What if I’m being required to work but I don’t think it’s safe to do so?

Workers have a right to refuse to perform work that is unsafe or dangerous. However, this can be hard to demonstrate. If you encounter hazards in your workplace, you may consider filing a confidential complaint with the California Division of Occupational Safety and Health (CalOSHA).

Workers do have the right to proper safety equipment, including masks and gloves, and proper sanitation measures in the workplace.

To address such conditions, workers have the right to organize with colleagues to address unsafe conditions. It is illegal for the employer to interfere with such organizing.

If the employer fails to follow COVID-19 guidelines, it may constitute good cause for the employee to quit and still qualify for unemployment insurance. However, to qualify for unemployment insurance, the employee must first try to resolve the problem with the employer before quitting or show it was futile to do so.

What if I’m at a higher risk of getting COVID?

If you have a serious medical condition constituting a disability (i.e. limiting a major life activity) and that puts you at a higher risk of contracting COVID, you might be entitled to a “reasonable accommodation.”

A reasonable accommodation could include modified job duties, working from home, extended leave, or a different work assignment.

Once aware of the disability, the employer needs to engage with you in a timely, “good faith, interactive process” (a back-and-forth communication with you) about possible accommodations. However, if the specific accommodation you request creates an “undue hardship” for the employer, it can refuse to provide it.

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What happens if I, a household member, or a co-worker gets sick?

2022 Supplemental Paid Sick Leave:
California’s new Supplemental Paid Sick Leave law covers employees who cannot work between Jan 1, 2022-Sep 30, 2022 for a COVID-related reason. Covered employers have 26 or more employees. It offers up to 80 hours of COVID-related paid sick leave, divided into two banks of 40 hours each. This is in addition to “standard” paid sick leave described below.

The employer must provide this supplemental paid sick leave after an oral or written request. The employer is not allowed to require a doctor’s note before allowing the leave.

You may use Supplemental Paid Sick Leave to care for yourself or a family member infected with COVID-19 or to attend a vaccine appointment or deal with the side effects of a COVID vaccine.

Paid Sick Leave: Under California’s “standard” paid sick leave law, employees are also generally entitled to 1 hour of paid sick leave for every 30 hours worked. You are entitled to use paid sick leave to take care of yourself or a family member (child, parent, spouse, domestic partner, grandparent, grandchild, or sibling). Some local laws (including San Francisco and Oakland) also allow for use of sick leave for care of a “designated person” if the worker does not have a spouse or domestic partner. You must be paid by the pay day of the next pay period after the paid sick leave was used.

Other Leave: Depending in part on the size of your employer and the hours you have worked, you may also be entitled to job protected leave to seek treatment or care for a family member under the federal Family Medical Leave Act or California Family Rights Act. You may also be entitled to California paid family leave benefits, provided that you are able to provide doctor certification.

State Disability Insurance (SDI): If you are unable to work because of a disability, you may be eligible for SDI. You will need doctor certification.

Workers’ Compensation: If you get sick while working or because of work, you may be entitled to workers’ compensation. You need to report the injury to your employer within 30 days of it happening. Workers’ compensation covers medical care, disability, and death benefits.

Exclusion Pay: If you are excluded from working due to workplace COVID exposure, you may be entitled to exclusion pay. Exclusion pay applies only if you are neither assigned to telework nor receiving disability benefits during the time away. Exclusion pay provides pay at a regular rate for the time excluded from work. The employer can require the employee to take Supplemental Paid Sick Leave first.

What my employer required to do for my safety?

- Develop site-specific COVID-19 Prevention Program that addresses health hazards (for example, screening, physical distancing, ventilation, face coverings, etc.)
- Correct unsafe or unhealthy conditions and investigate any infections
- Notify workers in writing of any exposure and provide free testing during paid time (for workers who have been exposed to COVID-

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Employees who do not have contact with other people or are covered by aerosol transmissible diseases regulations (such as hospital or lab workers) are excluded from exclusion pay.

**What are some COVID-related protections from retaliation?**

Your employer may not retaliate against any worker for:

- Using or asking to use any type of paid sick leave, including exclusion pay;
- Refusing to do work that violates health and safety requirements and that would create a real and apparent hazard to you or your co-workers;
- Reporting a violation of the law or refusing to participate in an activity that would violate the law.

Retaliation includes layoff, termination, reducing hours, reporting or threatening to report a worker or family member to immigration authorities, filing or threatening to file a false police report.

**Can my employer mandate vaccination?**

Yes, employers are allowed to require employees to be vaccinated before they return to work and provide proof of vaccination.

However, employers cannot apply such a requirement in a way that violates anti-discrimination laws prohibiting harassment or discrimination on the basis of a protected characteristic (e.g., race, religion, gender, sexual orientation). Employers must also provide reasonable accommodations related to disability or sincerely-held religious beliefs or practices by engaging in a timely good faith, interactive process.

The employer may exclude the employee from the workplace if retaining the employee would pose an undue hardship on the employer, the employee cannot perform essential duties even with reasonable accommodations, or the employee cannot perform essential duties without endangering the employee’s or others’ health and safety even with a reasonable accommodation.

**What’s the right to re-employment?**

Under California law, an employer must offer open positions first to “qualified” former employees (those who held the same or a similar position at time of layoff) in order of seniority. This law covers hotels, private clubs, event centers, airport hospitality operations, airport service providers, and building services (janitorial, building maintenance, or security workers).

In order to qualify for this right, you must have been employed by a covered employer for 6 months or more in the year before January 1, 2020 and separated from employment for an economic, non-disciplinary, COVID-related reason.

The employee must respond to the offer to return to work within 5 business days of receipt. This law will expire on December 31, 2024. San Francisco and Oakland also have their own laws on the right to re-employment.