



# What Employers Need To Know As Santa Clara County Phases Out Vaccination-Tracking Order

Insights

6.23.21

The Santa Clara County Health Officer just issued a new order phasing out the May 18 Order that had introduced a vaccine-tracking mandate for employers, relieving employers of the administrative burden imposed by the groundbreaking requirement. However, there remains a caveat or two, and the county provided a list of recommendations that you should consider adopting as best practices. What do you need to know about the June 21 Order that immediately went into effect?

## 2 Main Considerations for Employers

The main takeaways from the June 21 Order are as follows:

### 1. Employers Must Complete 2 Rounds of Ascertainment

Employers and government entities, as defined in the May 18 Order, are required to complete two rounds of ascertainment of vaccination status of personnel pursuant to Section 9(c) of the May 18 Order. Once the employer or government entity completes two rounds of ascertainment, the May 18 Order will have no further force or effect with respect to that employer. If an employer has not, or does not, complete two rounds of ascertainment, it may be subject to enforcement under the May 18 Order and may be required to pay fines up to \$5,000 per violation per day.

### 2. Employers Must Maintain a Record of 2 Rounds of Ascertainment

Employers and government entities need to be able to demonstrate that they completed two rounds of ascertainment. This means the employer must maintain appropriate records for so long as the Cal/OSHA COVID-19 Prevention Emergency Temporary Standards remain in force and effect.

## Recommendations from the Health Officer

Although not required, it is important to note that the June 21 Order also contains several strong recommendations from the Santa Clara County Health Officer.

1. You should not only encourage personnel to get vaccinated, but the Health Officer also recommends that you regularly request updated vaccination status information from personnel who are not fully vaccinated.

2. If possible, you should operate outside as much as possible to reduce the risk of transmission of COVID-19, especially if the operations or activities may involve non-vaccinated patrons.
3. You should prohibit non-vaccinated personnel from engaging in work-related travel to places with elevated rates of COVID-19 or where community vaccination rates are below the average in the Bay Area region.
4. You should require all personnel who are not fully vaccinated to regularly test for COVID-19, consistent with current local, state, and federal recommendations. A special request is made that any person (vaccinated or not) who exhibits COVID-19 symptoms should be tested via PCR test.

The June 21 Order also rescinds the May 13, 2020 Order of the Health Officer Directing Hospitals and Skilled Nursing Facilities to Disclose Personal Protective Equipment Inventories.

### **What Should You Do?**

Although the May 18 Order has been rescinded for all employers who have completed two rounds of ascertainment, there remain a host of COVID-19 related orders, guidance, and laws that remain in full force and effect at both the federal and state level. Please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in [our California offices](#) should you have any questions.

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.

### ***Related People***



**Alyssa Graf**  
Associate  
818.230.4263  
Email



**Benjamin M. Ebbink**  
Partner  
916.210.0400  
Email



**Anthony Isola**  
Partner  
415.490.9018  
Email





**Hannah Sweiss**

Partner

818.230.4255

Email

## ***Service Focus***

Workplace Safety and Catastrophe Management

## ***Trending***

COVID-19/Vaccine Resource Center

## ***Related Offices***

Irvine

Los Angeles

Sacramento

San Diego

San Francisco

Woodland Hills