

No. \_\_-\_\_\_\_

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**In the  
Supreme Court of the United States**

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WENDY GISH, PATRICK SCALES, JAMES DEAN MOFFATT, AND BRENDA WOOD,  
*Applicants,*

v.

GAVIN NEWSOM, in his official capacity as the Governor of California; XAVIER  
BECERRA, in his official capacity as the Attorney General of California,  
*Respondents.*

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To the Honorable Elena Kagan, Associate Justice of the United States Supreme  
Court and Circuit Justice for the Ninth Circuit

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**Appendix to Emergency Application  
for a Writ of Injunction**

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# APPENDIX 1



UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

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MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

WENDY GISH; et al.,

Plaintiffs-Appellants,

v.

GAVIN NEWSOM, in his official capacity  
as the Governor of California; et al.,

Defendants-Appellees.

No. 20-55445  
20-56324

D.C. No.  
5:20-cv-00755-JGB-KK  
Central District of California,  
Riverside

ORDER

Before: THOMAS, Chief Judge, and HURWITZ and BADE, Circuit Judges.

We sua sponte consolidate appeal Nos. 20-55445 and No. 20-56324.

The requests for judicial notice (Docket Entry Nos. 3 and 8 in appeal No. 20-56324) are granted to the extent that the parties seek judicial notice with regard to the emergency motion for injunctive relief.

Appellants' emergency motion for an injunction pending appeal is denied (Docket Entry No. 2 in appeal No. 20-56324), without prejudice to renewing the request before the merits panel. *See Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

Appellants' alternative motion to expedite briefing in appeal No. 20-56324 is granted and will be addressed specifically by a separate order.

Appeal No. 20-55445 is an appeal from an order denying a motion for a preliminary injunction. A review of the record suggests that appeal No. 20-55445 should be dismissed because the district court has now dismissed appellants' claims and entered final judgment, and appellants have appealed from that judgment in appeal No. 20-56324. *See, e.g., SEC v. Mount Vernon Mem'l Park*, 664 F.2d 1358, 1361 (9th Cir. 1982) (dismissing an appeal from an order denying a motion for preliminary injunction as merged because "it is pointless for us to decide what preliminary relief [appellant] should have obtained on [a claim] when that [claim] has been dismissed and is before us on appeal").

Within 21 days after the date of this order, appellants shall move for voluntary dismissal of appeal 20-55445 or show cause why it should not be dismissed as merged. If appellants elect to show cause, a response may be filed within 10 days after service of the memorandum. Any responses to this order will be referred to the panel assigned to decide the merits of these appeals.

Briefing in appeal No. 20-55445 is complete.

## APPENDIX 2

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES—GENERAL

Case No. **EDCV 20-755 JGB (KKx)**

Date April 23, 2020

Title ***Wendy Gish, et al. v. Gavin Newsom, et al.***Present: The Honorable **JESUS G. BERNAL, UNITED STATES DISTRICT JUDGE**

MAYNOR GALVEZ

Deputy Clerk

Not Reported

Court Reporter

Attorney(s) Present for Plaintiff(s):

None Present

Attorney(s) Present for Defendant(s):

None Present

**Proceedings: Order DENYING Plaintiffs' Emergency Request for Temporary Restraining Order (Dkt. No. 8) (IN CHAMBERS)**

Before the Court is an Emergency Request for Temporary Restraining Order filed by Plaintiffs Patrick Scales, Wendy Gish, James Dean Moffatt, and Brenda Wood. ("Request," Dkt. No. 8.) The Court held a hearing on the Request on April 22, 2020. After considering the papers filed in support of and in opposition to the Request and argument presented at the hearing, the Court DENIES the Request.

## I. BACKGROUND

On April 13, 2020, Plaintiffs filed their complaint against Defendants Xavier Becerra and Gavin Newsom (collectively, "State Defendants"); Chad Bianco, Jeff Hewitt, Kevin Jeffries, George Johnson, Cameron Kaiser, V. Manuel Perez, Karen Spiegel, and Chuck Washington (collectively, "Riverside Defendants"); Erin Gustafson, John McMahon, Robert A. Lovingood, Janice Rutherford, Dawn Rowe, Curt Hagman, and Josie Gonzales (collectively, "San Bernardino Defendants"). ("Complaint," Dkt. No. 1.) The Complaint alleges eleven causes of action: (1) Violation of Free Exercise Clause of First Amendment to U.S. Constitution; (2) Violation of Establishment Clause of First Amendment to U.S. Constitution; (3) Violation of Free Speech Clause of First Amendment to U.S. Constitution; (4) Violation of First Amendment Freedom of Assembly Clause; (5) Violation of Due Process Clause of Fourteenth Amendment to U.S. Constitution; (6) Violation of Due Process Clause of Fourteenth Amendment to U.S. Constitution; (7) Violation of Equal Protection Clause of Fourteenth Amendment to U.S. Constitution; (8) Right to Liberty (Cal. Const. Art. 1, § 1); (9) Freedom of Speech (Cal. Const.

Art. 1, § 2); (10) Freedom of Assembly (Cal. Const. Art. 1, § 3); and (11) Free Exercise and Enjoyment of Religion (Cal. Const. Art. 1, § 4).

Plaintiffs filed the Request on April 13, 2020, the same day they filed the Complaint. (Request.) In support of the Request, Plaintiffs filed:

- Declaration of Mark Meuser (“Meuser Declaration,” Dkt. No. 8-2);
- Declaration of Wendy Gish (“Gish Declaration,” Dkt. No. 8-3);
- Declaration of James Moffatt (“Moffatt Declaration,” Dkt. No. 8-4);
- Declaration of Patrick Scales (“Scales Declaration,” Dkt. No. 8-5);
- Declaration of Brenda Wood (“Wood Declaration,” Dkt. No. 8-6);

Defendants opposed the Request on April 17, 2020. (“State Opposition,” Dkt. No. 13; “Riverside Opposition,” Dkt. No. 15; “San Bernardino Opposition,” Dkt. No. 18.) In support of the State Opposition, State Defendants filed the Declaration of Todd Grabarsky. (Grabarsky Declaration,” Dkt. No. 13-1.) In support of the Riverside Opposition, Riverside Defendants filed:

- Request for Judicial Notice (“Riverside RJN,” Dkt. No. 15-1);
- Jason Anderson (“Anderson Declaration,” Dkt. No. 15-2);
- Declaration of Kelly A. Moran, (“Moran Declaration,” Dkt. No. 15-3);
- Declaration of Dr. Cameron Kaiser (“Kaiser Declaration,” Dkt. No. 15-4.)

In support of the San Bernardino Opposition, San Bernardino Defendants filed a request for judicial notice. (“San Bernardino RJN,” Dkt. No. 18-1.) The Court held a telephonic hearing on April 22, 2020.

## II. REQUESTS FOR JUDICIAL NOTICE

Riverside Defendants and San Bernardino Defendants separately submit unopposed requests for judicial notice. (See Riverside RJN; San Bernardino RJN.) A court may take judicial notice of an adjudicative fact not subject to “reasonable dispute,” either because it is “generally known within the territorial jurisdiction of the trial court,” or it is capable of accurate and ready determination by resort to sources whose “accuracy cannot reasonably be questioned.” Fed. R. Evid. 201. Under Federal Rule of Evidence 201, “[a] court must take judicial notice if a party requests it and the court is supplied with the necessary information.” Fed. R. Evid. 201(c)(2).

Judicial notice is appropriate here. The documents at issue are publicly available and not subject to reasonable dispute. Moreover, Defendants request only that the Court take judicial notice of the contents of the documents, not of the truth of those contents. Accordingly, the Court GRANTS the Riverside RJN and the San Bernardino RJN.

## III. FACTS

On December 31, 2019, China reported incidents of a pneumonia of unknown cause

to the World Health Organization. Since then, that infectious disease, which came to be known as coronavirus disease 2019 (COVID-19), has swept the globe, infecting millions and killing nearly two hundred thousand people.<sup>1</sup>

Defendant Newsom, the Governor of California, declared a State of Emergency in California on March 4, 2020. (Complaint ¶ 30; Grabarsky Declaration, Exhibit 1.) On March 19, 2020, the Defendant Newsom issued Executive Order N-33-20, which directed all California residents to heed the State's public health directives relating to COVID-19, including the March 19, 2020 Order of the State Public Health Officer ("State Order"). (Complaint ¶ 31; Grabarsky Declaration, Exhibit 3.) The State Order requires "all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors." (Grabarsky Declaration, Exhibit 3.) On March 22, 2020, the Public Health Officer designated a list of "Essential Critical Infrastructure Workers," including "[f]aith based services that are provided through streaming or other technology." (Grabarsky Declaration, Exhibit 4.)

Defendant Kaiser, Riverside County's Public Health Officer, issued a Declaration of Local Health Emergency in Riverside County on March 8, 2020. (Kaiser Declaration ¶ 10.) On April 6, 2020, Defendants Kaiser and Johnson issued an Amended Order of the Health Officer for the County of Riverside and of the County Executive Officer as Director of Emergency Services ("Riverside Order"). (Complaint ¶ 62; Kaiser Declaration ¶ 10, Exhibit I.) The Riverside Order prohibits "[a]ll public or private gatherings . . . including, but not limited to an auditorium, . . . church, . . . or any other indoor or outdoor space used for any non-essential purpose including, but not limited to . . . church . . . ." (Complaint ¶ 63; Kaiser Declaration, Exhibit I.) Consistent with the State Order, the Riverside Order exempts essential business, including "courts of law, medical providers . . . daycare and child care . . . [and] necessary shopping at fuel stations, stores or malls," provided that a "state and federal guidelines for infection control" are observed. (Complaint ¶ 64; Kaiser Declaration Exhibit I.)

The County of San Bernardino Board of Supervisors declared a Local Health Emergency in San Bernardino County on March 10, 2020. (San Bernardino RJN, Exhibits F and G.) On April 7, 2020, Defendant Gustafson, the San Bernardino Health Officer, signed the Order of the Health Officer of the County of San Bernardino for the Control of COVID-19 ("San Bernardino Order"). (Complaint ¶ 36; San Bernardino RJN, Exhibit I.) The San Bernardino Order "allow[s] faith based services that are provided through streaming or other technology, while individuals remain in their homes, but does not allow individuals to leave their home for driving parades or drive-up services, or for picking up non-essential items." (Complaint ¶ 37; San Bernardino RJN, Exhibit I.)

