

California HR Pros Must Prepare for Changes to COVID-19 Restrictions, *SHRM*, ft. Allyson Thompson

Allyson Thompson, KD LA Partner was quoted in *SHRM*'s article.

Although many COVID-19-related guidelines have been relaxed at the federal level, California workplaces are still subject to various state and local rules. HR professionals will play a critical role in updating COVID-19-related workplace policies and managing employee expectations as the state prepares to reopen the economy.

"We are experiencing another wave of rapidly evolving and inconsistent COVID-19 direction and guidance from city, county, state and federal agencies," said Mark Terman, an attorney with Faegre Drinker in Los Angeles.

The U.S. Centers for Disease Control and Prevention (CDC) recently lifted many of its COVID-19 safety recommendations for people who are fully vaccinated—including mask and social-distancing guidelines.

"That caused confusion in many California workplaces," Terman said, noting that the state, as well as some local governments, still require fully vaccinated people take these measures. "Employers and their HR teams have their hands full keeping up with regulatory and guidance changes."

Mark Phillips, an attorney with Reed Smith in Los Angeles, said employers should be prepared to act quickly regarding workplace safety and should consult with legal counsel as the rules change.

"HR professionals should help employees to understand the distinction between CDC guidance, on the one hand, and state and local guidance and ordinances on the other," he suggested. "Communicate the employer's policies and practices as they relate to guidance and requirements."

Multiple Sources for Rules

The California Department of Public Health (CDPH) announced on May 21 that many businesses "may return to usual operations" on June 15—the state's target date for reopening the economy after more than a year of COVID-19-related restrictions.

In addition to monitoring guidance from the CDC and state officials, however, private employers must look to the California Division of Occupational Safety and Health—which is known as Cal/OSHA.

"Employers are subject to the Cal/OSHA COVID-19 Prevention Emergency Temporary Standards (ETS), if applicable to them," the CDPH stated in the announcement.

Terman noted that employers must still follow all Cal/OSHA mask, social-distancing, hand-washing and other protocols.

The Cal/OSHA website is the first place employers should look for updates, explained Allyson Thompson, an attorney with Kaufman Dolowich & Voluck in Los Angeles.

Historically, Cal/OSHA's standards have been aligned with state orders, she noted, but even when Cal/OSHA's standards are updated, employers should look for industry-specific rules that may be more restrictive.

"California employers also have to look at local rules," Thompson said. For example, both the city and county of Los Angeles have their own COVID-19-related rules, and so does San Francisco. Santa Clara County recently issued new rules about wearing masks indoors and requiring employers to inquire about workers' vaccination status.

HR should take the time to wade through the applicable regulations and work with employment counsel or their general counsel to update policies, she added.