

COVID-19 Notification & Reporting Requirements

	EMPLOYEE NOTIFICATION [AB 685]	LOCAL REPORTING RE OUTBREAKS [AB 685]	WC OUTBREAK PRESUMPTION [SB 1159]	Cal/OSHA [Emergency Temporary Standards]
Code Section(s)	LC § 6409.6(a) Text	LC § 6409.6(b)	LC § 3212.88 Text	8 CCR § 3200 et seq. Text
Effective Date	1/1/2021	1/1/2021	9/27/2020	11/30/2020
Expiration Date	1/1/2023	1/1/2023	1/1/2023	180 days (5/29/21)
Government FAQs	DIR FAQs		DIR FAQs	DIR FAQs Fact Sheet
Covered Employer	Private and public employers, with limited exceptions.		Private employers with 5 or more employees who test positive during an outbreak at an employee’s specific place of employment.	All employees and businesses except: <ol style="list-style-type: none"> 1. Businesses with 1 employee that doesn’t have contact with other people. 2. Employees working from home. 3. Businesses subject to California’s Aerosol Transmissible Disease (ATD) standards are also covered.
Employer Obligations	When an employer has notice of a positive confirmed case of COVID-19 by a “qualified individual” they must, within 1 business day, provide written notice to: <ol style="list-style-type: none"> 1. All employees and employers of subcontracted 	“If an employer.... is notified of the number of cases that meet the definition of a “ COVID-19 outbreak ” within 48 hours, the employer shall: <ol style="list-style-type: none"> 1. Notify the local public health agency in the jurisdiction of 	Employers must notify their Workers’ Compensation claims administrator within 3 business days of notice of a positive COVID-19 test.	There are 10 categories of things an employer must do: <ol style="list-style-type: none"> 1. Draft and implement a COVID-19 Prevention Program² & provide employee training. 2. Identify COVID-19 hazards³ with employee

² The regulations require employers to draft and maintain an effective written COVID-19 prevention program. The document can be either integrated into the employer’s injury and illness prevention program (IIPP) or can be maintained as a separate document. The written elements of the COVID-19 prevention program are outlined below. See Appendix A.

³ Details regarding required investigation and evaluation are provided below. See Appendix B.

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	<p>employees, who were on the premises at the same worksite as the qualifying individual within the infectious period, and</p> <ol style="list-style-type: none"> 2. The exclusive representative of employees if any (i.e., union reps). 3. Offer COVID-19 testing¹ to all employees who had potential COVID-19 exposure in the workplace and provide them information on available benefits. Testing must be at no cost to the employee and during working hours. 4. Investigate and reduce/eliminate workplace conditions that contributed to the risk of COVID-19 exposure. 	<p>the worksite of the names, number, occupation, and worksite of the employees who meet the definition ... of a “qualifying individual.”</p> <ol style="list-style-type: none"> 2. Report shall include the business address and NAICS code of the worksite. 3. Continuous reporting is required. The employer must continue to give notice of any subsequent laboratory confirmed cases of COVID-19 at the worksite. 		<p>assistance and correct them.</p> <ol style="list-style-type: none"> 3. Investigate COVID-19 cases⁴, notify and provide testing to potentially exposed employees. 4. Require physical distancing & mask wearing, improving ventilation, and maximize outdoor air. 5. Don’t allow employees back into workplace until quarantine ends, pay employees throughout quarantines. 6. Record, report and allow access to the information required by AB 685 (LC § 6409.6)⁵. 7. Report all outbreaks to the public health department per AB 685 (LC § 6409.6)⁶. 8. Provide continuous COVID-19 testing to all employees who had

¹ Testing can be through the employer, local health department, a health plan, or at a community testing center.

⁴ The regulations require investigations to include specific determinations. See Appendix C.

⁵ A sample notice to employees is provided below. See Appendix D.

⁶ A sample outbreak notice is provided below. See Appendix E.