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<sup>1</sup> World Health Organization, Coronavirus Disease 2019 Situation Report, April 23, 2020 [https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200423-sitrep-94-covid-19.pdf?sfvrsn=b8304bf0\\_4](https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200423-sitrep-94-covid-19.pdf?sfvrsn=b8304bf0_4)



#### IV. LEGAL STANDARD

The purpose of a temporary restraining order is to preserve the status quo and prevent irreparable harm until a hearing may be held on the propriety of a preliminary injunction. See Reno Air Racing Ass'n, Inc. v. McCord, 452 F.3d 1126, 1131 (9th Cir. 2006). The standard for issuing a temporary restraining order is identical to the standard for issuing a preliminary injunction. Lockheed Missile & Space Co. v. Hughes Aircraft Co., 887 F. Supp. 1320, 1323 (N.D. Cal. 1995); see Stuhlbarg Intern. Sales Co., Inc. v. John D. Brushy and Co., Inc., 240 F.3d 832, 839 n.7 (9th Cir. 2011).

“A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 20 (2008). The Ninth Circuit employs the “serious questions” test, which states “‘serious questions going to the merits’ and a balance of hardships that tips sharply towards the plaintiff can support issuance of a preliminary injunction, so long as the plaintiff also shows that there is a likelihood of irreparable injury and that the injunction is in the public interest.” Alliance for Wild Rockies v. Cottrell, 632 F.3d 1127, 1135 (9th Cir. 2011). “A preliminary injunction is an ‘extraordinary and drastic remedy.’ It should never be awarded as of right.” Munaf v. Geren, 553 U.S. 674, 690 (2008) (citation omitted). When seeking a temporary restraining order through an *ex parte* application, a plaintiff must further show that he is without fault in creating the crisis necessitating the bypass of regular motion procedures. See Mission Power Eng'g Co. v. Cont'l Gas Co., 883 F. Supp. 488, 492–93 (C.D. Cal. 1995). The propriety of a temporary restraining order, in particular, hinges on a significant threat of irreparable injury, Simula, Inc. Autoliv, Inc., 175 F.3d 716, 725 (9th Cir. 1999), that must be imminent in nature, Caribbean Marine Serv. Co. v. Baldrige, 844 F.2d 668, 674 (9th Cir. 1988).

#### V. DISCUSSION

Plaintiffs request that the Court enjoin enforcement of the State Order, Riverside Order, and San Bernardino Order (collectively, “Orders”) to “Plaintiffs’ engagement in religious services, practices, or activities at which the Center for Disease Control’s social distancing guidelines are followed.” (Request at 24.) To succeed, Plaintiffs must demonstrate that they are likely to succeed on their claims that the Orders violate their constitutional rights and demonstrate that the other factors weigh in favor of granting the temporary restraining order.

##### A. Success on the Merits or Serious Questions

Plaintiffs assert that the Orders violate their constitutionally protected rights, including their right to the free exercise of religion. (Request at 9–21.) In response, Defendants argue that Plaintiffs will not succeed on their constitutional claims for two reasons: First, as acts of the executive in response to a national emergency, the Orders are subject to only minimal scrutiny,

which they easily survive.<sup>2</sup> (State Opposition at 7–14.) Second, even absent consideration of greater leeway afforded to executive acts during a state of emergency, the Orders do not violate Plaintiffs’ rights under traditional constitutional analysis. (State Opposition at 14–19; Riverside Opposition at 16–34; San Bernardino Opposition at 11–17.)

### 1. Exercise of Executive Powers During State of Emergency

State Defendants argue that because the Orders are temporary executive actions taken in response to a national emergency, they are entitled to substantial judicial deference and not subject to traditional constitutional scrutiny. (State Opposition at 7–14.) The Court agrees: Defendants have a right to protect California residents from the spread of COVID-19—even if those protections temporarily burden constitutional rights to a greater degree than normally permissible.

The Supreme Court held over a century ago that “a community has the right to protect itself against an epidemic of disease which threatens the safety of its members.” Jacobson v. Commonwealth of Massachusetts, 197 U.S. 11, 27 (1905). The COVID-19 pandemic threatens the lives of all Californians: indeed, nearly 1,500 have already died.<sup>3</sup> The virus has proven to be extremely contagious—it is airborne and can linger on surfaces for days.<sup>4</sup> Because asymptomatic and pre-symptomatic carriers of the virus can infect others, a belief that one “has never had or contracted the coronavirus . . . been at any time exposed to the danger of contracting it . . . and has never been in close proximity to any locality where said coronavirus has or have existed” is largely meaningless. (See Complaint ¶¶ 58, 79.) Anyone could be an unknowing, undetectable vector for the virus at any time. For these reasons, government and health officials have struggled to contain the virus. Without a vaccine, measures limiting physical contact between citizens, such as the Orders, are widely recognized as the only way to effectively slow the spread of the virus.

Undoubtedly, the Orders—and the similar orders in effect around the country—restrict the rights and freedoms normally enjoyed by citizens. The residents of California are confined to their homes, unable to gather with friends and family, unable to attend political rallies, unable to enjoy art and recreation, and largely unable to work or go to school. The Orders also prevent Plaintiffs (and all other California residents) from gathering for in-person worship or laying hands upon each other. Because Plaintiffs’ religious beliefs compel them to do these things, the Orders

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<sup>2</sup> Although only the State Defendants advance this argument, the Court will apply it to all three orders.

<sup>3</sup> *Tracking Coronavirus in California*, Los Angeles Times <https://www.latimes.com/projects/california-coronavirus-cases-tracking-outbreak/> (last accessed April 23, 2020.)

<sup>4</sup> Neeltje van Doremalen, Ph.D., et al., *Aerosol and Surface Stability of SARS-CoV-2 as Compared with SARS-CoV-1*, N. England J. Med. 2020; 382:1564-1567 <https://www.nejm.org/doi/full/10.1056/NEJMc2004973> (last accessed April 23, 2020.)



do burden Plaintiffs' unrestrained exercise of their religion. But the Constitution does not guarantee "an absolute right in each person to be, at all times and in all circumstances, wholly freed from restraint." Jacobson, 197 U.S. at 26. Indeed, "[t]he right to practice religion freely does not include liberty to expose the community . . . to communicable disease." Prince v. Massachusetts, 321 U.S. 158, 166–67 (1944).

Recognizing that the need to protect the public may trump individual rights during a crisis, the Supreme Court has held that states and municipalities have greater leeway to burden constitutionally protected rights during public emergencies:

In every well-ordered society charged with the duty of conserving the safety of its members the rights of the individual in respect of his liberty may at times, under the pressure of great dangers, be subjected to such restraint, to be enforced by reasonable regulations, as the safety of the general public may demand.

Jacobson, 197 U.S. at 29; see also United States v. Caltex, 344 U.S. 149 (1952) (acknowledging that "in times of imminent peril—such as when fire threatened a whole community—the sovereign could, with immunity, destroy the property of a few that the property of many and the lives of many more could be saved"). When responding to the COVID-19 pandemic, therefore, Defendants "may implement emergency measures that curtail constitutional rights so long as the measures have at least some 'real or substantial relation' to the public health crisis and are not 'beyond all question, a plain, palpable invasion of rights secured by the fundamental law.'" In re Abbott, 2020 WL 1685929, at \*7 (5th Cir. Apr. 7, 2020) (quoting Jacobson, 197 U.S. at 31). In other words, during an emergency, traditional constitutional scrutiny does not apply. Instead, any measures that limit or suspend constitutional rights (1) must have a "real or substantial relation" to the crisis and (2) must not represent "plain, palpable" invasions of clearly protected rights. Jacobson, 197 U.S. at 31.

The Orders easily meet that test. First, they have a substantial relation to the COVID-19 crisis: they require the physical distancing that is needed to slow the spread of the virus. Second, there is no "plain, palpable invasion" of Plaintiffs' free exercise of religion. While Plaintiffs are unable to gather together in-person, they are free to gather virtually or over the phone. They are also free to gather in-person with the members of their household. They remain free to practice their religion in whatever way they see fit so long as they remain within the confines of their own homes. Although physical contact with others is curtailed, a wide swath of religious expression remains untouched by the Orders. The Orders, therefore, do not represent a plain or palpable invasion of the general right to free exercise of religion. Accordingly, the Orders are likely a permissible exercise of executive authority during a national emergency.

## 2. Traditional Constitutional Analysis

Because the Orders survive the minimal scrutiny required where executive action taken in response to an emergency, the Court need not determine whether the Orders likewise survive traditional constitutional analysis. But they do: the Request must also be denied because the

Orders likely do not impermissibly infringe on Plaintiffs’ constitutional rights even when applying the traditional constitutional scrutiny.

**a. Free Exercise of Religion**

Plaintiffs argue that the Orders target religion and must therefore be subjected to a strict scrutiny analysis. (Request at 9–11.) Defendants respond that the Orders are neutral and generally applicable and therefore only rational basis review applies. (State Opposition 15–16; Riverside Opposition at 16–19; San Bernardino Opposition at 11–13.) “In assessing neutrality and general applicability, courts evaluate both ‘the text of the challenged law as well as the effect . . . in its real operation.’” Parents for Privacy v. Barr, 949 F.3d 1210, 1234 (9th Cir. 2020).

The Orders are neutral on their faces: they “make no reference to any religious practice, conduct, belief, or motivation.” Stormans, Inc. v. Wiesman, 794 F.3d 1064, 1076 (9th Cir. 2015). While they do list faith-based gatherings as a type of in-person gathering that is prohibited, faith-based gatherings are referenced as an example—they are not the target of the Orders. (See e.g., Kaiser Declaration Exhibit I (prohibiting all gatherings including those for “church”).) Facial neutrality does not require freedom from any mention of religion, instead “the minimum requirement of neutrality is that a law not *discriminate* on its face.” Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 533 (1993) (emphasis added). Because the orders apply to both religious and secular gatherings, they do not discriminate, and are therefore facially neutral.

The Orders are also neutral in operation: they apply to both religious and secular conduct and do not “substantially underinclude nonreligiously motivated conduct that might endanger the same governmental interest that the law is designed to protect.” See Stormans, 794 F.3d at 1079. The Supreme Court has long recognized that “[o]fficial action that targets religious conduct for distinctive treatment cannot be shielded by mere compliance with the requirement of facial neutrality.” Church of the Lukumi Babalu Aye, 508 U.S. at 534. Plaintiffs have presented no evidence that the Orders target religious conduct over secular conduct. And a review of the Orders demonstrates that both secular and religious conduct are prohibited equally. The majority of the prohibited conduct is secular: schools are closed, restaurants are shuttered, concerts and sporting events are canceled; citizens cannot visit public recreation spaces or gather with friends who live outside of their household; non-essential workers fortunate enough to still have jobs must work from home. Far from singling out religious conduct for additional restrictions, the State Order identifies workers preparing religious videoconferences as essential workers—an exception that facilitates religious conduct. Similar exceptions have not been made for sports, concerts, or non-essential work events. The Orders, therefore, are not restrictions against religion in disguise. They are generally applicable restrictions on gatherings of all kinds.

