

Weekly COVID-19 Update From EKA May 26, 2021

California Plans to Implement New CDC Mask Guidelines on June 15, 2021

While LA County's metrics continue to remain low and stable, there continues to be COVID-19 transmission in California, particularly among those who are not fully vaccinated. For that reason, the State will keep its [current masking guidance](#) in place until June 15, when it aims to fully reopen the economy. The LA County Department of Public Health notes that the Centers for Disease Control and Prevention (CDC) announcement last week was not meant to eliminate current safety modifications at local and state levels, and the CDC acknowledged the importance of maintaining local protections.

Masks are *still required for everyone* at:

- Large events, public transportation, retail, and business establishments
- Workplaces (under [Cal/OSHA masking/distancing requirements](#))

Masks are *still required* for all *unvaccinated* people:

- Outdoors anytime distancing cannot be maintained
- Indoors when around others from outside their household

Masks are *still not required* for *fully vaccinated* people:

- Outdoors unless attending crowded events
- Indoor and outdoor visits with other fully vaccinated people and with unvaccinated people from one household without high-risk people.

CDC Advice Doesn't End Mask Mandates

The updated Centers for Disease Control and Prevention guide to masks wasn't meant to end mask mandates, though some have interpreted the recommendations that way. According to the CDC, the new masking advice is supposed to reassure those who are vaccinated they can feel safe, inside or outdoors

VACCINATION

CDC Vaccine Recommendation Updates

The following materials have been updated to reflect the latest [ACIP recommendation](#) to include adolescents aged 12 to 15 years as eligible for the Pfizer-BioNTech COVID-19 vaccine.

- Preparation and Administration Summary: [Pfizer-BioNTech](#) and [Moderna](#)
- Standing Orders: [Pfizer-BioNTech](#) and [Moderna](#)
- [COVID-19 Vaccine Quick Reference Guide](#)
- [Interim Clinical Considerations Summary Document](#)

Los Angeles County Enacts Paid Vaccine Leave Ordinance

On May 18, 2021, the Los Angeles County Board of Supervisors enacted an [urgency ordinance](#) that, *under certain circumstances*, requires *all* private employers to provide paid leave so employees can receive COVID-19 vaccine injections. This paid leave includes time employees spend traveling to and from appointments and time spent recovering from symptoms related to receiving the vaccine that prevents them from working or teleworking. The ordinance takes effect immediately – but is retroactive to January 1, 2021 – and will remain in effect until August 31, 2021.

Generally, the ordinance applies to ***all employees performing any work in the county's unincorporated areas***. Although typically, employees cannot waive their rights under the ordinance, parties to a collective bargaining agreement (CBA) can *jointly* waive the law's requirements via an explicit, clear, and unambiguous waiver in the CBA. COVID-19 vaccine leave (CVL) is *in addition to* any job-protected paid leave employees receive under California's paid sick leave (PSL) law, the Healthy Workplace Healthy Family Act, and – importantly – is available *only if* employees exhaust all available California *supplemental* paid sick leave (SPSL) – paid leave employees of employers with 26 or more employees receive and can use for specific COVID-related reasons, including, *e.g.*, obtaining or recovering from symptoms related to vaccine injections.

The amount of CVL employers must *potentially* provide depends on whether an employee is full- or part-time. Employees are full-time if their employer considers them so or they worked or were scheduled to work, on average, at least 40 hours per week in the two weeks preceding the date they take CVL. Any employee who is not full-time is considered part-time. Full-time employees who have *exhausted* California SPSL can use up to four hours of CVL *per injection*, whereas part-time employees can use a proportionate amount, based on their normally scheduled work hours over the two-week period preceding the injection, *e.g.*, the ordinance provides that 20-hour-per-week employees can use two hours of CVL per injection.

The ordinance allows employers to request that employees provide written verification that they received a COVID-19 vaccine. When employees use CVL, employers must pay them their “normal rate of pay,” which they calculate using the employee's highest average two-week pay over the period of January 1 through May 18, 2021. The ordinance requires employers to conspicuously display a written notice that the Los Angeles County Department of Consumer and Business Affairs (LACDCBA) will create (so monitor [its website](#)). Additionally, for four years, employers must keep records demonstrating their compliance, which includes, for each employee, payroll records documenting the employee's name, address, occupation, dates of employment, pay rate(s), and amount paid. Failure to keep, or provide LACDCBA access to, such records creates a presumption that the employer did not comply with the ordinance.

Employers cannot refuse to employ, terminate, reduce in compensation, or take adverse action against individuals who in good faith exercise rights provided under the ordinance. Within three year of an alleged violation, individuals who believe an employer violated the law can either file a complaint with LACDCBA, which will investigate and enforce the ordinance, or a lawsuit in state court; if they prevail, these individuals can receive reinstatement, interest on damages, back pay, penalties and fines – tripled for unlawful retaliation – and other appropriate legal or equitable relief, along with reasonable attorneys’ fees and costs.