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				<p>potential COVID-19 exposure in the workplace.</p> <p>9. Employer provided housing must adhere to specific requirements.</p> <p>10. Employer provided transportation requires certain safety measures.</p>
Who Must Be Notified?	<ul style="list-style-type: none"> All employees who were on the premises at the same worksite during infectious period. Employers of subcontracted employees. Exclusive representative⁷. 	<ul style="list-style-type: none"> Local Public Health Department in the jurisdiction of the worksite. 	<ul style="list-style-type: none"> Claims Administrator 	<ul style="list-style-type: none"> Exposed Employees at the worksite. Employers of subcontracted employees. Exclusive representative. Local Public Health Department in the jurisdiction of the worksite (outbreak only).
What Triggers the Notice Requirement?	Employer receives requisite notice of potential exposure to COVID-19 (i.e., worked on site with an employee that tested positive or has a COVID-19 diagnosis).	COVID-19 outbreak (3 cases in 2-week period, see “outbreak” definition below).	A positive COVID-19 case in the workplace.	<p>Employer receives requisite notice of potential exposure to COVID-19 (i.e., worked on site with an employee that tested positive or has a COVID-19 diagnosis).</p> <p>COVID-19 outbreak (3 cases in 2-week period, see “outbreak” definition below).</p>

⁷ An “employee’s exclusive representative” is not defined. But we understand this to mean Union Representative.

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				Major COVID-19 outbreak (20+ cases in 30-day period, see “major outbreak” definition below).
Timing of Notice	1 business day	48 hours	3 business days	<ul style="list-style-type: none"> • 1 business day • 48 hours (outbreak and major outbreak only)
Manner of Notice	<p>Notice must be given “in a manner the employer normally uses to communicate employment-related information.”</p> <p>“Written notice may include, but is not limited to, personal service, email, or text message” if it “can reasonably be anticipated to be received by the employee within one business day of sending.”</p> <p>Shall be in both English and “the language understood by the majority of the employees.”</p>	Unspecified. Contact the local county health department for reporting instructions.	Email or fax.	Unspecified.
Notice Content	<ol style="list-style-type: none"> 1. Potential exposure to COVID-19. 2. Information regarding COVID-19 related benefits under applicable federal and state, or local laws, 	<ol style="list-style-type: none"> 1. Names, phone number, occupation, and worksite of the employee who meets the definition ... of a “qualifying individual” 	<ol style="list-style-type: none"> 1. An employee has tested positive without personally identifiable information unless employee asserts a claim or files a claim form. 	<ol style="list-style-type: none"> 1. Potential exposure to COVID-19. 2. Offer COVID-19 testing⁸ to all employees who were potentially exposed to in the workplace and provide

⁸ COVID-19 testing can be through the employer, local health department, a health plan, or at a community testing center.

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	including workers compensation. 3. Options for exposed employees including COVID-19 related leave, company sick leave, state mandated leave, supplemental sick leave, or negotiated leave provisions. 4. Antiretaliation and antidiscrimination protections of the employee. 5. The COVID-19 disinfection and safety plan.	2. Business address and NAICS code of the worksite. 3. Continuous reporting required.	2. The date the employee tests positive (this is the date the specimen was collected for testing). 3. The address of the employee’s specific place of employment during the 14-day period prior to the date of the employee’s positive test. 4. The highest number of employees who reported to work at the employee’s specific place of employment in the 45-day period preceding the last day the employee worked at each specific place of employment.	them information on available benefits. 3. Testing must be at no cost to the employee and during working hours. 4. Information regarding COVID-19 related benefits under applicable federal and state, or local laws, including workers compensation. 5. Options for exposed employees including COVID-19 related leave, company sick leave, state mandated leave, supplemental sick leave, or negotiated leave provisions. 6. Antiretaliation and antidiscrimination protections of the employee. 7. The COVID-19 disinfection and safety plan. OUTBREAK NOTICE ONLY: 1. Names, phone number, occupation, and worksite of the employee who meets the definition ... of a “qualifying individual”

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				2. Business address and NAICS code of the worksite. 3. Continuous reporting required.
Employee Identity Disclosed?	No.	Yes.	Not until claim asserted/filed.	No, unless reporting outbreak to local health department.
Return to Work Criteria	N/A			“Symptomatic Cases” may not return to work until: <ul style="list-style-type: none"> • 24 hours have passed since a fever of 100.4 or higher has resolved without fever-reducing medication, • COVID-19 symptoms have improved, and • At least 10 days have passed since COVID-19 symptoms first appeared. “Asymptomatic Cases” may not return to work until: <ul style="list-style-type: none"> • 10 days have passed since the date of specimen collection of the first positive COVID-19 test.