Plaintiffs argue that the Orders are underinclusive of secular activities that may also contribute to the spread of COVID-19 because they allow grocery stores, fast food restaurants, and marijuana dispensaries to remain open. (Request at 10.) But these are all essential services: without access to the food and medicines sold at these locations, more citizens would become ill or die. And despite social distancing the virus is spreading at these locations—grocery store

employees are falling ill and dying.<sup>5</sup> If the state applies the same rules to in-person religious gatherings as it does to grocery stores, people will get sick and die from attending religious gatherings just as they are dying from working in grocery stores.

Moreover, because the risk of transmission increases with every out-of-home contact, it is necessary to suspend non-essential activities so that essential functions can be less dangerous. Many older and immunocompromised people must leave their homes to purchase food and medicine. Grocery store employees, food preparers, delivery drivers, pharmacists, and other essential workers must go to work to ensure that California residents have what they need to survive. These individuals risk contracting the virus when performing these essential tasks. If those that they encounter engage in non-essential contacts, the risk of transmission increases. But if everyone limits their out-of-home contacts to only essential tasks, the risk decreases. When we all reduce our contacts to the minimum possible level, the rates of transmission go down. In sum, Californians need to stay home whenever possible to protect those who cannot.

Finally, as Defendants argued at the hearing, constitutional analysis only requires that the Court compare the prohibited religious conduct with analogous secular conduct when assessing underinclusivity. See *Stormans, Inc. v. Wiesman*, 794 F.3d 1064, 1079 (9th Cir. 2015) (holding that a law is only fatally underinclusive if it prohibits religious conduct but not “comparable secular conduct”). An in-person religious gathering is not analogous to picking up groceries, food, or medicine, where people enter a building quickly, do not engage directly with others except at points of sale, and leave once the task is complete. Instead, it is more analogous to attending school or a concert—activities where people sit together in an enclosed space to share a communal experience. Those activities are prohibited under the Orders. Because the Orders treat in-person religious gatherings the same as they treat secular in-person communal activities, they are generally applicable.

Because the Orders are facially neutral and generally applicable, they are subject to rational basis review. *Stormans, Inc.*, 794 F.3d at 1075–76. And they easily survive rational basis: the social distancing measures implemented by the Order are rationally related to slowing the spread of COVID-19—a state interest that is not only legitimate but compelling. Accordingly, the Orders likely do not violate the Free Exercise Clause.

#### **b. Establishment of Religion**

A government action violates the Establishment Clause if it lacks a “secular legislative purpose” or endorses religion. *Lemon v. Kurtzman*, 403 U.S. 602, 612–13 (1971); see also *Trunk v. City of San Diego*, 629 F.3d 1099, 1106 (9th Cir. 2011) (noting that “the Supreme Court

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<sup>5</sup> Dalvin Brown, *COVID-19 Claims Lives of 30 Grocery Store Workers, Thousands More May Have It, Union Says*, USA Today, <https://www.usatoday.com/story/money/2020/04/14/coronavirus-claims-lives-30-grocery-store-workers-union-says/2987754001/> (last accessed April 23, 2020.)

(continued . . . )

essentially has collapsed the[] last two prongs [of the test articulated in Lemon] to ask whether the challenged governmental practice has the effect of endorsing religion.”) The Orders do neither. First, they serve the important secular purpose of slowing the spread of COVID-19. Second, they do not endorse any religion: the order bans gatherings for all religions along with secular gatherings.<sup>6</sup> Accordingly, the Orders likely do not violate the Establishment Clause.

### **c. Other Alleged Constitutional Violations**

Plaintiffs make several other claims for violations of their rights under the U.S. and California Constitutions. (Request at 12–20.) Each of these, however, is premised on Plaintiffs’ argument that the Orders impermissibly restrict their religious exercise. (See, e.g., Request at 13 (arguing that the Orders are an unconstitutional prior restraint on speech because religious worship is protected speech).) Because the Court concludes that the Orders do not impermissibly restrict Plaintiffs’ free exercise of religion, Plaintiffs’ other claims likely fail as well.

### **B. Remaining TRO Factors**

Defendants have shown that because the Orders are likely a proper exercise of executive authority in a state of emergency they are entitled to enhanced deference, even where they infringe on typically protected rights. Moreover, even applying a traditional constitutional analysis, Plaintiffs’ claims are unlikely to succeed. Accordingly, Plaintiffs are not likely to succeed on the merits of their claims, and the Court need not consider the remaining factors.

## **VI. CONCLUSION**

For the reasons above, the Court DENIES Plaintiffs’ Request.

**IT IS SO ORDERED.**

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<sup>6</sup> Plaintiffs argue that special accommodations were made by the Riverside Defendants and the San Bernardino Defendants for Christians celebrating Easter. (Request at 2.) However, they do not seek to enjoin enforcement of any Easter exception. And they could not: Easter has passed. Accordingly, the Court need not determine whether the Easter exceptions violated the Establishment Clause.

## APPENDIX 3

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES—GENERAL

Case No. **EDCV 20-755 JGB (KKx)**

Date July 8, 2020

Title ***Wendy Gish, et al. v. Gavin Newsom, et al.***

Present: The Honorable JESUS G. BERNAL, UNITED STATES DISTRICT JUDGE

MAYNOR GALVEZ

Not Reported

Deputy Clerk

Court Reporter

Attorney(s) Present for Plaintiff(s):

Attorney(s) Present for Defendant(s):

None Present

None Present

**Proceedings:** Order (1) GRANTING State Defendants' Motion to Dismiss (Dkt. No. 67); (2) GRANTING San Bernardino Defendants' Motion to Dismiss (Dkt. No. 68); (3) GRANTING Riverside Defendants' Motion to Dismiss (Dkt. No. 66); and (4) VACATING the July 13, 2020 Hearing (IN CHAMBERS)

Before the Court are three Motions to Dismiss under Federal Rule of Civil Procedure 12(b)(6): (1) a motion to dismiss filed by Defendants Xavier Becerra and Gavin Newsom (collectively, "State Defendants") ("State Motion," Dkt. No. 67); (2) a motion to dismiss filed by Defendants Jeff Hewitt, Kevin Jeffries, Karen Spiegel, Chad Bianco, George Johnson, Cameron Kaiser, V. Manuel Perez, Chuck Washington filed by Defendants Jeff Hewitt, Kevin Jeffries, Karen Spiegel, Chad Bianco, George Johnson, Cameron Kaiser, V. Manuel Perez, and Chuck Washington (collectively, "Riverside Defendants") ("Riverside Motion," Dkt. No. 66); and (3) a motion to dismiss filed by Defendants Josie Gonzales, Erin Gustafson, Curt Hagman, Robert Lovinggood, John McMahon, Dawn Rowe, and Janice Rutherford (collectively, "San Bernardino Defendants") ("San Bernardino Motion," Dkt. No. 68.) The Court determines these matters are appropriate for resolution without a hearing. See Fed. R. Civ. P. 78; L.R. 7-15. After considering all papers filed in support of and in opposition to the Motions, the Court GRANTS Defendants' Motions. The July 13, 2020 hearing is VACATED.

## I. BACKGROUND

On April 13, 2020, Plaintiffs filed their complaint against Defendants Xavier Becerra and Gavin Newsom (collectively, "State Defendants"); Chad Bianco, Jeff Hewitt, Kevin Jeffries, George Johnson, Cameron Kaiser, V. Manuel Perez, Karen Spiegel, and Chuck Washington

(collectively, “Riverside Defendants”); Erin Gustafson, John McMahon, Robert A. Lovinggood, Janice Rutherford, Dawn Rowe, Curt Hagman, and Josie Gonzales (collectively, “San Bernardino Defendants”). (“Complaint,” Dkt. No. 1.) The Complaint alleges eleven causes of action: (1) Violation of Free Exercise Clause of First Amendment to U.S. Constitution; (2) Violation of Establishment Clause of First Amendment to U.S. Constitution; (3) Violation of Free Speech Clause of First Amendment to U.S. Constitution; (4) Violation of First Amendment Freedom of Assembly Clause; (5) Violation of Due Process Clause of Fourteenth Amendment to U.S. Constitution; (6) Violation of Due Process Clause of Fourteenth Amendment to U.S. Constitution; (7) Violation of Equal Protection Clause of Fourteenth Amendment to U.S. Constitution; (8) Right to Liberty (Cal. Const. Art. 1, § 1); (9) Freedom of Speech (Cal. Const. Art. 1, § 2); (10) Freedom of Assembly (Cal. Const. Art. 1, § 3); and (11) Free Exercise and Enjoyment of Religion (Cal. Const. Art. 1, § 4).

On April 23, 2020, the Court denied Plaintiffs’ request for a temporary restraining order and preliminary injunction. (“TRO Order,” Dkt. No. 51.) On May 27, 2020, Defendants filed these Motions. (State Motion; Riverside Motion; San Bernardino Motion.) Plaintiffs opposed the Motions on June 22, 2020. (“Opposition,” Dkt. No. 72.) Defendants replied on June 29, 2020. (“San Bernardino Reply,” Dkt. No. 73; “State Reply,” Dkt. No. 74; “Riverside Reply,” Dkt. No. 75.)

## II. JUDICIAL NOTICE

In support of the Motions, Defendants submit requests for judicial notice. (“State Request,” Dkt. No. 69; “Riverside Request” Dkt. No. 66-1; “San Bernardino Request,” Dkt. No. 68-1.) Plaintiffs do not object to the Requests.

A court may take judicial notice of an adjudicative fact not subject to “reasonable dispute,” either because it is “generally known within the territorial jurisdiction of the trial court,” or it is capable of accurate and ready determination by resort to sources whose “accuracy cannot reasonably be questioned.” Fed. R. Evid. 201. Under Federal Rule of Evidence 201, “[a] court must take judicial notice if a party requests it and the court is supplied with the necessary information.” Fed. R. Evid. 201(c)(2). Judicial notice is appropriate here. The documents at issue are publicly available and not subject to reasonable dispute. Accordingly, the Court GRANTS the Requests.

## III. FACTUAL ALLEGATIONS

Plaintiffs allege the following facts, which are assumed to be true for the purposes of this motion.

Defendant Newsom, the Governor of California, declared a State of Emergency in California on March 4, 2020. (Complaint ¶ 30.) On March 19, 2020, Newsom issued Executive Order N-33-20, which directed all California residents to heed the State’s public health directives



relating to COVID-19, including the March 19, 2020 Order of the State Public Health Officer (“State Order”). (*Id.* ¶ 31.)

On April 6, 2020, Defendants Kaiser and Johnson issued an Amended Order of the Health Officer for the County of Riverside and of the County Executive Officer as Director of Emergency Services (“Riverside Order”). (*Id.* ¶ 62.) The Riverside Order prohibited “[a]ll public or private gatherings . . . including, but not limited to an auditorium, . . . church, . . . or any other indoor or outdoor space used for any non-essential purpose including, but not limited to . . . church . . . .” (*Id.* ¶ 63.) Consistent with the State Order, the Riverside Order exempted essential business, including “courts of law, medical providers . . . daycare and child care . . . [and] necessary shopping at fuel stations, stores or malls,” provided that a “state and federal guidelines for infection control” are observed. (*Id.* ¶ 64.)