Everyone 12 and Up is Eligible for a COVID-19 Vaccine

Everyone 12 years and older in LA County is eligible to receive the COVID-19 vaccine. For now, only the Pfizer vaccine is approved for children, so make sure to go to a site that administers the Pfizer vaccine for children and teens aged 12 – 17. Many sites require that children be accompanied by a parent or guardian or that the child is accompanied by a responsible adult and has a signed consent form. Teens are also required to bring proof of their age at sites where they are not known to the provider. [Find a location that has the Pfizer vaccine near you.](#)

REOPENING

California Releases More Details On June 15 Reopening Plan

State leaders say California’s economy is set to reopen on June 15 as vaccination rates continue to increase and hospitalizations remain low and provided more details on what that will look like. The reopening will lift the mask and social distancing mandates for customers at businesses. It will also do away with capacity limits at indoor and outdoor events. Some large indoor events will still require proof of vaccination or a negative COVID-19 test. The state says it is not considering the implementation of a vaccine passport, but private venues have that option. Employers will continue to be subject to Cal/OSHA workplace standards, requiring masks and distancing. Employers will be subject to the [Cal/OSHA COVID-19 Prevention Emergency Temporary Standards \(ETS\)](#), if applicable to them, and CDPH will continue to provide updated guidance for youth, healthcare, and high-risk congregate settings.

Californians Back Proof Of COVID Vaccine Or Negative Test At Workplaces, Other Venues

As California’s businesses reopen, a majority of state residents are in support of allowing entertainment venues to require proof that their patrons are vaccinated or have tested negative for COVID-19, and for some employers to require vaccinations of workers, according to a statewide poll conducted by UC Berkeley’s Institute of Governmental Studies that was funded in part by The Times. The survey of registered voters provides a snapshot of residents’ attitudes on COVID vaccination verification issues about a month

after officials announced reopening rules for indoor live events that allowed some businesses to demand vaccine “passports.” But poll data also highlights a significant partisan split and uncertainty intertwined with every new phase of the pandemic recovery.

LOS ANGELES COUNTY/CITY

Facing Financial Hardship During the COVID-19 Pandemic? Financial Navigators Can Help

Are you feeling stressed and overwhelmed about finances? Help is available through the [LA County Financial Navigators Program](#). Financial Navigators are available to help prioritize your financial concerns, identify immediate action steps, and make referrals to other social services and resources that may offer long-term assistance. A Navigator can guide through some of the following concerns:

- Paying for daily expenses
- Supplementing income
- Paying back debt
- Locating food and housing resources
- Finding special services or resources for you and your family
- How to stay well and plan ahead

Protocols for Live Events: Outdoor and Indoor Seated

Community members who live in LA County and are facing financial difficulties can get started with a Financial Navigator by completing a [short online interest form](#). The [Protocol for Live Events and Performances \(Outdoor Seated\): Appendix Z](#) has been updated effective as of Thursday, May 6, 2021. Recent changes are highlighted in yellow: • Clarifies that employees, players, or performers who are fully vaccinated or have had a laboratory confirmed COVID-19 diagnosis in the past 90 days and are not symptomatic should not be subject to screening tests for COVID-19. • Fully vaccinated employees who would otherwise be required to wear a face shield in addition to a face mask may decline to wear a face shield; a face mask is still required. Employers should maintain a record documenting that they have confirmed that employees are fully vaccinated. • Attendees may be given hard, scannable tickets for entry to the venue.

The [Protocol for Live Events and Performances \(Indoor Seated\): Appendix Z-1](#) has been updated effective as of Thursday, May 6, 2021. Recent changes are highlighted in yellow: Updated to include courtside seating guidance for fully vaccinated and fully masked ticket holders at indoor sporting events. Clarifies that employees, players, or performers who are fully vaccinated against COVID-19 or who have recovered from a

laboratory-confirmed COVID-19 diagnosis in the past 90 days and are not symptomatic should not be subject to screening tests for COVID-19. Attendees may be given hard, scannable tickets to use for entry to the venue if electronic tickets are not feasible.

LA Bought \$19 Million Worth Of N95 Masks Early In The Pandemic. Resales Are Lagging

A little more than a year later, with mask demand slowing and supplies more plentiful, the city has resold only about one-third of the Honeywell N95 masks that it has received under the \$19 million deal, according to records reviewed by the LA Times. The city has spent about \$10.4 million on the masks to date, with resales through May 4 of this year totaling about \$3.4 million, records show. The city is receiving 1.2 million masks a month and paying as it receives the shipments. Gene Seroka, executive director of the Port of Los Angeles, who helped oversee the city's program to buy and resell personal protective gear, cautioned that it was too early to judge the success of the mask initiative and that dips in sales are expected.

SACRAMENTO

State Officials Announce Latest COVID-19 Facts

CDPH provided an update on the [Beyond the Blueprint Framework](#) for the state's June 15 reopening. Beginning on June 15, all industry and business sectors listed in the current [Blueprint Activities and Business Tiers Chart](#) may return to usual operations with no capacity limits or physical distancing requirements, with limited exceptions for mega-events.

Small Business COVID-19 Relief Grant Program

Governor Newsom announced a plan to invest an additional \$1.5 billion into the California Small Business COVID-19 Relief Grant Program. Details on the program expansion can be found in the [full announcement from the Office of the Governor](#), and additional information will be provided once the expanded program is launched.