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				<p>If an isolation or quarantine order exists, the order takes precedence.</p> <p>If no time period is specified in the isolation or quarantine order it will be 10 days from the isolation order or 14 days from the quarantine.</p> <p>YOU MAY NOT REQUIRE NEGATIVE TEST RESULTS TO RETURN TO WORK</p>
<p>COVID-19 Testing Requirements</p>	<p>N/A</p>			<p>Testing: COVID-19 testing must be provided to all employees at the exposed workplace except those not present during (1) a local health department identified outbreak OR (2) the 14-day period. Testing must be at no cost to the employee and during working hours.</p> <p>Test Frequency: Employees in the exposed workplace shall be tested and then tested again a week later. Thereafter, weekly testing must be offered for employees who remain at the workplace.</p>

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Recordkeeping Requirements	Records of the written notices must be maintained for 3 years.		N/A	Employers must keep a record of and track all COVID-19 cases.
Quarantine Requirements	N/A			<p>COVID-19 cases must be excluded from the workplace until all return-to-work requirements are met. Exposed employees must be excluded from the workplace for 14 days after last known COVID-19 exposure to a COVID-19 case.</p> <p>For employees who are excluded from work, all earnings and benefits must resume as if the employee was not excluded UNLESS:</p> <ul style="list-style-type: none"> • An employee is unable to work for reasons other than protecting persons at the workplace from possible COVID-19 transmission, OR • The employer demonstrates that the COVID-19 exposure is NOT WORK RELATED. <p>Employees who have not been excluded or isolated by the local health department don't need to be excluded from work if they</p>

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				can be reassigned to work where they have no contact with others until all return-to-work criteria are met.
“Qualifying Individual”	<p>A “Qualifying Individual” is a person who has one of the following:</p> <ul style="list-style-type: none"> • A laboratory confirmed case of COVID-19 “as defined by the State Department of Public Health” (antibodies and/or diagnostic). • A positive COVID-19 diagnosis from a licensed health care provider. • COVID-19 related order to isolate from a public health official. <p>Died from COVID-19 per the county public health department or per inclusion in the COVID-19 statistics of a county.</p>	N/A	N/A	See “COVID-19 Case” definition below.
“COVID-19 Case”	See “Qualifying Individual” definition above.		N/A	<p>“COVID-19 Case” means a person who:</p> <ul style="list-style-type: none"> • Tests positive for COVID-19, • Is subject to a COVID-19-related order to isolate issued by a health official; or • Has died due to COVID-19 <p>A person is no longer a “COVID-19 Case” when a licensed healthcare professional determines that the person does not have COVID-19, in accordance with the</p>

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				recommendations made by the California Department of Health (CDPH) or the local Health Department.
“COVID-19 Exposure”				<p>“COVID-19 Exposure” means being within 6 ft of a COVID-19 Case for a cumulative total of 15 minutes or greater in any 24-hour period within or overlapping with the “high risk exposure period” as defined in the regulations.</p> <p>This definition applies regardless of the use of face coverings.</p>
“Exposed Workplace”				<p>An “Exposed Workplace” means any work location, working area, or common area at work used or accessed by a COVID-19 case during the high-risk period, including:</p> <ul style="list-style-type: none"> • Bathrooms. • Walkways. • Hallways. • Aisles. • Break or eating areas. • Waiting areas. • “Work site” of the COVID-19 case per LC § 6409.6(d)(5).

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				The exposed workplace does not include buildings or facilities not entered by a COVID-19 case.
“Worksite”	<p>A “worksite” means:</p> <ul style="list-style-type: none"> • The “building, store, facility, agricultural field or other location where a worker worked during the infectious period.” • “It does not apply to buildings, floors or other locations of the employer that a qualified individual did not enter.” • “In a multi-worksite environment, the employer need only notify employees who were at the same worksite as the qualified individual.” • “On the premises” is not defined. 		<p>A “worksite” means:</p> <ul style="list-style-type: none"> • The building, store, facility, or agricultural field where an employee performs work at the employer’s direction. <p>“A specific place of employment” does not include the employee’s home or residence, unless the employee provides home health care services to another individual at the employee’s home or residence.</p>	<p>A “worksite” means:</p> <ul style="list-style-type: none"> • Any location, working area, or common area at work used or accessed by a COVID-19 case during the high-risk period, including bathrooms, walkways, hallways, aisles, break or eating areas, and waiting areas. <ul style="list-style-type: none"> ○ Does NOT include buildings or facilities not entered by a COVID-19 case. • The building, store, facility, agricultural field, or other location where a worker worked during the infectious period. <ul style="list-style-type: none"> ○ It does not apply to buildings, floors, or other locations of the employer that a qualified