On April 7, 2020, Defendant Gustafson, the San Bernardino Health Officer, signed the Order of the Health Officer of the County of San Bernardino for the Control of COVID-19 (“San Bernardino Order”). (*Id.* ¶ 36.) The San Bernardino Order “allow[ed] faith based services that are provided through streaming or other technology, while individuals remain in their homes, but does not allow individuals to leave their home for driving parades or drive-up services, or for picking up non-essential items.” (*Id.* ¶ 37.)

Plaintiffs’ deeply held and sincere religious beliefs require them to worship in person. (*Id.* ¶¶ 6–9.) They seek an order from this Court “enjoining and prohibiting Defendants from enforcing the Orders” and “declaring that the Orders, facially and as-applied to Plaintiffs, violate the First and Fourteenth Amendments to the U.S. Constitution and Article 1, Sections 1, 2, and 4 of the California Constitution.” (*Id.* ¶ 184.)

#### IV. LEGAL STANDARD

Under Federal Rule of Civil Procedure 12(b)(6) (“Rule 12(b)(6)”), a party may bring a motion to dismiss for failure to state a claim upon which relief can be granted. Rule 12(b)(6) must be read in conjunction with Federal Rule of Civil Procedure 8(a), which requires a “short and plain statement of the claim showing that a pleader is entitled to relief,” in order to give the defendant “fair notice of what the claim is and the grounds upon which it rests.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007); see *Horosny v. Burlington Coat Factory, Inc.*, No. 15-05005, 2015 WL 12532178, at \*3 (C.D. Cal. Oct. 26, 2015). When evaluating a Rule 12(b)(6) motion, a court must accept all material allegations in the complaint — as well as any reasonable inferences to be drawn from them — as true and construe them in the light most favorable to the non-moving party. See *Doe v. United States*, 419 F.3d 1058, 1062 (9th Cir. 2005); *ARC Ecology v. U.S. Dep’t of Air Force*, 411 F.3d 1092, 1096 (9th Cir. 2005); *Moyo v. Gomez*, 32 F.3d 1382, 1384 (9th Cir. 1994).

“While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff’s obligation to provide the ‘grounds’ of his ‘entitlement to relief’ requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of



action will not do.” Twombly, 550 U.S. at 555 (citations omitted). Rather, the allegations in the complaint “must be enough to raise a right to relief above the speculative level.” Id.

To survive a motion to dismiss, a plaintiff must allege “enough facts to state a claim to relief that is plausible on its face.” Twombly, 550 U.S. at 570; Ashcroft v. Iqbal, 556 U.S. 662, 129 S. Ct. 1937, 1949 (2009). “The plausibility standard is not akin to a ‘probability requirement,’ but it asks for more than a sheer possibility that a defendant has acted unlawfully. Where a complaint pleads facts that are ‘merely consistent with’ a defendant’s liability, it stops short of the line between possibility and plausibility of ‘entitlement to relief.’” Iqbal, 556 U.S. at 678 (quoting Twombly, 550 U.S. at 556). The Ninth Circuit has clarified that (1) a complaint must “contain sufficient allegations of underlying facts to give fair notice and to enable the opposing party to defend itself effectively,” and (2) “the factual allegations that are taken as true must plausibly suggest an entitlement to relief, such that it is not unfair to require the opposing party to be subjected to the expense of discovery and continued litigation.” Starr v. Baca, 652 F.3d 1202, 1216 (9th Cir. 2011).

## V. DISCUSSION

### A. Jurisdiction to Hear the Motions

Plaintiffs argue that the Court lacks jurisdiction to hear the Motions because they have appealed the TRO Order. (Opposition at 6–7.) “The filing of a notice of appeal . . . confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.” Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 58 (1982) (per curiam). However, it is well-settled that “an appeal from an interlocutory order does not divest the trial court of jurisdiction to continue with other phases of the case.” Plotkin v. Pacific Tel. and Tel. Co., 688 F.2d 1291, 1293 (9th Cir. 1982). An “appeal of an interlocutory order does not ordinarily deprive the district court of jurisdiction except with regard to the matters that are the subject of the appeal.” Britton v. Coop Banking Grp., 916 F.2d 1405, 1412 (9th Cir. 1990).

Plaintiffs have appealed the TRO Order, which found, among other things, that Plaintiffs were not likely to succeed on the merits of their claims. (See TRO Order.) Accordingly, the Court lacks jurisdiction to dismiss claims as insufficiently pleaded, as that issue is pending before the Ninth Circuit.

However, the Court remains free to decide other issues, even if those issues result in the dismissal of Plaintiffs’ claims. Plotkin illustrates this point. See Plotkin, 688 F.2d at 1292–93. In that case, the district court denied the plaintiff’s preliminary injunction, finding plaintiff was not likely to succeed for failure to exhaust administrative remedies. Id. at 1292. Plaintiff appealed. Id. While the appeal was pending, the district court granted summary judgment, finding that “even if the plaintiffs were not required to exhaust their administrative remedies, they would not be entitled to the relief sought.” Id. The Ninth Circuit then rejected plaintiff’s argument that the district court lacked jurisdiction to enter summary judgment, holding “that an appeal from an

interlocutory order does not stay the proceedings, as it is firmly established that an appeal from an interlocutory order does not divest the trial court of jurisdiction to continue with other phases of the case.” Id. at 1293; see also Britton, 916 F.2d at 1412 (holding that a district court retained jurisdiction to issue a default judgment while there was a pending interlocutory appeal regarding denial of motion to compel arbitration).

Mootness was not decided by the Court in the TRO Order. It is therefore not before the Ninth Circuit now. Accordingly, the Court retains jurisdiction to decide whether the case is now moot.<sup>1</sup> By deciding issues related to mootness, the Court is not altering its previous decision in the TRO Order, instead, it “simply moving the case along consistent with its view of the case as reflected in its [that order].” Britton, 916 F.2d at 1412.

## **B. Mootness**

Defendants argue that Plaintiffs’ claims are moot because they are based on a prohibition of in-person religious services that is no longer in effect. (State Motion at 8–10; San Bernardino Motion at 7–8.) To survive a mootness challenge, Plaintiffs must show that “‘an actual controversy must be extant at all stages of review, not merely at the time the complaint is filed.’” Seven Words LLC v. Network Solutions, 260 F.3d 1089, 1095 (9th Cir. 2001) (quoting Arizonans for Official English v. Arizona, 520 U.S. 43, 67 (1997)). On May 25, 2020, California issued guidelines that allow for in-person religious gatherings. (State Request, Exhibit 1.) Accordingly, the Orders that Plaintiffs seeks to enjoin no longer bind Plaintiffs and an injunction is unnecessary.

Plaintiffs do not dispute that the absolute prohibition on in-person religious services is no longer in effect. Instead, they argue that the case is not moot because several exceptions to the mootness doctrine apply. (Opposition at 8–10.) First, they argue that the case is not moot because the Court could issue “a declaration . . . that faith-based services should not be treated more strictly than other activities, gatherings, or retail businesses.” (Id. at 8.) But if there is no live controversy, such a declaration would be tantamount to an advisory opinion. See Seven Words LLC, 260 F.3d at 1095 (holding that a claim is moot where plaintiff only “seeks an advisory opinion”). Plaintiffs desire for the Court to opine on the validity of a law that no longer restricts them does not revive their controversy—if that were the law, the mootness doctrine would cease to exist.

Second, Plaintiffs argue that the case is not moot because Defendants voluntarily ceased the challenged conduct. (Opposition at 8.) “It is well settled that a defendant’s voluntary cessation of a challenged practice does not deprive a federal court of its power to determine the legality of the practice.” Friends of the Earth, Inc. v. Laidlaw Env'tl. Servs. (TOC), Inc., 528 U.S. 167, 189 (2000). However, as Defendants rightly point out, they did not voluntarily cease their conduct—instead, they changed the relevant laws. (See State Reply at 3–4.) A change in

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<sup>1</sup> Because the Court resolves the Motions on mootness alone, it need not determine whether it retains jurisdiction to resolve other issues.

law “is usually enough to render a case moot, even if the [government] possesses the power to reenact the [law] after the lawsuit is dismissed.” Rosebrock v. Mathis, 745 F.3d 963, 971 (9th Cir. 2014); see also Santa Monica Food Not Bombs v. City of Santa Monica, 450 F.3d 1022, 1031–32 (9th Cir. 2006) (holding that amendments to city ordinances had rendered facial challenges to those ordinances moot).

Third, Plaintiffs argue that the conduct is capable of repetition yet evading review. (Opposition at 9.) The Supreme Court has long held that those controversies “capable of repetition, yet evading review” justify “a conclusion of nonmootness.” Roe v. Wade, 410 U.S. 113, 125 (1973). This controversy, however, does not fall within that exception. Unlike the classic example of pregnancy-related regulations—which create controversies with a maximum life of nine months—there is no reason to conclude that any hypothetical future restrictions on in-person religious services will evade review. If Defendants do impose such restrictions, Plaintiffs will be free to challenge them anew.

It is undisputed that the law Plaintiffs seek to enjoin no longer restricts Plaintiffs from holding in-person religious services. Accordingly, Plaintiffs claims challenging those laws are moot and therefore, the Court DISMISSES all claims WITH LEAVE TO AMEND.<sup>2</sup>

## VI. LEAVE TO AMEND

Generally, a “district court should grant leave to amend even if no request to amend the pleading was made, unless it determines that the pleading could not possibly be cured by allegation of other facts.” Lopez v. Smith, 203 F.3d 1122, 1127 (9th Cir. 2000) (en banc) (internal quotation marks and citation omitted). Here, the Court identifies specific factual deficiencies which may be cured by amendment. Thus, the Court GRANTS LEAVE TO AMEND.

## VII. CONCLUSION

For the reasons above, the Court GRANTS Defendants’ Motions. The July 13, 2020 hearing is VACATED. Any amended complaint shall be filed no later than July 31, 2020.

**IT IS SO ORDERED.**

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<sup>2</sup> Leave to amend is appropriate to allow Plaintiffs to bring claims based on the orders (such as the May 25, 2020 order) that remain in effect.

## APPENDIX 4

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES—GENERAL

Case No.	<b>EDCV 20-755 JGB (KKx)</b>	Date	October 9, 2020
Title	<b><i>Wendy Gish, et al. v. Gavin Newsom, et al.</i></b>		

Present: The Honorable **JESUS G. BERNAL, UNITED STATES DISTRICT JUDGE**

**MAYNOR GALVEZ**

Deputy Clerk

Not Reported

Court Reporter

Attorney(s) Present for Plaintiff(s):

None Present

Attorney(s) Present for Defendant(s):

None Present

**Proceedings: Order (1) DENYING Plaintiffs’ Motion for Reconsideration (Dkt. No. 79); and (2) VACATING the October 19, 2020 Hearing (IN CHAMBERS)**

Before the Court is a Motion for Reconsideration of the Court’s Order Granting Motions to Dismiss filed by Plaintiffs. (“Motion,” Dkt. No. 79.) The Court finds the Motion appropriate for resolution without a hearing. See Fed. R. Civ. P. 78; L.R. 7-15. After considering the papers filed in support of and in opposition to the Motion, the Court DENIES the Motion. The Court vacates the hearing set for October 19, 2020.