California Schools Could Lose Money Under Newsom Plan If They Don't Fully Reopen

California Gov. Gavin Newsom wants to withhold billions of dollars from schools that don't return to pre-pandemic learning with full in-class instruction this fall as part of a budget proposal that emphasizes an economic recovery from COVID-19. The blueprint would shift the K-12 system back to what was offered before the coronavirus forced kids into "Zoom school" in spring 2020 and initiated a yearlong battle between districts, legislators and teachers unions over reopening strategies. Under Newsom's plan, most students would return to a "default" in-person, classroom-based instruction. Families

who aren't ready for a physical return to school could instead enroll their kids in already-existing independent study programs offered by school districts.

Cal/OSHA Postpones Decision On Relaxing Mask And Distancing Rules For Workers

The delay came after the deputy chief of the California Division of Occupational Safety and Health, known as Cal/OSHA, wrote a memo asking the seven-member Occupational Safety and Health Standards Board to "not vote to approve the current proposal." The request followed this week's announcement that California would broadly loosen its mask rules in nonworkplace settings effective June 15, allowing everyone who is vaccinated to remain maskless in most indoor and outdoor settings, while still requiring unvaccinated or partially vaccinated people to keep wearing masks in most settings when near other people. In light of those changes, Cal/OSHA asked the board to "instead allow us to present a new proposal at a future meeting," wrote Eric Berg, deputy chief of Cal/OSHA. The board will next meet June 3 to vote on new language that will be proposed by Cal/OSHA. A revised proposal would have to be posted for public review no later than May 28, officials said.

NATIONAL

Employee Retention Credit - Get Paid Back for Keeping Employees!

As detailed in our last update, tax incentives are available for small businesses that have been affected by COVID-related shutdowns and disruptions! These tax benefits are available now, for all four quarters of 2021, and eligible businesses may also receive advance payments for portions of their credits. Credits are worth up to \$7,000 per quarter, and up to \$28,000 per year, for each employee. These credits may deliver cash flow to businesses as soon as they are claimed! Additional program and eligibility information can be found by clicking on the attached [Employee Retention Credit document](#).

Shuttered Venues Operator Grant - Now Accepting Applications!

The Shuttered Venue Operators Grant program was amended by the American Rescue Plan Act. The program includes over \$16 billion in grants to shuttered venues, to be administered by SBA's Office of Disaster Assistance. Eligible applicants may qualify for grants equal to 45% of their gross earned revenue, with the maximum amount available for a single grant award of \$10 million. \$2 billion is reserved for eligible applications with up to 50 full-time employees. For more information on program eligibility, how to apply, and fund distribution, please review the [U.S. Small Business Association Shuttered Venue Operators Grant page](#)

US Warns Against All Travel To Japan As Olympics Loom

US health officials and the State Department warned Americans against travel to Japan because of a surge in coronavirus cases in the country, which is preparing to host the Olympics in just two months. The twin alerts don't ban US citizens from visiting the country, but they could have an impact on insurance rates for travelers and may factor into decisions by Olympic athletes and spectators on whether to compete in or attend the games, which are due to start in July. There was no immediate indication as to what effect the warnings might have on would-be Olympic-goers. "Travelers should avoid all travel to Japan," the Atlanta-based Centers for Disease Control and Prevention said in a new COVID-19 update. "Because of the current situation in Japan, even fully vaccinated travelers may be at risk for getting and spreading COVID-19 variants and should avoid all travel to Japan."

EMPLOYER ISSUES

Emergency Temporary Standard

After months of calls for modification to Cal/OSHA's Emergency Temporary Standard (ETS), California is about to adopt significant changes to the standard in light of the changing nature of the COVID-19 pandemic and the proliferation of vaccinations. State officials released [proposed revisions](#). The revisions largely make welcomed changes to the ETS, providing more flexibility to employers when employees are fully vaccinated. However, there are a few new requirements that will create new or heightened burdens on employers. For a quick summary of the critical modifications to the ETS, please check out the handy [summary chart](#) created by Fisher Phillips.

The Impact Of COVID-19 Laws On The Return Of Employees To The Workplace

An article by [Dykema Gossett PLLC](#) details new laws for employers. For ease of reference, the article is copied here.

Due to the COVID-19 pandemic, sweeping new laws and regulations having a tremendous impact on California workplaces were enacted in California in 2020 and 2021. Included, among numerous others, are laws imposing health and safety obligations on employers, regulations requiring employers to quarantine employees and provide wage replacement for employees exposed to COVID-19 in the workplace, along with mandated job-protected paid sick leave and extended paid family leave. In addition, legislation was passed in California providing for a rebuttable workers' compensation presumption that an employee who contracted COVID-19 did so in the workplace.

Cal/OSHA also enacted COVID Emergency Temporary Standards (ETS), requiring employers to establish and implement written COVID-19 Prevention Programs, provide effective employee training programs on how to prevent COVID-19 spread, maintain COVID-19 testing for employees and set up comprehensive recordkeeping and reporting

of COVID-19 cases. COVID ETS allows Cal/OSHA to impose significant fines for non-compliance, and in cases in which there is a spread of the virus, Cal/OSHA is empowered to close down businesses.