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				<p>individual did not enter.</p> <p>In a multi-worksite environment, the employer need only notify employees who were at the same worksite as the qualified individual.</p>
<p>“Infectious Period”</p>	<p>An “infectious period” is “the time a COVID-19 positive individual is infectious, as defined by the State Department of Public Health.</p> <p><u>Symptomatic Cases:</u> 2 days before the individual first develop symptoms. The infectious period ends when the following criteria are met: 10 days have passed since symptoms first appeared, AND at least 24 hours have passed with no fever (without use of fever-reducing medications), AND other symptoms have improved.</p> <p><u>Asymptomatic Cases:</u> 2 days before the specimen for the individual’s first positive COVID-19 test was collected. The infectious period ends 10 days after the specimen for their first positive COVID-19 test was collected.</p>	<p>N/A</p>	<p>N/A</p>	<p><u>Symptomatic Cases:</u> 2 days before first symptom until 10 days after symptoms appeared AND 24 hours have passed with no fever without use of fever reducing medication AND symptoms have improved.</p> <p><u>Asymptomatic Cases:</u> 2 days before until 10 days after the specimen for their 1st COVID-19 positive case was collected.</p>
<p>“High-Risk Exposure Period”</p>				<p>“High-Risk Exposure Period” means:</p> <p>Symptomatic Persons:</p> <ul style="list-style-type: none"> From two days before they first developed symptoms until 10 days after symptoms first appeared, and 24 hours have passed with no fever, without the use of fever-reducing medications and

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				<p>symptoms have improved.</p> <p>Asymptomatic Persons:</p> <ul style="list-style-type: none"> From two days before until 10 days after the specimen for their first positive test for COVID-19 was collected.
“Outbreak”	N/A	<p>“Outbreak” here is defined by the Department of Public Health as:</p> <p>“Three (3) or more laboratory-confirmed cases of COVID-19 within a two-week period among workers who live in different households.”</p> <p><i>Compare to “outbreak” definition under SB 1159</i></p>	<p>An “outbreak” under SB 1159 exists if 1 of the following occurs within a 14-day period at a specific place of employment:</p> <ol style="list-style-type: none"> 4 employees test positive if the employer has 100 employees or fewer. 4 percent (4%) of the number of employees who reported to the specific place of employment test positive if the employer has more than 100 employees. A specific place of employment is ordered to close by a local public health department, the State Department of Public Health, the 	<p>An “outbreak” exists if:</p> <ol style="list-style-type: none"> A local health department declares a workplace outbreak; or There are 3 or more COVID-19 cases within a 14-day period.

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			Division of Occupational Safety and Health, or a school superintendent due to a risk of infection of COVID-19.	
“Major COVID-19 Outbreak”	N/A			<p>A “Major COVID-19 Outbreak” exists if there are 20 or more COVID-19 cases in an exposed workplace within a 30-day period. If this occurs, employers must:</p> <ul style="list-style-type: none"> • Provide COVID-19 testing twice a week to all employees at the exposed workplace during the relevant 30-day period and who remain at the workplace at no cost to the employee and during working hours. <p>Test Frequency: Testing must be provided until no new COVID-19 cases are detected in the workplace for a 14-day period.</p>
Multiple COVID-19 Infections and Outbreaks	N/A	If the number of cases meets the definition of a COVID-19 outbreak, as defined by the State Department of Public	An “outbreak” exists if within 14 calendar days, one of the following occurs:	If there are multiple COVID-19 infections or outbreaks or the local health department