## I. FACTUAL BACKGROUND

On March 19, 2020, Governor Newsom issued Executive Order N-33-20, directing all Californians to “immediately heed the current State public health directives” to address the spread of Covid-19. (Dkt. No. 1-1.) The same day, the State issued public health directives which prohibited in-person religious services, including outdoor services. (See Complaint, Dkt. No. 1 ¶ 34; State Opposition, Dkt. No. 83 p. 2.) On April 6, 2020, Riverside County issued an order of its own to address the Covid-19 pandemic. (Dkt. No. 1-3.) The next day, San Bernardino County did the same. (Dkt. No. 1-2.)

On April 13, 2020, Plaintiffs filed their complaint, which challenged all three orders for the prohibition of in-person religious worship. (“Complaint,” Dkt. No. 1.) The Complaint alleges eleven causes of action: (1) Violation of Free Exercise Clause of First Amendment to U.S. Constitution; (2) Violation of Establishment Clause of First Amendment to U.S. Constitution;

(3) Violation of Free Speech Clause of First Amendment to U.S. Constitution; (4) Violation of First Amendment Freedom of Assembly Clause; (5) Violation of Due Process Clause of Fourteenth Amendment to U.S. Constitution; (6) Violation of Due Process Clause of Fourteenth Amendment to U.S. Constitution; (7) Violation of Equal Protection Clause of Fourteenth Amendment to U.S. Constitution; (8) Right to Liberty (Cal. Const. Art. 1, § 1); (9) Freedom of Speech (Cal. Const. Art. 1, § 2); (10) Freedom of Assembly (Cal. Const. Art. 1, § 3); and (11) Free Exercise and Enjoyment of Religion (Cal. Const. Art. 1, § 4).

On April 23, 2020, the Court denied Plaintiffs' request for a temporary restraining order and preliminary injunction. ("TRO Order," Dkt. No. 51.) On July 8, 2020, the Court dismissed the case on mootness grounds but granted Plaintiffs leave to amend. ("Order," Dkt. No. 76.) In the Order, the Court directed that any amended complaint should be filed by July 31, 2020. (Dkt. No. 76.) On July 31, 2020, Plaintiffs filed a Notice of Intent to File a Motion for Reconsideration. (Dkt. No. 78.) On August 17, 2020, they filed this Motion. (Dkt. No. 79.) All groups of Defendants opposed separately: San Bernardino Defendants<sup>1</sup> opposed on September 10, 2020, (Dkt. No. 81); Riverside Defendants opposed on September 14, 2020, (Dkt. No. 82,); and State Defendants also opposed on September 14, 2020, ("State Opposition," Dkt. No. 83.) On September 21, 2020, Plaintiffs replied. (Dkt. No. 84.) On October 2, 2020, State Defendants filed a Notice of Supplemental Authority citing the Ninth Circuit opinion in Harvest Rock Church v. Newsom, 9th Cir. No. 20-55907. (Dkt. No. 85.)

In parallel to the developments in this case, the State of California continued to issue Covid-19 guidance. On May 25, the Department of Public Health issued guidelines for reopening places of worship. (State Opposition p. 2.) In addition to providing guidance on distancing, the guidelines limited attendance at worship services to either 100 attendees or 25% of a building's capacity, whichever is fewer. Id. On June 12, 2020, the State updated Department of Health guidance to remove any numerical attendance limit on outdoor in-person worship services. Id. at 3. On July 13, 2020, the State issued an order directing the closure of indoor places of worship in some counties. Id. The July 13, 2020 Order did not restrict outdoor in-person worship. Id.

## II. LEGAL STANDARD

Federal Rule of Civil Procedure 60(b) provides for relief from a final judgment, order, or proceeding upon a showing of the following:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;

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<sup>1</sup> Defendant groups are defined in the Order, Dkt. No. 76.

- (5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

Fed. R. Civ. P. 60(b).<sup>2</sup>

In this district, motions for reconsideration are also governed by Central District Local Rule 7-18. “Courts in this district have interpreted Local Rule 7-18 to be coextensive with Rules 59(e) and 60(b).” Tawfilis v. Allergan, Inc., 2015 WL 9982762, at \*1 (C.D. Cal. Dec. 14, 2015). Local Rule 7-18 provides that a motion for reconsideration of the decision on any motion may be made only on the grounds of:

- (a) a material difference in fact or law from that presented to the Court before such decision that in the exercise of reasonable diligence could not have been known to the party moving for reconsideration at the time of such decision, or (b) the emergence of new material facts or a change of law occurring after the time of such decision, or (c) a manifest showing of a failure to consider material facts presented to the Court before such decision. No motion for reconsideration shall in any manner repeat any oral or written argument made in support of or in opposition to the original motion.

L. R. 7-18. “Unhappiness with the outcome is not included within the rule; unless the moving party shows that one of the stated grounds for reconsideration exists, the Court will not grant a reconsideration.” Roe v. LexisNexis Risk Sols. Inc., 2013 WL 12134002, at \*2 (C.D. Cal. May 2, 2013).

### III. DISCUSSION

Plaintiffs seize upon a plain statement from the Order: “the law Plaintiffs seek to enjoin no longer restricts Plaintiffs from holding in-person religious services.” (Motion p. 4 (quoting Order p. 6.)) In essence, they argue that this is no longer true because in the time since the Court’s Order, the State has tightened restrictions on indoor religious worship (while continuing to allow outdoor religious worship). (Motion, p. 4.) Specifically, Plaintiffs contend that “Defendants renewed their ban on certain religious services on July 13, 2020,” after the Court’s Order was issued. Id. Further, Plaintiffs argue that because Executive Order N-33-20 is still in effect, Defendants retain the ability to issue public health guidelines prohibiting religious services at any time. Id. To Plaintiffs, all of this amounts to a material difference in fact or law that the Court either should have contemplated at the time of the Order or should consider as the emergence of new law or material facts now.

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<sup>2</sup> The parties disagree on the applicable rules. However, Plaintiffs’ Motion is clearly brought pursuant to Local Rule 7-18 and Federal Rule of Civil Procedure 60(b). (See Motion p. 5.)



Plaintiffs attempt to thread a very difficult needle. They may not merely challenge the fact that they cannot gather in crowds to worship—they must challenge the specific laws or orders that make that so. The San Bernardino County and Riverside County Orders challenged in the Complaint have since been rescinded and not reinstated. (Motion p. 2.) Any challenges to those Orders were and remain moot. This leaves State orders and their enforcement. Specifically, this leaves Executive Order N-33-20, which “has never been lifted and forms the basis for any underlying, subsequent order and directives.” (Reply p. 7.)

But if the relevant law in assessing Plaintiffs’ claims is Order N-33-20, nothing material has changed. That Order urging Californians to obey public health guidance was in effect at the time of the Court’s Order and remains in effect today. And it does not, itself, prohibit worship.

Instead, if what is relevant to Plaintiffs’ claims are the Covid-19 directives issued by the Department of Health, things have changed, but the operative directives are not challenged in the Complaint, despite Plaintiffs’ opportunity to amend. The Complaint alleges the State “prohibits all religious leaders from conducting in-person and out-of-home religious services, regardless of the measures taken to reduce or eliminate the risk of the virus spreading.” (Complaint ¶ 34.) This is no longer true. While the operative guidance in effect at the time of the Complaint completely prohibited outdoor in-person worship, that guidance is no longer in effect; it has been replaced most recently by the August 28, 2020 “Four-Tier Reopening Plan.” (State Opposition, Dkt. No. 83 p. 4.) The August 28, 2020 guidance also superseded the July 13 Order Plaintiffs reference as controlling law in their Motion. *Id.* The guidance allows in-person worship to occur outside in all counties and in-person indoor worship in California counties with low Covid-19 rates. *Id.*

Indeed, in the time since Plaintiffs filed their Motion, Riverside County has dropped to the Tier 2 of the Four-Tier Plan.<sup>3</sup> This means that in Riverside County, places of worship may open indoors with modifications: a maximum number of people of 25% capacity or 100 people, whichever is fewer. *Id.* San Bernardino County is still in Tier 1, which permits outdoor worship with modifications but prohibits indoor worship. *Id.* If this is the legal regime Plaintiffs wish to challenge as violative of their rights, the Court deserves the benefit of a challenge to these guidelines specifically. It may not offer an advisory opinion on the absolute prohibition of religious worship in California.

Other relevant law also remains unchanged. As this Court has already observed, though courts are generally reluctant to declare a case moot based on a defendant’s voluntary cessation of activity, governmental policy change “presents a special circumstance in the world of mootness.” *Am. Cargo Transp., Inc. v. United States*, 625 F.3d 1176, 1179-80 (9th Cir. 2010). Unlike the assumptions made of private actors, courts “presume the government is acting in good faith.” *Id.* Moreover, change in law “is usually enough to render a case moot[.]”

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<sup>3</sup> California State Government, Blueprint for a Safer Economy, <https://covid19.ca.gov/safer-economy/> (last visited Oct. 1 2020); *See also* Dkt. No. 85.



Rosebrock v. Mathis, 745 F.3d 963, 971 (9th Cir. 2014). If the law of mootness or presumption of governmental good faith changed, reconsideration of the Court's Order would be warranted, but these principles remain the same.

#### **IV. CONCLUSION**

For the reasons above, the Court DENIES Plaintiffs' Motion. The October 19, 2020 hearing is VACATED.

**IT IS SO ORDERED.**

## APPENDIX 5

EXECUTIVE DEPARTMENT  
STATE OF CALIFORNIA

EXECUTIVE ORDER N-33-20

**WHEREAS** on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

**WHEREAS** in a short period of time, COVID-19 has rapidly spread throughout California, necessitating updated and more stringent guidance from federal, state, and local public health officials; and

**WHEREAS** for the preservation of public health and safety throughout the entire State of California, I find it necessary for all Californians to heed the State public health directives from the Department of Public Health.

**NOW, THEREFORE, I, GAVIN NEWSOM**, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8627, and 8665 do hereby issue the following Order to become effective immediately:

**IT IS HEREBY ORDERED THAT:**

- 1) To preserve the public health and safety, and to ensure the healthcare delivery system is capable of serving all, and prioritizing those at the highest risk and vulnerability, all residents are directed to immediately heed the current State public health directives, which I ordered the Department of Public Health to develop for the current statewide status of COVID-19. Those directives are consistent with the March 19, 2020, Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response, found at: <https://covid19.ca.gov/>. Those directives follow:

ORDER OF THE STATE PUBLIC HEALTH OFFICER  
March 19, 2020

To protect public health, I as State Public Health Officer and Director of the California Department of Public Health order all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>. In addition, and in consultation with the Director of the Governor's Office of Emergency Services, I may designate additional sectors as critical in order to protect the health and well-being of all Californians.