Although the paid sick leave law under the Families First Coronavirus Response Act (FFCRA) expired on December 31, 2020, California enacted SB 95, which extended the paid sick leave requirements through September 30, 2020, and applies it to all employers with more than 25 employees, not just employers with fewer than 500 employees. These laws have the potential to delay or undermine the recovery of California businesses. In order to avoid the consequences of mandatory quarantines, paid sick leave, loss of essential workers and possible fines and closures, employers should use every effort not to allow anyone in the workplace who has COVID-19 symptoms or who may have been recently exposed to someone who tested positive to COVID-19.

The Primary Issue: May California Employers Require Their Employees Be Vaccinated?

The short answer is: yes, at least as to private-sector employers.

According to the US Equal Employment Opportunity Commission, it is legally permissible to require that all employees get vaccinated. Under the Americans with Disabilities Act (ADA), an employer is permitted to implement a vaccination requirement as a qualification standard or a “requirement that an individual shall not pose a direct threat to the health or safety of individuals in the workplace.”

The California Department of Fair Employment and Housing (“DFEH”) also made clear in its “Guidance” that under the California Fair Employment and Housing Act (“FEHA”), “employers rebuttable workers’ compensation presumption that an employee who contracted COVID-19 did so in the workplace may require employees to receive an FDA-approved vaccination against COVID-19 infection.”

Under OSHA’s General Duty Clause, employers have an obligation to employees to furnish a workplace that is “free from recognized hazards that are causing or are likely to cause death or serious physical harm.” Because COVID-19 is a recognized deadly hazard, employers could be faced with a claim for violation of OSHA if they do not mandate that employees be inoculated in order to perform in-person work.

Reasonable Accommodation for Employees with Disabilities or Sincerely held Religious Beliefs

Although generally pursuant to both the federal EEOC guidance, as well as the California DFEH, an employer may require an FDA approved COVID-19 vaccine as a condition of employment or return to the workplace, employers have reasonable accommodation obligations to employees who refuse vaccination due to disability or a sincerely held religious belief or practice.

The DFEH also made clear in its “Guidance” that “employers may require employees to receive an FDA-approved vaccination against COVID-19 infection”—so long as the employer:

- Does not discriminate against or harass employees or job applicants on the basis of a protected characteristic;
- Provides reasonable accommodations **related to disability or sincerely held religious beliefs or practices**; and
- Does not retaliate against anyone for engaging in protected activity, such as requesting a reasonable accommodation or alleging discriminatory practices.

If an employer requires employees to be vaccinated, but an employee objects to the vaccine on the basis of a disability or sincerely held religious belief, the Guidance explains that the employer must engage in an interactive process with and reasonably accommodate the employee, unless such an accommodation would impose an undue hardship.

The DFEH Guidance recognizes that employees who are unable to perform their essential duties even with reasonable accommodations, or those who cannot perform those duties in a manner that would not endanger the health or safety of themselves or others even with reasonable accommodations, may be excluded from the workplace.

According to the DFEH, when assessing whether an undue hardship exists, employers should consider whether the individual can work from home or “whether reasonable procedures and safeguards could be put in place at the worksite that would enable the employee to work without endangering the employee [or applicant] or others.” This may entail more stringent compliance with mask wearing and social distancing obligations, if feasible. A reasonable accommodation does not mean that the employer must allow workers with disabilities or religious belief objections to working with others if that would jeopardize the safety of other employees, vendors, customers, etc.

Disability Accommodation

A qualified individual with a disability may be entitled to an exemption from an employer required vaccine policy:

- The FEHA requires employers to make reasonable accommodations to an employees’ known disabilities;
- If an employee objects to vaccination on a disability-related basis, the employer must engage in an interactive process to reasonably accommodate the employee;
- If accommodation is available that does not create an undue hardship on the employer, it must be provided to the disabled employee; and

- If the employee cannot perform the essential functions of their position in a manner that doesn't endanger the health or safety of others, even with reasonable accommodations, the employer may exclude the employee from the workplace.

Religious Accommodation

If an employee objects to vaccination on the basis of a sincerely held religious belief or practice, the employer must reasonably accommodate the employee. The accommodation analysis however is not as stringent as with disability:

- Unless specifically requested by the employee, a religious-based accommodation is not considered reasonable if such accommodation results in the segregation of the individual from other employees or the public.
- Personal beliefs opposing vaccinations rooted in political, medical, or intellectual bases (e.g. "anti-vaxxer" views) however do not entitle an individual to a religious exception.
- Personal beliefs that inoculations would be damaging to physical health based on internet research have been found to not be "religious in nature."
- If the employer shows that an accommodation imposes an undue hardship, the employer may exclude the employee from the workplace.
- Based on EEOC guidance, Employers should *not* request documentation or additional information supporting a religious objection unless it has "an objective basis for questioning the religious nature or the sincerity of a particular belief, practice, or observance."

Employers Are Not Required to Accommodate Philosophical or Political Objections

- There is no obligation to reasonably accommodate employees who oppose being vaccinated if their objection is not related to a disability or a sincerely held religious belief.
- Employers are not required to reasonably accommodate employees who do not "trust that the vaccine is safe."
- Employers are not required to reasonably accommodate employees who are afraid of, or uncomfortable getting the vaccine.