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		<p>Health, employer must notify the local public health agency within 48 hours.</p> <p>Notice shall continue to be given to the local health department of any subsequent laboratory-confirmed cases of COVID-19 at the worksite.</p> <p><i>Compare to “outbreak” definition under SB 1159</i></p>	<ol style="list-style-type: none"> (1) If the employer has 100 or fewer employees at a specific place of employment, 4 employees test positive. (2) If the employer has 100+ employees at a specific place of employment, 4 percent of the number of employees who reported to the specific place of employment test positive; or (3) A specific place of employment is ordered to close by a local health department, the State DPH, the OSHA, or a school superintendent due to a risk of infection with COVID-19. 	<p>declares a workplace outbreak, employers must:</p> <ul style="list-style-type: none"> • Provide COVID-19 testing to all employees at the exposed workplace except those not present during (1) a local health department identified outbreak OR (2) the 14-day period. • Testing must be at no cost to the employee and during working hours. • Test Frequency: Employees in the exposed workplace must be tested and then tested again a week later. • Thereafter, weekly testing must be offered to employees who remain at the workplace. <p>Notification to Health Department: Employer must report immediately, but no longer than 48 hours after 3 or more COVID-19 positive workplace cases.</p>

APPENDIX A

COVID-19 Prevention Program

The written elements of an employer's COVID-19 Prevention Program must include:

1. How to report COVID-19 symptoms, possible COVID-19 exposures, and possible COVID-19 hazards at the workplace.
2. Procedures for accommodating employees with medical conditions or other comorbidities that put them at an increased risk of COVID-19.
3. Information about COVID testing. If the employer provides COVID-19 testing describe the testing policies and procedures including the reason for COVID-19 testing and the consequences of a positive test.
4. Information about COVID-19 hazards and the employer's COVID policies and procedures. Employers must make available its COVID-19 prevention program to anyone who comes on to the worksite. This could include employees, independent contractors, vendors, members of the public, etc.
5. A policy for screening employees and responding to employees with COVID-19 symptoms.
6. How the employer will comply with physical distancing requirements and the provision of face coverings and other PPE.
7. Describe how the employer will respond "rapidly and effectively" when COVID-19 cases occur and ways to reduce or prevent the transition of COVID-19 in the workplace.
8. Describe the employer's investigatory procedures when a COVID-19 case occurs including how the employer will provide notice to potentially exposed employees and others.
9. Include information about the employer's training program to insure all employees are informed of COVID-19 transmission, symptoms, employee benefits if they must quarantine, physical distancing and mask policies, and the importance of staying home when sick.
10. The employer shall maintain records of the steps taken to implement the written COVID-19 prevention program.

REMINDER: Acknowledgements of receipt and sign-in sheets for training are important ways to confirm every employee received a copy of the COVID-19 Prevention Program and attended any mandatory trainings, which should be kept in the employee's personnel files.

APPENDIX B

Identification and Evaluation of COVID-19 Hazards

To identify and evaluate COVID-19 hazard areas, an employer must:

1. Investigate the workplace and identify “all interactions, areas, activities, processes, equipment, and materials that could potentially expose employees to COVID-19 hazards.”
 - a. Identify and evaluate how to reduce the hazards in places where people may congregate, meet, come in contact with each other, even when not working.
 - b. Identify and evaluate how to reduce hazards in areas that might affect the health and safety of others traveling through the workplace and entering or exiting the facility.
2. Allow employees and their union representatives to participate in the “identification and evaluation of COVID-19 hazards.”
3. For indoor locations, evaluate the ventilation system and how to maximize the flow of outdoor air and whether the system operates at the highest efficiency.
4. Review all local and state orders and guidance and orders and implement them in the prevention plan.
5. Review existing COVID-19 policies and controls and evaluate whether they are still effective or need to be modified.
6. Perform periodic inspections to identify unhealthy conditions including work practices or procedures to insure they are being followed.

