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California Department of Public Health Issues Updated COVID Testing Guidance for Employers

On July 13, 2020, the California Department of Public Health issued [Updated COVID-19 Testing Guidance](#) urging employers not to require a negative COVID-19 test before allowing an employee to return to work after they have tested positive for COVID-19.

The California Department of Public Health indicates that Polymerase Chain Reaction tests, such as nasal, oral, or throat or saliva tests, can remain positive long after an individual is no longer contagious. While the Equal Employment Opportunity Commission has issued guidance that seems to allow employers to require a “fitness-for-duty” examination or medical note clearing an employee to return to work, employers should not use testing to impermissibly discriminate against employees who previously tested positive for COVID-19.

Rather, employers should follow symptom- or- protocol-based criteria in determining when an employee is safe to return to work. While county guidance for employees returning to work may vary based on local conditions or pattern of transmission, the general return to work protocol is as follows:

- Symptomatic employees who have tested positive for COVID-19 should return to work after 10 days after their symptoms first appeared and 3 days after recovery, where recovery is defined as the resolution of fever and reduction in respiratory symptoms.
- Asymptomatic employees who have tested positive may return to work 10 days after the date of their positive COVID-19 test.

Below are resources to Return to Work guidance in San Francisco, Los Angeles County, and San Diego:

- San Francisco: [Returning to Work for Those Who Have Confirmed or Suspected COVID 19](#)
- Los Angeles County: [Responding to COVID-19 in the Workplace](#)

Questions? Contact Stokes Wagner.

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- San Diego County: [Health Order](#), effective July 15, 2020, requiring all reopened businesses to conduct temperature screenings of all employees.

We urge businesses to stay apprised of updates to guidelines and health orders in the State and local county in which your business is located.

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