If an employee refuses to be vaccinated but does not have a disability reason or sincerely held religious reason for not being vaccinated, the employer does not have to accommodate that employee. The employee may be refused access to the worksite

Employers may enforce reasonable disciplinary policies with respect to employees who refuse to become vaccinated for a reason other than disability or religion, provided that the employer does not discipline an employee in retaliation for engaging in protected activity, such as requesting a reasonable accommodation or alleging discriminatory practices in connection with the employer's vaccination policy.

An Employer May Require Its Employees to Provide Proof of Vaccination

- The DFEH Guidance provides that asking employees for proof of vaccination is not a disability-related inquiry, religious creed-related inquiry, or a medical examination.
- An employer can require employees who have been inoculated to supply a record of vaccination before allowing them to return to in-person work without running afoul of the ADA.
- If, however, the employer asks employees why they did not receive the vaccine, it will increase the risk of liability for discrimination claims.
- According to the CDC, “If an employer requires employees to provide proof that they have received a COVID-19 vaccination from a pharmacy or their own healthcare provider, the employer cannot mandate that the employee provide any medical information as part of the proof.”

Reasonable Accommodations and Undue Hardship

If an employee requests an exemption or accommodation to a mandatory vaccine policy on the basis of a disability or a religious belief, the employer may only deny the accommodation if it can prove that it would result in an undue hardship to the employer.

An undue hardship based on a religious belief under Title VII is defined as “more than *de minimis*” cost or burden, which is a substantially lower standard than the ADA undue hardship standard, which is defined as “significant difficulty or expense.” It would be an undue hardship if the accommodation resulted in a direct threat to the health and safety of the employee or third parties.

If an employee requests an exemption from a vaccination policy, whether due to a disability or a religious belief, there are a number of possible alternative means of infection control that the Company could consider:

- Requiring the employee to transfer to a position that does not require interaction with other employees and members of the public;
- Requiring the employee to work, or continue to work, remotely;
- Relocating the employee’s workspace to eliminate interaction with other employees;
- Requiring employees to attend meetings remotely;
- Altering an employee’s work schedule to reduce the time spent at work with other employees; and/or
- Providing unpaid leave to the employee until virus spread is more controlled.
- Potential accommodations would need to be evaluated on a case-by-case basis depending on an employee’s job duties.

Best Practice: When an exemption is requested, the employer should be sure to engage in the interactive process to determine if there is an alternate solution that will not create an undue hardship. Efforts to accommodate employees who seek exemptions to a mandatory policy should always be carefully documented.

Incentives

Following EEOC guidance, if the employer simply gives a taxable incentive (*e.g.*, a \$100 gift card) to employees who provide proof they received the vaccine without providing any other, additional medical information, there should be no ADA concerns. Rather than implementing absolute mandates, employers may wish to focus on steps they can take to encourage and incentivize employees to get vaccinated. For example, employers may choose to:

- Develop vaccination education campaigns;
- Make obtaining the vaccine as easy as possible for employees;
- Cover any costs that might be associated with getting the vaccine;
- Provide incentives to employees who get vaccinated;

Provide paid time off for employees to recover from any potential side effects (though, in California, Employees must already be paid for the time taken to get vaccinated);

- Provide employees leave for absences related to an adverse reaction;
- Provide extra PTO days; and/or
- Provide first priority for overtime work or a more desirable schedule.

LEGAL DEVELOPMENTS

Boston Marriott Hits Insurer For Limiting Virus Coverage

Boston hotel investor group asked a California federal judge to throw out an insurer's claims that it would only be responsible for two days of coverage during which the hotel hosted a conference later linked to over 300,000 COVID-19 cases worldwide. The investors said that Endurance American Specialty Insurance was ignoring the reality of the pandemic by asserting that coverage would end after two days, when the Marriott Boston Long Wharf finished cleaning its premises following a large biotech conference held in February 2020. But two days' coverage isn't what the policy was meant to provide, the hotel group said. The investors are seeking \$40 million in coverage for business losses Marriott sustained because of the pandemic. They say a provision in their policy covering losses for "biological agent conditions" includes viruses and pathogens like the coronavirus.

Insurer Says Precedent Backs It On Virus Coverage Appeal

Cincinnati Insurance Co. urged the Seventh Circuit to uphold its win in an Illinois dental practice's lawsuit seeking policy coverage for losses it incurred after state officials ordered all non-essential businesses to close in light of the COVID-19 pandemic. Cincinnati Insurance argued in its appellate brief that a lower court had correctly sided with it over Sandy Point Dental PC's claims that the dental practice was entitled to a policy payout to cover the financial losses it suffered as a result of Illinois Gov. J.B. Pritzker's coronavirus-related shutdown orders. The insurer argued that the court should affirm the permanent dismissal of Sandy Point's suit because the lower court had applied its policy terms in a way that is supported not only by "numerous judicial decisions prior to the coronavirus pandemic" but also by most court decisions that have applied the same or similar policy language to COVID-19 claims.

WHAT WE'RE READING

Californians Back Proof Of COVID Vaccine Or Negative Test At Workplaces, Other Venues

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US Agencies Examine Reports Of Early COVID-19 Infections In Wuhan Lab

US intelligence agencies are examining reports that researchers at a Chinese virology laboratory were seriously ill in 2019 a month before the first cases of COVID-19 were reported, according to US government sources who cautioned that there is still no proof the disease originated at the lab. A still-classified US intelligence report circulated during former President Donald Trump's administration alleged that three Wuhan Institute of Virology (WIV) researchers became so ill in November 2019 that they sought hospital care, sources familiar with US intelligence reporting and analysis said, speaking on condition of anonymity. To read the full story, click [here](#).