APPENDIX C

Investigating and Responding to COVID-19 Cases in the Workplace

For investigations into COVID-19 cases in the workplace, employers must:

1. Determine the day and time the COVID-19 case was last present and, if possible, the date of the positive COVID-19 test and/or diagnosis, and the date the COVID-19 case first had one or more COVID-19 symptoms.
2. Determine who may have had a COVID-19 exposure.
3. Evaluate where the COVID-19 case was within the workplace, the activities of the COVID-19 case and all locations at the workplace which may have been visited during the high-risk exposure.
4. Give notice of the potential COVID-19 exposure, within one business day, in a way that does not reveal any personal identifying information of the COVID-19 case, to the following:
 - a. All employees who may have had COVID-19 exposure and their authorized representatives.
 - b. Independent contractors and other employers present at the workplace during the high-risk exposure.
5. Offer COVID-19 testing at no cost to employees during their working hours to all employees who must be quarantined and excluded from the workplace with COVID-19 related benefits to which they may be entitled under federal, state and local laws.
6. Investigate when whether any workplace condition could have contributed to the risk of COVID-19 exposure and what could be done to reduce exposure to COVID-19 hazards.
7. Employers must enact procedures to correct in a timely manner any unsafe or unhealthy conditions. These conditions can include not only physical conditions but policies and methods of performing job duties.

APPENDIX D Sample Notice to Employees

NOTICE OF POTENTIAL WORKPLACE EXPOSURE TO COVID-19

Date _____

TO EMPLOYEES OF [EMPLOYER NAME]

[EMPLOYER NAME] has been notified that an individual infected with severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2, also known as “COVID-19”) was present at the _____ (office/facility/property/jobsite). You are receiving this notice because you may have been exposed to this virus.

You may be entitled to the following COVID-19 benefits under applicable federal, state, and/ or local laws, including, but not limited to, COVID-19 related leave, company sick leave, state-mandated leave, supplemental sick leave, negotiated leave provisions and workers compensation:

- **Families First Coronavirus Response Act Leave** [or Labor Code section 248 and 128.1 if more than 500 employees]. Information regarding this leave is provided in **Exhibit A**.
- **Family Medical Leave Act/California Family Rights Act Leave**. Information regarding this leave is provided in **Exhibit B**. [if applicable since FMLA/CFRA currently applies to employers with 50 or more employees and as of 1/1/21 CFRA will apply to employers with 5 or more employees]
- **Local Government Ordinance Sick Leave**. Information regarding this leave is provided in **Exhibit ____**. [if applicable]
- **[EMPLOYER NAME]’s California Sick Leave Policy** [or 's PTO Policy is if the PTO policy encompasses California sick leave requirements] is attached as **Exhibit ____**.
- **[EMPLOYER NAME]’s PTO Policy** (or [EMPLOYER NAME]’s Vacation Policy) is attached as **Exhibit ____**. [Only include the PTO policy if the company’s PTO policy does not include California sick leave requirements. Use the vacation policy if company policy or practice allows for the use of vacation time off for sick leave purposes]

- **Leave Pursuant to the Collective Bargaining Agreement** is attached as **Exhibit ____**. [if applicable].
- **Workers' Compensation Benefits**. If you believe you contracted a COVID-19-related illness as a result of your employment, you may be entitled to workers' compensation benefits. If it is determined the COVID-19-related illness arose out of and in the course of employment, you may be entitled to compensation including full hospital, surgical, and medical treatment, disability indemnity, and death benefits. To file a workers' compensation claim, please notify your employer that you believe your COVID-19-related illness is work-related and file a DWC 1 Claim Form pursuant to Labor Code Section 5401.
- **[EMPLOYER NAME]'s Policy Against COVID-19 Related Harassment and Discrimination** is attached as **Exhibit ____**.
- **[EMPLOYER NAME]'s** Disinfection Protocols and Safety Plan is attached as **Exhibit ____**.

If you have questions about any of the above listed benefits, contact:

_____ [name]
_____ [position title] at
_____ [phone/email address]

APPENDIX E

Sample Outbreak Notice to Local Health Department

Date _____

Local Health Department

Address

Address

NOTICE OF COVID-19 OUTBREAK IN WORKPLACE SETTING

Dear [Name]:

Within the past 48 hours [EMPLOYER NAME] became aware that the number of laboratory-confirmed cases of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2, also known as “COVID-19”) among employees who live in different households within a two-week period meets the California Department of Public Health definition of outbreak.

The following employees of [EMPLOYER NAME] have tested positive for COVID-19 and/or are under a COVID-19 isolation order from a public health official:

Employee Name	Employee Phone Number	Occupation	Worksite	Worksite Address	NAICS Code

If you have any questions, please contact:

_____ [name]
_____ [position title] at
_____ [phone/email address]