

AB685: SUMMARY OF REQUIREMENTS

Positive Confirmed Case and/or Notice of Potential Exposure:

Notice of the above may come to the employer from a public health official, or licensed medical provider. It may also come from an employee or emergency contact, as well as internal testing protocol of the employer. Notification may also be received from a subcontracted employer.

If an employer or representative of the employer receives a notice of a confirmed case or potential exposure to COVID-19, the employer shall take the following actions within one business day of receiving the notice.

1. Provide written notice to all employees, and the employers of subcontracted employees, who were on the worksite of the qualifying individual within the infectious period that they may have been exposed to COVID-19 in a manner that the employer normally uses to communicate employment-related information.
2. Signatory contractors must provide written notice to the exclusive representative (union representative) for those union members that were on the worksite at the time of the exposure. (See sample template.) This notification shall contain the same information as would be required in an incident report in a Cal/OSHA Form 300 injury and illness log. Notifications issued shall not impact any determination of whether or not the illness is work related.
3. Provide all employees who may have been exposed and the exclusive representative, if any, with information regarding COVID-19 related benefits to which the employee may be entitled under applicable federal, state, or local laws, including, but not limited to, Workers' Compensation, and options for exposed employees, including COVID-19 related leave, employer sick leave, or negotiated leave provisions, as well as antiretaliation, and antidiscrimination protections of the employees.
4. Notify all employees, and the employers of subcontracted employees and the exclusive representative, if any, on the disinfection and safety plan that the employer plans to implement and complete per federal CDC guidelines.

Outbreaks:

If an employer or representative of the employer is notified of the number of cases that meet the definition of a COVID-19 outbreak, as defined by the State Department of Public Health, within 48 hours, the employer shall notify the local public health agency in the jurisdiction of the worksite of the names, phone number, occupation, and worksite of employees who meet the definition of a qualifying individual. An outbreak has been defined as at least three probable or confirmed cases of COVID-19 within a 14-day period in people who are epidemiologically linked in the work setting, are from different households, and are not identified as close contacts of each other in any other case investigation.

An employer shall also report the business address and NAICS code of the worksite where the qualifying individuals work. An employer that has an outbreak shall continue to give notice to the local health department of any subsequent laboratory-confirmed cases of COVID-19 at the worksite.

Definitions:**Infectious Period:**

The time a COVID-19 positive individual is infectious as defined by the State Department of Public Health. This begins two days before the first development of symptoms and ends after all of the following have been met.

- a. 10 days have passed since symptoms first appeared.
- b. 24 hours have passed without fever.
- c. Any other symptoms have improved.

For those individuals who tested positive, but do not have symptoms, the infectious period begins two days before the specimen for the first positive COVID-19 test was collected, and ends ten days after the specimen for their first positive COVID-19 test was collected.

Qualifying Individual:

- a. A laboratory-confirmed case of COVID-19 as defined by the State Department of Public Health.
- b. A positive COVID-19 diagnosis from a licensed health care provider.
- c. A COVID-19 related order to isolate provided by a public health official.
- d. Died due to COVID-19, in the determination of a county public health department or per inclusion in the COVID-19 statistics of a county.

Orders Prohibiting Use (OPU):

From January 1, 2021 until January 1, 2023 Cal/OSHA can issue citations for serious violations related to COVID-19 without giving employers 15-day notice before issuance, and may cite the employer and may issue monetary penalties. Cal/OSHA may also shut down an entire worksite or specific worksite area that exposes employees to an imminent hazard related to COVID-19.

The ECA recommends a thorough reading of Labor Code 6432 by every employer, and recommends the retention of legal counsel should a Cal/OSHA COVID-19 related citation be received.

Prevention and Reporting efforts are key in minimizing exposure for employees and employers.