European Union set to allow US travelers as Covid restrictions lift

The prospect of [international travel](#) resuming this summer just got a step closer. Ambassadors from the 27 [European Union](#) countries agreed that restrictions for travelers from outside the EU should be eased, in particular for those vaccinated against [Covid-19](#), a spokesperson for the European Commission, Christian Wigand, said. The

ambassadors agreed to ease the criteria for non-E.U. nations to be considered a “safe country,” from which all tourists can travel. Up to now, that list consisted of [only seven nations](#) — Australia, Israel, New Zealand, Rwanda, Singapore, South Korea and Thailand. To read the full story, click [here](#).

Analysis Faults Districts On Lack Of Spending Accountability For Covid Funding

An intensive review of 48 districts’ plans by four student advocacy nonprofit organizations, released Tuesday, found model practices worth adopting, like Anaheim Elementary School District’s creation of an after-school Emergent Bilingual Academy for struggling English learners. But the review also revealed significant flaws in documenting the spending. Many districts wrote vague responses when asked to explain how they would measure and intervene with students falling academically behind. Others offered little or no information on addressing the social and emotional needs of priority student groups that receive more state money, including low-income, foster and homeless children. More concerning, the report said, were big gaps in financial disclosure. Nine out of 10 of the districts, the report said, included less than half of their total revenue in their plans and didn’t break out the sources of the funding and how districts planned to use money from the federal Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, which Congress passed in March 2020, providing \$1.7 billion to districts. To read the full story, click [here](#).

Changed By Pandemic, Many Workers Won’t Return To Old Jobs

Workers like Mullins are one reason US hiring slowed in April. Employers and business groups argue that the \$300-per-week federal unemployment supplement gives recipients less incentive to look for work. Several states have begun requiring those receiving the benefits to show they are actively searching for work, and a few will stop providing the supplement. But Heidi Shierholz, a senior economist who researches low- and middle-income workers with the Economic Policy Institute, said health concerns and child care responsibilities seem to be the main reasons holding workers back. In April, she said, at least 25% of US schools weren’t offering in-person learning, forcing many parents to stay home. And health concerns could gain new urgency for some workers now that the U.S. Centers for Disease Control and Prevention has said fully vaccinated people can stop wearing masks in most settings. To read the full story, click [here](#).

Willing To Help But Nowhere To Go: State’s Recruitment Of COVID-19 Volunteers Fell Short

More than 251,000 Californians signed up on MyTurn to volunteer at vaccine clinics. But only 379 people have been able to book shifts through the state’s problem-plagued website. ... As a result, the Newsom administration failed to capitalize on a potential team of perhaps hundreds of thousands of volunteers to help administer vaccinations. MyTurn

Volunteer is part of California's troubled, \$50 million MyTurn vaccine management system that was hastily built to distribute vaccines and give people a one-stop place to book appointments. A recent CalMatters investigation found that appointments booked on MyTurn accounted for only about 27% of doses given each day across the state. To read the full story, click [here](#).

Santa Clara County's New COVID Order Surprises Business Owners

Santa Clara County's new order requiring businesses to determine their employees' vaccination status is raising a host of questions as employers Wednesday began figuring out what the rules mean and how to meet a two-week deadline to compile the data before California eases COVID restrictions in mid-June. Many employers hadn't yet heard of the order, a first in the Bay Area that could soon free vaccinated employees from requirements to wear masks and socially distance in the workplace. But that freedom would come at the cost of employers collecting medical information and imposing stricter rules on their unvaccinated employees, an unnerving prospect for some. To read the full story, click [here](#).

California Restaurants Expect Rebound That Will Take Years

Few business sectors were more battered than the dining industry, which before the pandemic included more than 76,000 eating and drinking establishments employing 1.8 million people, according to the California Restaurant Association. But with the shutdown, as many as a million of those workers were quickly furloughed or laid off, the association told the state Senate's Special Committee on Pandemic Emergency Response. ... Restaurant employment is still down one-quarter from before the pandemic, according to the latest numbers from the state Employment Development Department. Industry leaders said they fear a lack of labor may shutter more establishments as the economy reopens. To read the full story, click [here](#).

Despite Pandemic, Newsom Declines to Boost Local Public Health Budgets — Again

Local public health officials, responsible for steering the state's covid-19 response, had asked the Democratic governor for \$200 million per year for the nuts and bolts of public health, starting in the 2021-22 budget year, which kicks off July 1. But Newsom did not grant their request in his \$268 billion budget proposal released Friday, despite a projected budget surplus of \$76 billion. If Newsom does not change his mind before the budget is finalized, this would mark the third consecutive year he has denied funding requests to help rebuild California's devastated public health infrastructure and workforce, threatening the state's ability to control covid and prepare for future threats, public health experts say. To read the full story, click [here](#).