Pursuant to the authority under the Health and Safety Code 120125, 120140, 131080, 120130(c), 120135, 120145, 120175 and 120150, this order is to go into effect immediately and shall stay in effect until further notice.

The federal government has identified 16 critical infrastructure sectors whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or

destruction would have a debilitating effect on security, economic security, public health or safety, or any combination thereof. I order that Californians working in these 16 critical infrastructure sectors may continue their work because of the importance of these sectors to Californians' health and well-being.

This Order is being issued to protect the public health of Californians. The California Department of Public Health looks to establish consistency across the state in order to ensure that we mitigate the impact of COVID-19. Our goal is simple, we want to bend the curve, and disrupt the spread of the virus.

The supply chain must continue, and Californians must have access to such necessities as food, prescriptions, and health care. When people need to leave their homes or places of residence, whether to obtain or perform the functions above, or to otherwise facilitate authorized necessary activities, they should at all times practice social distancing.

- 2) The healthcare delivery system shall prioritize services to serving those who are the sickest and shall prioritize resources, including personal protective equipment, for the providers providing direct care to them.
- 3) The Office of Emergency Services is directed to take necessary steps to ensure compliance with this Order.
- 4) This Order shall be enforceable pursuant to California law, including, but not limited to, Government Code section 8665.

**IT IS FURTHER ORDERED** that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

**IN WITNESS WHEREOF** I have  
hereunto set my hand and caused  
the Great Seal of the State of  
California to be affixed this 19th day  
of March 2020.



\_\_\_\_\_  
GAVIN NEWSOM  
Governor of California

**ATTEST:**

\_\_\_\_\_  
ALEX PADILLA  
Secretary of State

## APPENDIX 6

EXECUTIVE ORDER N-60-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS on March 19, 2020, I issued Executive Order N-33-20, which directed all California residents to immediately heed current State public health directives; and

WHEREAS State public health directives, available at <https://covid19.ca.gov/stay-home-except-for-essential-needs/>, have ordered all California residents stay home except for essential needs, as defined in State public health directives; and

WHEREAS COVID-19 continues to menace public health throughout California; and

WHEREAS the extent to which COVID-19 menaces public health throughout California is expected to continue to evolve, and may vary from place to place within the State; and

WHEREAS California law promotes the preservation of public health by providing for local health officers—appointed by county boards of supervisors and other local authorities—in addition to providing for statewide authority by a State Public Health Officer; and

WHEREAS these local health officers, working in consultation with county boards of supervisors and other local authorities, are well positioned to understand the local needs of their communities; and

WHEREAS local governments are encouraged to coordinate with federally recognized California tribes located within or immediately adjacent to the external geographical boundaries of such local government jurisdiction; and

WHEREAS the global COVID-19 pandemic threatens the entire State, and coordination between state and local public health officials is therefore, and will continue to be, necessary to curb the spread of COVID-19 throughout the State; and

WHEREAS State public health officials have worked, and will continue to work, in consultation with their federal, state, and tribal government partners; and

WHEREAS the State Public Health Officer has articulated a four-stage framework—which includes provisions for the reopening of lower-risk businesses and spaces ("Stage Two"), to be followed by the reopening of higher-risk businesses and spaces ("Stage Three")—to allow Californians to gradually resume various activities while continuing to preserve public health in the face of COVID-19; and

WHEREAS the threat posed by COVID-19 is dynamic and ever-changing, and the State's response to COVID-19 (including implementation of the four-stage framework) should likewise retain the ability to be dynamic and flexible; and

WHEREAS to preserve this flexibility, and under the provisions of Government Code section 8571, I find that strict compliance with the Administrative Procedure Act, Government Code section 11340 et seq., would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8571, 8627, and 8665; and also in accordance with the authority vested in the State Public Health Officer by the laws of the State of California, including but not limited to Health and Safety Code sections 120125, 120130, 120135, 120140, 120145, 120150, 120175, and 131080; do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) All residents are directed to continue to obey State public health directives, as made available at <https://covid19.ca.gov/stay-home-except-for-essential-needs/> and elsewhere as the State Public Health Officer may provide.
- 2) As the State moves to allow reopening of lower-risk businesses and spaces ("Stage Two"), and then to allow reopening of higher-risk businesses and spaces ("Stage Three"), the State Public Health Officer is directed to establish criteria and procedures—as set forth in this Paragraph 2—to determine whether and how particular local jurisdictions may implement public health measures that depart from the statewide directives of the State Public Health Officer.

In particular, the State Public Health Officer is directed to establish criteria to determine whether and how, in light of the extent to which the public health is menaced by COVID-19 from place to place within the State, local health officers may (during the relevant stages of reopening) issue directives to establish and implement public health measures less restrictive than any public health measures implemented on a statewide basis pursuant to the statewide directives of the State Public Health Officer.

The State Public Health Officer is further directed to establish procedures through which local health officers may (during the relevant stages of reopening) certify that, if their respective jurisdictions are subject to proposed public health measures (which they shall specify to the extent such specification may be required by the State Public Health Officer) that are less restrictive than public health measures implemented on a statewide basis pursuant to the statewide directives of the State Public Health Officer, the public health will not be menaced. The State Public Health Officer shall additionally establish procedures to permit, in a manner consistent with public health and



safety, local health officers who submit such certifications to establish and implement such less restrictive public health measures within their respective jurisdictions.

The State Public Health Officer may, from time to time and as she deems necessary to respond to the dynamic threat posed by COVID-19, revise the criteria and procedures set forth in this Paragraph 2. Nothing related to the establishment or implementation of such criteria or procedures, or any other aspect of this Order, shall be subject to the Administrative Procedure Act, Government Code section 11340 et seq. Nothing in this Paragraph 2 shall limit the authority of the State Public Health Officer to take any action she deems necessary to protect public health in the face of the threat posed by COVID-19, including (but not limited to) any necessary revision to the four-stage framework previously articulated by the State Public Health Officer.

- 3) Nothing in this Order shall be construed to limit the existing authority of local health officers to establish and implement public health measures within their respective jurisdictions that are more restrictive than, or that otherwise exist in addition to, the public health measures imposed on a statewide basis pursuant to the statewide directives of the State Public Health Officer.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of May 2020.

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GAVIN NEWSOM  
Governor of California

ATTEST:

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ALEX PADILLA  
Secretary of State



## APPENDIX 7



ORDER OF THE STATE PUBLIC HEALTH OFFICER  
March 19, 2020

To protect public health, I as State Public Health Officer and Director of the California Department of Public Health order all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>. In addition, and in consultation with the Director of the Governor's Office of Emergency Services, I may designate additional sectors as critical in order to protect the health and well-being of all Californians.

Pursuant to the authority under the Health and Safety Code 120125, 120140, 131080, 120130(c), 120135, 120145, 120175 and 120150, this order is to go into effect immediately and shall stay in effect until further notice.

The federal government has identified 16 critical infrastructure sectors whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or destruction would have a debilitating effect on security, economic security, public health or safety, or any combination thereof. I order that Californians working in these 16 critical infrastructure sectors may continue their work because of the importance of these sectors to Californians' health and well-being.

This Order is being issued to protect the public health of Californians. The California Department of Public Health looks to establish consistency across the state in order to ensure that we mitigate the impact of COVID-19. Our goal is simple, we want to bend the curve, and disrupt the spread of the virus.

The supply chain must continue, and Californians must have access to such necessities as food, prescriptions, and health care. When people need to leave their homes or places of residence, whether to obtain or perform the functions above, or to otherwise facilitate authorized necessary activities, they should at all times practice social distancing.

  
SONIA Y. ANGELL, MD, MPH

3/19/2020  
DATE

## APPENDIX 8

On March 19, 2020, Governor Newsom issued Executive Order N-33-20 directing all residents immediately to heed current State public health directives to stay home, except as needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as the State Public Health Officer may designate as critical to protect health and well-being of all Californians.

In accordance with this order, the State Public Health Officer has designated the following list of “Essential Critical Infrastructure Workers” to help state, local, tribal, and industry partners as they work to protect communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security.

## HEALTHCARE / PUBLIC HEALTH

### Sector Profile

The Healthcare and Public Health (HPH) Sector is large, diverse, and open, spanning both the public and private sectors. It includes publicly accessible healthcare facilities, research centers, suppliers, manufacturers, and other physical assets and vast, complex public-private information technology systems required for care delivery and to support the rapid, secure transmission and storage of large amounts of HPH data.

### Essential Workforce

- Workers providing COVID-19 testing; Workers that perform critical clinical research needed for COVID-19 response.
- Health care providers and caregivers (e.g., physicians, dentists, psychologists, mid-level practitioners, nurses and assistants, infection control and quality assurance personnel, pharmacists, physical and occupational therapists and assistants, social workers, speech pathologists and diagnostic and therapeutic technicians and technologists).
- Hospital and laboratory personnel (including accounting, administrative, admitting and discharge, engineering, epidemiological, source plasma and blood donation, food service, housekeeping, medical records, information technology and operational technology, nutritionists, sanitarians, respiratory therapists, etc.).
- Workers in other medical facilities (including Ambulatory Health and Surgical, Blood Banks, Clinics, Community Mental Health, Comprehensive Outpatient rehabilitation, End Stage Renal Disease, Health Departments, Home Health care, Hospices, Hospitals, Long Term Care, Organ Pharmacies, Procurement Organizations, Psychiatric, Residential, Rural Health Clinics and Federally Qualified Health Centers, cannabis retailers).
- Manufacturers, technicians, logistics and warehouse operators, and distributors of medical equipment, personal protective equipment (PPE), medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, [personal care/hygiene products](#), and tissue and paper towel products.

