

NOT SO FAST – CAL/OSHA’S REVISED WORKPLACE COVID-19 RULES ARE WITHDRAWN FOR FURTHER REVISIONS

Insights
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California employers will need to ensure that your employees are masked up and socially distanced – regardless of vaccination status – until at least June 28 following late-breaking activity last night by Cal/OSHA to pull back previously proposed changes. This means workplace rules for employees will continue to be more restrictive than the masking and social distancing rules applicable to the general public (i.e., non-employees) that will take effect on June 15. What do employers need to know about this latest development?

What Happened

Cal/OSHA’s Standards Board convened an emergency “Special Meeting” last evening. After hearing from California’s Department of Public Health (CDPH), the Board [voted](#) to withdraw the [proposed amended Emergency Temporary Standard \(ETS\)](#) that was slated to go into effect next week. We anticipate further revisions will be published before the Board meets on June 17. In the meantime, the current version of the [Emergency Temporary Standard](#) – effective November 30, 2020 – remains in effect, meaning employees must continue masking in the workplace regardless of vaccination status.

What to Expect Next

Cal/OSHA will review the new mask guidance presented by the CDPH and present recommended revisions to the Board possibly in time for the Board’s next meeting on June 17. This revised language may be available for public review as soon

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as this Friday. Hopefully the further amended ETS will align with the CDPH/CDC guidance and allow vaccinated individuals in the workplace to unmask, even if others are unvaccinated. Business groups have also pressed for changes related to the proposed requirements for employers to provide respirators (N95s) to unvaccinated workers and for clarity around their responsibilities regarding “documenting” the vaccination status of employees. However, it remains to be seen whether these or additional changes will be included in the revised proposal.

What this Means for Now

All the protections adopted in the original version of the ETS that went into effect November 30, 2020 will remain in effect for the time being. Particularly, this means all employees must continue to mask regardless of vaccination status until a revised, amended ETS is voted on and goes into effect, which appears to be June 28 at the earliest. If you need a refresher on the requirements of the original ETS which will remain the law of the land for at least the next few weeks, check out our original [summary](#).

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](#).

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