California unemployment claims rise — EDD backlog still tops 1 million

California workers filed about 71,000 initial claims for unemployment during the week that ended May 15, the US Labor Department reported Thursday. That's an increase of about 1,000 from the week that ended on May 8, the Labor Department report showed. Separately, as of May 15, roughly 1.1 million California workers had filed unemployment claims that were trapped in the state government's approval and payment process, according to an official Employment Development Department dashboard that the labor agency posted Thursday. The most recent EDD backlog was about 3,600 fewer than the backlog on May 8, the state dashboard shows.

To read the full story, click [here](#).

Cash To Help California Renters Goes Unspent With Eviction Protections Expiring Soon

Months after the state approved \$2.6 billion to help California tenants pay rent amid hardship caused by the COVID-19 pandemic, advocates say a disappointingly low number of people have applied, as the program has been hampered by a slow start, confusion and bureaucratic red tape. The problems have emerged as Gov. Gavin Newsom last week proposed to double the amount available for rent relief to \$5.2 billion to pay 100% of back rent owed by many low-income tenants as well as rent for some future months. Now, with state eviction protections expiring at the end of next month, and talks on additional action not yet yielding a proposal, housing advocates say the state needs to do a better job of helping low-income tenants get the rental assistance they need. To read the full story, click [here](#).

Getting More People Vaccinated Against Covid-19 Means Wasting Doses

Now that supplies are ample and the eager are dwindling, the U.S. Centers for Disease Control and Prevention has issued new guidance. Sites should not miss an opportunity to vaccinate an individual, even if it means remaining doses in a vial will go to waste, the CDC said late Thursday. "As access to Covid-19 vaccine increases, it is important for providers to not miss any opportunity to vaccinate every eligible person who presents at vaccine clinics," the new CDC guidance said. Many health workers and state officials had already been saying that vaccinating people should be the priority over ensuring every dose in an open vial is used. "If you have someone in front of you who needs a vaccine, go ahead and use what you've got and try to use it as best you can and as efficiently as you can. But we know that we're at a point where there will be some wastage that is unavoidable. We've got to get people vaccinated now," said Thomas Dobbs, state health officer for Mississippi. To read the full story, click [here](#).

Virus Deaths Are Probably Two To Three Times More Than Official Records, The WHO Says

The WHO based its assessment on a statistical model that estimates the excess deaths attributable to Covid-19. The technique involves taking the total number of officially

recorded deaths and then subtracting the number of deaths that would have been expected on the basis of previous mortality trends if the pandemic had not occurred. On that basis, the WHO said it estimated that 1.1 million to 1.3 million people in 53 European countries died from Covid-19 in 2020, roughly double the number recorded in official data. The organization also calculates that, over the same period, 1.3 million to 1.5 million people died in 35 countries in the Americas, compared with the 900,000 deaths officially recorded. To read the full story, click [here](#).

California Court Rules Jury Must Resolve Dispute Between Homeowner and Subcontractor Insurer Over When Claim Occurred

The California Court of Appeal recently reversed a trial court's dismissal of a lawsuit, concluding that because there was a dispute over when a homeowner's claim "occurred" for purposes of an insurance policy, that dispute must be resolved by a jury. To read the full story, click [here](#).

Online Learning At Home Isn't Going Away Next School Year

Inspired by the pandemic, many school districts are creating permanent, online-only or independent study programs. School leaders said they want to offer more flexible learning options for students who, for example, may not want the social pressures of a traditional school environment or who may prefer to work independently. School officials also want to provide an option for families like Spydell's, who are still unsure about sending their children back to school. Some parents wonder if COVID variants will raise local case rates or if COVID vaccines will be available to children under age 12 by then. To read the full story, click [here](#).

UTLA In Negotiations With LAUSD Over 'Traditional' School Day For Fall

As the Los Angeles Unified School District and local teachers union continue to negotiate over what the school day will look like come fall, United Teachers Los Angeles this week presented the district with a proposal which the union president said would provide supports that students will need as they recover from the coronavirus pandemic. The parties are bargaining on conditions to return to "a traditional model for next school year," UTLA President Cecily Myart-Cruz said during her weekly update on Friday, May 21. ... Among the things the union is demanding is that the district maintain health and safety protocols, such as masking requirements, physical distancing, proper ventilation, cleaning and disinfecting of school facilities, and ongoing COVID-19 testing. To read the full story, click [here](#).

Are Vaccinated Americans Powering the Economy? Not Yet, Data Show

Vaccinated consumers were less likely to go out to restaurants, salons and entertainment venues than those who don't plan to get the vaccine, April spending and

survey data from market-research firm Cardify.ai show. The vaccinated are “proceeding with cautious optimism,” said Derrick Fung, chief executive of Cardify. “They’re still not really comfortable doing live entertainment where there’s crowds of people.” People who aren’t vaccinated, on the other hand, tend to be more risk tolerant and are already living a relatively normal life, Mr. Fung added. “As places open up, they’re the ones leading the charge.” Spending at entertainment venues was up 20% among consumers who don’t plan to get the vaccine in April compared with January 2020. It was up just 10% among vaccinated people during that same period, according to Cardify. To read the full story, click [here](#).

