

REVERSAL OF FORTUNE FOR CALIFORNIA EMPLOYERS: STATE OFFICIALS PUT BRAKES ON COVID-19 WORKPLACE SAFETY RULE CHANGES – FOR NOW

Insights
May 20, 2021

In an unexpected turn of events, the California Occupational Safety and Health Standards Board announced today that it will not move to adopt the [proposed revisions to the existing Cal/OSHA COVID-19 Emergency Temporary Standard \(ETS\)](#). Instead, the Deputy Chief of Cal/OSHA has asked that the Standards Board hold off on voting and allow the state safety agency the opportunity to present a new proposal at a future meeting with a targeted effective date of June 15. What does this dramatic and unexpected development mean for California employers?

Why the Sudden Change of Course?

Workplace law observers across the state were all but certain that California state workplace safety officials would move to adopt the proposed revisions described in detail in [our May 18 publication](#). But given the fluid and ever-changing environment in which we've all operated since the start of the pandemic, it perhaps shouldn't be such a shock that state regulators would pull the rug out from under our feet so abruptly.

It appears that, in light of the [CDC's updated guidance for fully vaccinated individuals](#) and [California Health & Human Services Agency secretary's announcement](#) earlier this week that California intends to adopt the CDC's masking guidance on June 15, additional revisions to Cal/OSHA's ETS are likely underway. However, on the other side of the equation, labor officials and worker advocates are pushing back against adoption of the loosened masking guidance for fully vaccinated individuals.

Related People



Benjamin M. Ebbink

Partner

[916.210.0400](tel:916.210.0400)



Hannah Sweiss

Partner

[818.230.4255](tel:818.230.4255)

What Should You Do?

Depending on which stakeholders are most persuasive in the coming days and weeks, today's dramatic development could be good news. It could result in more flexibility for employers while offering much-needed consistency, as state rules could fall closer in line to track the loosened federal CDC guidance for fully vaccinated individuals. However, things could easily go in the opposite direction and create heightened restrictions for California employers.

For now, while we wait for new proposed revisions to Cal/OSHA's ETS, it is important to remember that California employers are still under the current safety standard – which makes no accommodation for fully vaccinated employees when it comes to masking. The only loosened restriction that California employers may currently follow is the [updated guidance easing quarantine restrictions](#) for fully vaccinated asymptomatic employees in non-healthcare workplaces.

Conclusion

We will continue to monitor the rapidly developing COVID-19 situation and provide updates as appropriate. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. For further information, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in [our California offices](#).

Service Focus

[Workplace Safety](#)

Related Offices

[Irvine](#)

[Los Angeles](#)

[Sacramento](#)

[San Diego](#)

[San Francisco](#)

[Woodland Hills](#)