

Gov. Newsom Suspends Cal/OSHA's Requirement That Unvaccinated Workers Wear Masks Indoors

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Over the course of the pandemic, California employers have contended with rapidly changing rules on workplace safety. Mask requirements in the workplace have been an especially evolving area, where the rules have not only varied between the federal, state, and local jurisdictions, but were often inconsistent across different state agencies. California has now taken steps, however, to align the state's new mask mandates for the public as well as in the workplace.

Beginning December 15, 2021, the California Department of Public Health (CDPH) implemented a statewide mask mandate. CDPH then announced the end of universal indoor masking effective February 16, 2022 and the end of the requirement for unvaccinated individuals to mask in indoor public spaces effective March 1, except in certain high-risk settings. In the meantime, Cal/OSHA's Emergency Temporary Standard (ETS) remained at odds with the CDPH mask guidance, with the ETS still requiring masking for unvaccinated individuals in the workplace.

In a move towards greater consistency, Governor Newsom released an order ([Executive Order N-5-22](#)) on February 28, 2022, which suspends the ETS rule requiring unvaccinated workers to wear masks indoors, except in specified situations. This ETS requirement will no longer be enforced, bringing the ETS into alignment with efforts by the Governor's Office and the CDPH to roll back the state mask mandate.

However, several other ETS requirements related to employee masking will still remain in effect. For example, provisions requiring face coverings during outbreaks or where employees are exposed are still operative. In addition, employees may still request face coverings from their employer at no cost to the employee, regardless of their vaccination status.

Notably, many California localities that previously had indoor mask requirements have revised or rescinded those mandates as well in order to align with the current state rules on masking. These localities include Los Angeles County, San Francisco City and County, San Mateo County, Sonoma County, Inyo County, Mono County, and the City of Berkeley.

If the pandemic has shown anything, it is that the guidance and rules change often. Local mask

orders have cropped up across these and other cities and counties throughout the pandemic, so it important for employers to continue to stay updated on changes in masking requirements at the local level, as well as at the federal and state level.

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National Law Review, Volume XII, Number 70

Source URL: <https://natlawreview.com/article/gov-newsom-suspends-calosha-s-requirement-unvaccinated-workers-wear-masks-indoors>