



California Changes Definition of COVID-19 “Outbreak” – Easing the Impact on Employer Protocols

Insights

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By now, California employers are quite familiar with the following situation: the California Department of Public Health (CDPH) makes a change to COVID-19 guidance and your workplace obligations are affected under Cal/OSHA’s COVID-19 regulations. CDPH has done it again – but this time in a manner that will benefit employers in the state. Here’s what’s changing, how it will impact your policies, and a recap of your continuing obligations.

What Changed?

Previously, CDPH and Cal/OSHA had defined a COVID-19 “outbreak” as three or more cases in an exposed group during a 14-day period. As discussed below, an employer in an “outbreak” had to follow additional requirements under the Cal/OSHA COVID-19 non-emergency regulation until there are one or fewer COVID-19 cases for a **14-day** period.

On June 20, CDPH changed its definition of “outbreak” to mean three or more cases during a **seven-day** period. This change is automatically incorporated into the Cal/OSHA regulation, which the agency confirmed in an updated FAQ as follows:

Q: What is an “outbreak”?

A: Effective June 23, 2023, CDPH has adopted the following definition of “outbreak,” which now applies to the COVID-19 Prevention regulations: at least three COVID-19 cases within an exposed group during a seven-day period. The definition of “outbreak” will change if CDPH again changes its definition in a regulation or order.

What Does This Mean for Employers?

The bottom line for California employers is that it will now be harder to officially be considered in “outbreak” status (which triggers additional obligations under the Cal/OSHA regulation). Previously, an employer would be in outbreak if you had three or more cases in an exposed group within a 14-day period. Now, you are only considered in outbreak if you have three or more cases in half the amount of time (a seven-day period).

As a reminder for California employers, once you are considered in “outbreak” under the Cal/OSHA standard, you have additional obligations including the following:

- Making testing available immediately and weekly thereafter to all employees within the exposed group;
- Ensuring that close contacts have a negative COVID-19 test taken within three to five days after the close contact or exclude them from work and follow return to work criteria;
- Requiring that employees in the exposed group wear face coverings when indoors or when outdoor and less than six feet from another person;
- Notifying employees of the right to request and receive a respirator for voluntary use;
- Undertaking additional COVID-19 investigation, review, and hazard correction;
- Improving ventilation (MERV-13 or highest compatible efficiency); and
- Reporting to local public health departments (if applicable).

You should review your local public health department outbreak reporting requirements (if any) to see if they align with the new CDPH definition of “outbreak.” In addition, don’t forget that employers that have 20 or more cases in a 30-day period are considered in “major outbreak” and have additional responsibilities under the Cal/OSHA non-emergency regulation.

Conclusion

Make sure you are subscribed to [Fisher Phillips’ Insight System](#) to get the most up-to-date information. We are continuing to monitor evolving COVID-19 requirements and will provide updates as appropriate. If you have further questions on how to comply, contact your Fisher Phillips attorney, the author of this Insight, or any attorney in any one of [our six California offices](#).

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