- Public health / community health workers, including those who compile, model, analyze and communicate public health information.
- Behavioral health workers (including mental and substance use disorder) responsible for coordination, outreach, engagement, and treatment to individuals in need of mental health and/or substance use disorder services.
- Blood and plasma donors and the employees of the organizations that operate and manage related activities.
- Workers that manage health plans, billing, and health information, who cannot practically work remotely.
- Workers who conduct community-based public health functions, conducting epidemiologic surveillance, compiling, analyzing and communicating public health information, who cannot practically work remotely.
- Workers who provide support to vulnerable populations to ensure their health and well-being including family care providers
- Workers performing cybersecurity functions at healthcare and public health facilities, who cannot practically work remotely.
- Workers conducting research critical to COVID-19 response.
- Workers performing security, incident management, and emergency operations functions at or on behalf of healthcare entities including healthcare coalitions, who cannot practically work remotely.
- Workers who support food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals, such as those residing in shelters.
- Pharmacy employees necessary for filling prescriptions.
- Workers performing mortuary services, including funeral homes, crematoriums, and cemetery workers.
- Workers who coordinate with other organizations to ensure the proper recovery, handling, identification, transportation, tracking, storage, and disposal of human remains and personal effects; certify cause of death; and facilitate access to behavioral health services to the family members, responders, and survivors of an incident.
- Workers supporting veterinary hospitals and clinics

## **EMERGENCY SERVICES SECTOR**

### **Sector Profile**

The Emergency Services Sector (ESS) is a community of highly-skilled, trained personnel, along with the physical and cyber resources, that provide a wide range of prevention, preparedness, response, and recovery services during both day-to-day operations and incident response. The ESS includes geographically distributed facilities and equipment in both paid and volunteer capacities organized primarily at the federal, state, local, tribal, and territorial levels of government, such as city police departments and fire stations, county sheriff's offices, Department of Defense police and fire departments, and town public works departments. The ESS also includes private sector resources, such

as industrial fire departments, private security organizations, and private emergency medical services providers.

#### **Essential Workforce - Law Enforcement, Public Safety and First Responders**

- Including front line and management, personnel include emergency management, law enforcement, Emergency Management Systems, fire, and corrections, search and rescue, tactical teams including maritime, aviation, and canine units.
- Emergency Medical Technicians
- Public Safety Answering Points and 911 call center employees
- Fusion Center employees
- Fire Mitigation Activities
- Hazardous material responders and hazardous devices teams, from government and the private sector.
- Workers – including contracted vendors -- who maintain digital systems infrastructure supporting law enforcement and emergency service operations.
- Private security, private fire departments, and private emergency medical services personnel.
- County workers responding to abuse and neglect of children, elders and dependent adults.
- [Animal control officers and humane officers](#)

#### **Essential Workforce - Public Works**

- Workers who support the operation, inspection, and maintenance of essential dams, locks and levees
- Workers who support the operation, inspection, and maintenance of essential public works facilities and operations, including bridges, water and sewer main breaks, fleet maintenance personnel, construction of critical or strategic infrastructure, [construction material suppliers](#), traffic signal maintenance, emergency location services for buried utilities, maintenance of digital systems infrastructure supporting public works operations, and other emergent issues
- Workers such as plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences.
- Support, such as road and line clearing, to ensure the availability of needed facilities, transportation, energy and communications Support to ensure the effective removal, storage, and disposal of residential and commercial solid waste and hazardous waste.

## **FOOD AND AGRICULTURE**

### **Sector Profile**

The Food and Agricultural (FA) Sector is composed of complex production, processing, and delivery systems and has the capacity to feed people and animals both within and beyond the boundaries of the United States. Beyond domestic food production, the FA Sector also imports many ingredients and finished products, leading to a complex web of growers, processors, suppliers, transporters, distributors, and consumers. This sectors is critical to maintaining and securing our food supply.

### **Essential Workforce**

- Workers supporting groceries, pharmacies, and other retail that sells food and beverage products, including but not limited to Grocery stores, Corner stores and convenience stores, including liquor stores that sell food, Farmers' markets, Food banks, Farm and produce stands, Supermarkets, Similar food retail establishments, Big box stores that sell groceries and essentials
- Restaurant carry-out and quick serve food operations – including food preparation, carry-out and delivery food employees
- Food manufacturer employees and their supplier employees—to include those employed in food processing (packers, meat processing, cheese plants, milk plants, produce, etc.) facilities; livestock, poultry, seafood slaughter facilities; pet and animal feed processing facilities; human food facilities producing by-products for animal food; beverage production facilities; and the production of food packaging
- Farm workers to include those employed in animal food, feed, and ingredient production, packaging, and distribution; manufacturing, packaging, and distribution of veterinary drugs; truck delivery and transport; farm and fishery labor needed to produce our food supply domestically
- Farm workers and support service workers to include those who field crops; commodity inspection; fuel ethanol facilities; storage facilities; and other agricultural inputs
- Employees and firms supporting food, feed, and beverage distribution (including curbside distribution and deliveries), including warehouse workers, vendor-managed inventory controllers, blockchain managers, distribution
- Workers supporting the sanitation of all food manufacturing processes and operations from wholesale to retail
- Company cafeterias - in-plant cafeterias used to feed employees
- Workers in food testing labs in private industries and in institutions of higher education
- Workers essential for assistance programs and government payments
- Workers supporting cannabis retail and dietary supplement retail
- Employees of companies engaged in the production of chemicals, medicines, vaccines, and other substances used by the food and agriculture industry, including pesticides, herbicides, fertilizers, minerals, enrichments, and other agricultural production aids
- Animal agriculture workers to include those employed in veterinary health; manufacturing and distribution of animal medical materials, animal vaccines, animal drugs, feed ingredients, feed, and bedding, etc.; transportation of live animals, animal medical materials; transportation of deceased animals for disposal; raising of animals for food; animal production operations; slaughter and packing plants and associated regulatory and government workforce
- Workers who support the manufacture and distribution of forest products, including, but not limited to timber, paper, and other wood products

- Employees engaged in the manufacture and maintenance of equipment and other infrastructure necessary to agricultural production and distribution

## **ENERGY**

### **Sector Profile**

The Energy Sector consists of widely-diverse and geographically-dispersed critical assets and systems that are often interdependent of one another. This critical infrastructure is divided into three interrelated segments or subsectors—electricity, oil, and natural gas—to include the production, refining, storage, and distribution of oil, gas, and electric power, except for hydroelectric and commercial nuclear power facilities and pipelines. The Energy Sector supplies fuels to the transportation industry, electricity to households and businesses, and other sources of energy that are integral to growth and production across the Nation. In turn, it depends on the Nation's transportation, information technology, communications, finance, water, and government infrastructures.

### **Essential Workforce - Electricity industry:**

- Workers who maintain, ensure, or restore the generation, transmission, and distribution of electric power, including call centers, utility workers, reliability engineers and fleet maintenance technicians
- Workers needed for safe and secure operations at nuclear generation
- Workers at generation, transmission, and electric blackstart facilities
- Workers at Reliability Coordinator (RC), Balancing Authorities (BA), and primary and backup Control Centers (CC), including but not limited to independent system operators, regional transmission organizations, and balancing authorities
- Mutual assistance personnel
- IT and OT technology staff – for EMS (Energy Management Systems) and Supervisory Control and Data
- Acquisition (SCADA) systems, and utility data centers; Cybersecurity engineers; cybersecurity risk management
- Vegetation management crews and traffic workers who support
- Environmental remediation/monitoring technicians
- Instrumentation, protection, and control technicians

### **Essential Workforce - Petroleum workers:**

- Petroleum product storage, pipeline, marine transport, terminals, rail transport, road transport
- Crude oil storage facilities, pipeline, and marine transport
- Petroleum refinery facilities
- Petroleum security operations center employees and workers who support emergency response services



- Petroleum operations control rooms/centers
- Petroleum drilling, extraction, production, processing, refining, terminal operations, transporting, and retail for use as end-use fuels or feedstocks for chemical manufacturing
- Onshore and offshore operations for maintenance and emergency response
- Retail fuel centers such as gas stations and truck stops, and the distribution systems that support them.

**Essential Workforce - Natural and propane gas workers:**

- Natural gas transmission and distribution pipelines, including compressor stations
- Underground storage of natural gas
- Natural gas processing plants, and those that deal with natural gas liquids
- Liquefied Natural Gas (LNG) facilities
- Natural gas security operations center, natural gas operations dispatch and control rooms/centers natural gas emergency response and customer emergencies, including natural gas leak calls
- Drilling, production, processing, refining, and transporting natural gas for use as end-use fuels, feedstocks for chemical manufacturing, or use in electricity generation
- Propane gas dispatch and control rooms and emergency response and customer emergencies, including propane leak calls
- Propane gas service maintenance and restoration, including call centers
- Processing, refining, and transporting natural liquids, including propane gas, for use as end-use fuels or feedstocks for chemical manufacturing
- Propane gas storage, transmission, and distribution centers

## **WATER AND WASTEWATER**

**Sector Profile**

The Water and Wastewater Sector is a complex sector composed of drinking water and wastewater infrastructure of varying sizes and ownership types. Multiple governing authorities pertaining to the Water and Wastewater Sector provide for public health, environmental protection, and security measures, among others.

**Essential Workforce**

Employees needed to operate and maintain drinking water and wastewater/drainage infrastructure, including:

- Operational staff at water authorities
- Operational staff at community water systems
- Operational staff at wastewater treatment facilities
- Workers repairing water and wastewater conveyances and performing required sampling or monitoring

- Operational staff for water distribution and testing
- Operational staff at wastewater collection facilities
- Operational staff and technical support for SCADA Control systems
- Chemical disinfectant suppliers for wastewater and personnel protection
- Workers that maintain digital systems infrastructure supporting water and wastewater operations

## **TRANSPORTATION AND LOGISTICS**

### **Sector Profile**

The Transportation Systems Sector consists of seven key subsectors, or modes:

- Aviation includes aircraft, air traffic control systems, and airports, heliports, and landing strips. Commercial aviation services at civil and joint-use military airports, heliports, and sea plane bases. In addition, the aviation mode includes commercial and recreational aircraft (manned and unmanned) and a wide-variety of support services, such as aircraft repair stations, fueling facilities, navigation aids, and flight schools.
- Highway and Motor Carrier encompasses roadway, bridges, and tunnels. Vehicles include trucks, including those carrying hazardous materials; other commercial vehicles, including commercial motorcoaches and school buses; vehicle and driver licensing systems; taxis, transportation services including Transportation Network Companies, and delivery services including Delivery Network Companies; traffic management systems; AND cyber systems used for operational management.
- Maritime Transportation System consists of coastline, ports, waterways, and intermodal landside connections that allow the various modes of transportation to move people and goods to, from, and on the water.
- Mass Transit and Passenger Rail includes terminals, operational systems, and supporting infrastructure for passenger services by transit buses, trolleybuses, monorail, heavy rail—also known as subways or metros—light rail, passenger rail, and vanpool/rideshare.
- Pipeline Systems consist of pipelines carrying natural gas hazardous liquids, as well as various chemicals. Above-ground assets, such as compressor stations and pumping stations, are also included.
- Freight Rail consists of major carriers, smaller railroads, active railroad, freight cars, and locomotives.
- Postal and Shipping includes large integrated carriers, regional and local courier services, mail services, mail management firms, and chartered and delivery services.

