse “human resources employees” (designated by the employer to accept complaints of discrimination, harassment, retaliation, etc. under California's Fair Employment Housing Act) working for businesses with 5+ employees that also employ minors. Mandated reporters include supervisors whose duties require direct contact with and supervision of minors. Employers must also provide training to employees who have reporting duties under this law.

“Lastly, don’t forget the Harassment & Discrimination Prevention Training Deadline of December 31, 2020!”

As a reminder, by January 1, 2021 all California employers with **5 or more** employees (including non-supervisors, supervisors, contractors, on-call staff, and temporary employees) must provide harassment and bullying prevention training. With staff working remotely, it’s difficult to get everyone trained, especially if your teams work varied schedules and/or your remote workforce spans different locations.

Our team is committed in helping employers meet this important deadline. If you haven’t already completed or planned for this year’s required HDR Training for Supervisors and Non-Supervisors ... relax, we’ve got this! AND, we’ve greatly reduced our pricing for you!

In addition to receiving training from our highly skilled and experienced trainers, your team will benefit from:

- An interactive TPO VirtualLiveSM session in which participants have their questions answered
- An opportunity to learn from case study examples
- Selecting between English and Spanish sessions
- Low cost
 - Non-Supervisor 1-Hour Session: \$35 Member/\$45 Non-Member
 - Supervisor 2 Hour Session: \$50 Member/\$65 Non-Members
- Free resources including a Sample Policy and Posters

And, 50+ EMPLOYERS must continue to provide supervisory employees at least 2-hours of training within 6-months of hire or promotion and 2 years thereafter, in addition to the new training requirement for non-supervisory employees.

Join us by having your Supervisors and Non-Supervisors [register here](#) to attend one of our VirtualLiveSM Online events.