Almost No Nursing Home In America Was Safe From COVID-19, Federal Study Finds

Months after it became painfully clear that older people were the most likely to die from COVID-19, poor infection control resulted in multiple, sustained outbreaks at the overwhelming majority of the nation’s nursing homes, according to reports from the US Government Accountability Office. Of the 50 states and District of Columbia, California ranked 19th worst for sustained COVID-19 outbreaks lasting more than five weeks from May 2020 to January 2021. But nowhere was safe: A stunning 99.5% of America’s nursing homes overseen by the Centers for Medicare & Medicaid Services (CMS) had at least one outbreak, and 74% had three or more outbreaks, in the time frame examined. To read the full story, click [here](#).

In The US, New Cases And Deaths Drop To The Lowest Levels In Nearly A Year

For the first time since June of last year, there are fewer than 30,000 new daily coronavirus cases in the United States, and deaths are as low as they’ve been since last summer. In much of the country, the virus outlook is improving. Nearly 50 percent of Americans have received at least one vaccine shot, and though the pace has slowed, the share is still growing by about two percentage points per week. “I think by June, we’re probably going to be at one infection per 100,000 people per day, which is a very low level,” Dr. Scott Gottlieb, former head of the Food and Drug Administration, said Sunday on the CBS program “Face the Nation.” The US rate is now eight cases per 100,000, down from 22 during the most recent peak, when new cases averaged about 71,000 on April 14. To read the full story, click [here](#).

Cal/OSHA Proposes Nearly \$300,000 In Fines Tied To Foster Farms COVID-19 Outbreaks

In the wake of deadly COVID-19 outbreaks at poultry processing plants operated by Foster Farms in California’s Central Valley, the state’s health and safety agency is proposing nearly \$300,000 in fines. Foster Farms, one of the West Coast’s largest producers of poultry, faced ongoing outbreaks of COVID-19 during the pandemic. By the end of 2020, 12 Foster Farms workers had died. The massive fines announced this week,

which total \$292,700, relate to Foster Farms' Livingston facility in Merced County, where nine workers died last year. Merced County health officials in August ordered the Livingston facility closed temporarily, citing an outbreak that had persisted for at least two months and a failure to complete widespread coronavirus testing of workers. To read the full story, click [here](#).

A Dozen Counties Criticized OptumServe For Vaccine Clinic Problems, Documents Show

California agreed to pay OptumServe up to \$221 million during the pandemic to coordinate and operate dozens of vaccination sites. But the health care company's work in at least a dozen counties has been plagued by miscommunication and staffing shortages. Officials from at least 12 counties complained to the state Department of Public Health about delays and other problems with OptumServe, saying that the problems hampered their ability to get shots into arms, according to state documents obtained through a Public Records Act request. The company has fallen far short of the up to 100,000 daily vaccine doses it told the state in its contracts that it could deliver. It has helped administer about 370,000 doses since January — just 1.1% of California's nearly 34 million during that span. At several vaccine sites, OptumServe failed to deliver the minimum 420 doses it pledged to distribute each day. To read the full story, click [here](#).

Legislators Urge State To Deny S.F. School District's Bid For \$12 Million In Reopening Funds

State legislators have accused San Francisco's school district of trying to exploit a legal loophole to receive \$12 million in state funding to reopen schools for in-person learning, arguing the district did not bring back enough students to qualify for the money. ... In a letter to the office of the state controller and superintendent of public instruction Monday, San Francisco's legislative delegation said the district has made a "poor attempt to exploit a perceived legal loophole" by only allowing a few high school students to return by the deadline. The letter was signed by Democratic Assembly Members Phil Ting and David Chiu, along with state Sen. Scott Wiener. To read the full story, click [here](#).

CDC. Will Not Investigate Mild Infections in Vaccinated Americans

The Centers for Disease Control and Prevention has stopped investigating breakthrough infections among fully vaccinated individuals unless they become so sick that they are hospitalized or die. ... The agency will carry out vaccine effectiveness studies that include data on breakthrough cases, but only in limited populations, such as health care workers and essential workers, older adults, and residents at long-term care facilities, a spokeswoman said. To read the full story, click [here](#).

Biden Administration Moves Toward Making The Pandemic Work-From-Home Experiment Permanent For Many Federal Workers

As the Biden administration contemplates how to return the massive federal workforce to the office, government officials are moving to make a pandemic experiment permanent by allowing more employees than ever to work from home — a sweeping cultural change that would have been unthinkable a year ago. The shift across the government, whose details are still being finalized, comes after the risk-averse federal bureaucracy had fallen behind private companies when it came to embracing telework — a posture driven by a perception that employees would slack off unless they were tethered to their office cubicles. That position hardened during the Trump administration, which dialed back work-from-home programs that had slowly expanded during the Obama era. To read the full story, click [here](#).

Note: While EKA monitors governmental announcements, guidelines and recommendations, our updates are prepared for informational purposes and are compiled from publicly available sources. Our updates should not be considered health, medical, legal, or tax advice. Always consult a qualified professional regarding any specific questions you may have. All hyperlinks are live and will bring you to the information mentioned. If you are not interested in receiving future emails from us, please reply with a “Remove” in the subject line and note the email addresses to be removed.

Previous Updates

Our previous COVID-19 updates can be found [here](#). Feel free to share our updates with friends and colleagues. We hope you find the information in the EKA updates and the questions they raise to be informative. If you have any COVID-19 government or communications questions, please reach out to any EKA team members.