### **Essential Workforce**

- Employees supporting or enabling transportation functions, including dispatchers, maintenance and repair technicians, warehouse workers, truck stop and rest area workers, and workers that maintain and inspect infrastructure (including those that require cross-border travel)
- Employees of firms providing services that enable logistics operations, including cooling, storing, packaging, and distributing products for wholesale or retail sale or use.
- Mass transit workers
- Taxis, transportation services including Transportation Network Companies, and delivery services including Delivery Network Companies
- Workers responsible for operating dispatching passenger, commuter and freight trains and maintaining rail infrastructure and equipment
- Maritime transportation workers - port workers, mariners, equipment operators
- Truck drivers who haul hazardous and waste materials to support critical infrastructure, capabilities, functions, and services
- Automotive repair and maintenance facilities
- Manufacturers and distributors (to include service centers and related operations) of packaging materials, pallets, crates, containers, and other supplies needed to support manufacturing, packaging staging and distribution operations
- Postal and shipping workers, to include private companies
- Employees who repair and maintain vehicles, aircraft, rail equipment, marine vessels, and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers
- Air transportation employees, including air traffic controllers, ramp personnel, aviation security, and aviation management
- Workers who support the maintenance and operation of cargo by air transportation, including flight crews, maintenance, airport operations, and other on- and off- airport facilities workers

## **COMMUNICATIONS AND INFORMATION TECHNOLOGY**

### **Sector Profile**

The Communications Sector provides products and services that support the efficient operation of today's global information-based society. Communication networks enable people around the world to contact one another, access information instantly, and communicate from remote areas. This involves creating a link between a sender (including voice signals) and one or more recipients using technology (e.g., a telephone system or the Internet) to transmit information from one location to another. Technologies are changing at a rapid pace, increasing the number of products, services, service providers, and communication options. The national communications architecture is a complex collection of networks that are owned and operated by individual service providers. Many of this sector's products and services are foundational or necessary for the operations and services provided by other critical infrastructure sectors. The nature of communication networks involve both physical infrastructure (buildings, switches, towers, antennas, etc.) and cyber infrastructure (routing and

switching software, operational support systems, user applications, etc.), representing a holistic challenge to address the entire physical-cyber infrastructure.

The IT Sector provides products and services that support the efficient operation of today's global information-based society and are integral to the operations and services provided by other critical infrastructure Sectors. The IT Sector is comprised of small and medium businesses, as well as large multinational companies. Unlike many critical infrastructure Sectors composed of finite and easily identifiable physical assets, the IT Sector is a functions-based Sector that comprises not only physical assets but also virtual systems and networks that enable key capabilities and services in both the public and private sectors.

**Essential Workforce - Communications:**

- Maintenance of communications infrastructure- including privately owned and maintained communication systems- supported by technicians, operators, call-centers, wireline and wireless providers, cable service providers, satellite operations, undersea cable landing stations, Internet Exchange Points, and manufacturers and distributors of communications equipment
- Workers who support radio, television, and media service, including, but not limited to front line news reporters, studio, and technicians for newsgathering and reporting
- Workers at Independent System Operators and Regional Transmission Organizations, and Network Operations staff, engineers and/or technicians to manage the network or operate facilities
- Engineers, technicians and associated personnel responsible for infrastructure construction and restoration, including contractors for construction and engineering of fiber optic cables
- Installation, maintenance and repair technicians that establish, support or repair service as needed
- Central office personnel to maintain and operate central office, data centers, and other network office facilities
- Customer service and support staff, including managed and professional services as well as remote providers of support to transitioning employees to set up and maintain home offices, who interface with customers to manage or support service environments and security issues, including payroll, billing, fraud, and troubleshooting
- Dispatchers involved with service repair and restoration

**Essential Workforce - Information Technology:**

- Workers who support command centers, including, but not limited to Network Operations Command Center, Broadcast Operations Control Center and Security Operations Command Center
- Data center operators, including system administrators, HVAC & electrical engineers, security personnel, IT managers, data transfer solutions engineers, software and hardware engineers, and database administrators
- Client service centers, field engineers, and other technicians supporting critical infrastructure, as well as manufacturers and supply chain vendors that provide hardware and software, and

information technology equipment (to include microelectronics and semiconductors) for critical infrastructure

- Workers responding to cyber incidents involving critical infrastructure, including medical facilities, SLTT governments and federal facilities, energy and utilities, and banks and financial institutions, and other critical infrastructure categories and personnel
- Workers supporting the provision of essential global, national and local infrastructure for computing services (incl. cloud computing services), business infrastructure, web-based services, and critical manufacturing
- Workers supporting communications systems and information technology used by law enforcement, public safety, medical, energy and other critical industries
- Support required for continuity of services, including janitorial/cleaning personnel

## **OTHER COMMUNITY-BASED GOVERNMENT OPERATIONS AND ESSENTIAL FUNCTIONS**

### **Essential Workforce**

- Critical government workers, as defined by the employer and consistent with Continuity of Operations Plans and Continuity of Government plans.
- County workers responsible for determining eligibility for safety net benefits
- The Courts, consistent with [guidance](#) released by the California Chief Justice
- Workers to ensure continuity of building functions
- Security staff to maintain building access control and physical security measures
- Elections personnel
- Federal, State, and Local, Tribal, and Territorial employees who support Mission Essential Functions and communications networks
- Trade Officials (FTA negotiators; international data flow administrators)
- Weather forecasters
- Workers that maintain digital systems infrastructure supporting other critical government operations
- Workers at operations centers necessary to maintain other essential functions
- Workers who support necessary credentialing, vetting and licensing operations for transportation workers
- Workers who are critical to facilitating trade in support of the national, state, and local emergency response supply chain
- Workers supporting public and private childcare establishments, pre-K establishments, K-12 schools, colleges, and universities for purposes of distance learning, provision of school meals, or care and supervision of minors to support essential workforce across all sectors

- Workers and instructors supporting academies and training facilities and courses for the purpose of graduating students and cadets that comprise the essential workforce for all identified critical sectors
- Hotel Workers where hotels are used for COVID-19 mitigation and containment measures, including measures to protect homeless populations.
- Construction Workers who support the construction, operation, inspection, and maintenance of construction sites and construction projects (including housing construction)
- Workers such as plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, [construction material sources](#), and essential operation of construction sites and construction projects (including those that support such projects to ensure the availability of needed facilities, transportation, energy and communications; and support to ensure the effective removal, storage, and disposal of solid waste and hazardous waste)
- Commercial Retail Stores, that supply essential sectors, including convenience stores, pet supply stores, auto supplies and repair, hardware and home improvement, and home appliance retailers
- Workers supporting the entertainment industries, studios, and other related establishments, provided they follow covid-19 public health guidance around social distancing.
- Workers critical to operating Rental Car companies that facilitate continuity of operations for essential workforces, and other essential travel
- Workers that provide or determine eligibility for food, shelter, in-home supportive services, child welfare, adult protective services and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals (including family members)
- Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities and critical sector services
- Faith based services that are provided through streaming or other technology
- Laundromats and laundry services
- [Workers at animal care facilities that provide food, shelter, veterinary and/or routine care and other necessities of life for animals.](#)

## CRITICAL MANUFACTURING

### Sector Profile

The Critical Manufacturing Sector identifies several industries to serve as the core of the sector: Primary Metals Manufacturing, Machinery Manufacturing, Electrical Equipment, Appliance, and Component Manufacturing, Transportation Equipment Manufacturing Products made by these manufacturing industries are essential to many other critical infrastructure sectors.

### Essential Workforce

- Workers necessary for the manufacturing of materials and products needed for medical supply chains, transportation, energy, communications, food and agriculture, chemical manufacturing, nuclear facilities, the operation of dams, water and wastewater treatment, emergency services, and the defense industrial base.

## **HAZARDOUS MATERIALS**

### **Essential Workforce**

- Workers at nuclear facilities, workers managing medical waste, workers managing waste from pharmaceuticals and medical material production, and workers at laboratories processing test kits
- Workers who support hazardous materials response and cleanup
- Workers who maintain digital systems infrastructure supporting hazardous materials management operations

## **FINANCIAL SERVICES**

### **Sector Profile**

The Financial Services Sector includes thousands of depository institutions, providers of investment products, insurance companies, other credit and financing organizations, and the providers of the critical financial utilities and services that support these functions. Financial institutions vary widely in size and presence, ranging from some of the world's largest global companies with thousands of employees and many billions of dollars in assets, to community banks and credit unions with a small number of employees serving individual communities. Whether an individual savings account, financial derivatives, credit extended to a large organization, or investments made to a foreign country, these products allow customers to: Deposit funds and make payments to other parties; Provide credit and liquidity to customers; Invest funds for both long and short periods; Transfer financial risks between customers.

### **Essential Workforce**

- Workers who are needed to process and maintain systems for processing financial transactions and services (e.g., payment, clearing, and settlement; wholesale funding; insurance services; and capital markets activities)
- Workers who are needed to provide consumer access to banking and lending services, including ATMs, and to move currency and payments (e.g., armored cash carriers)
- Workers who support financial operations, such as those staffing data and security operations centers



## **CHEMICAL**

### **Sector Profile**

The Chemical Sector—composed of a complex, global supply chain—converts various raw materials into diverse products that are essential to modern life. Based on the end product produced, the sector can be divided into five main segments, each of which has distinct characteristics, growth dynamics, markets, new developments, and issues: Basic chemicals; Specialty chemicals; Agricultural chemicals; Pharmaceuticals; Consumer products

### **Essential Workforce**

- Workers supporting the chemical and industrial gas supply chains, including workers at chemical manufacturing plants, workers in laboratories, workers at distribution facilities, workers who transport basic raw chemical materials to the producers of industrial and consumer goods, including hand sanitizers, food and food additives, pharmaceuticals, textiles, and paper products.
- Workers supporting the safe transportation of chemicals, including those supporting tank truck cleaning facilities and workers who manufacture packaging items
- Workers supporting the production of protective cleaning and medical solutions, personal protective equipment, and packaging that prevents the contamination of food, water, medicine, among others essential products
- Workers supporting the operation and maintenance of facilities (particularly those with high risk chemicals and/ or sites that cannot be shut down) whose work cannot be done remotely and requires the presence of highly trained personnel to ensure safe operations, including plant contract workers who provide inspections
- Workers who support the production and transportation of chlorine and alkali manufacturing, single-use plastics, and packaging that prevents the contamination or supports the continued manufacture of food, water, medicine, and other essential products, including glass container manufacturing

## **DEFENSE INDUSTRIAL BASE**

### **Sector Profile**

The Defense Industrial Base Sector is the worldwide industrial complex that enables research and development, as well as design, production, delivery, and maintenance of military weapons systems, subsystems, and components or parts, to meet U.S. military requirements. The Defense Industrial Base partnership consists of Department of Defense components, Defense Industrial Base companies and their subcontractors who perform under contract to the Department of Defense, companies providing

incidental materials and services to the Department of Defense, and government-owned/contractor-operated and government-owned/government-operated facilities. Defense Industrial Base companies include domestic and foreign entities, with production assets located in many countries. The sector provides products and services that are essential to mobilize, deploy, and sustain military operations.

#### **Essential Workforce**

- Workers who support the essential services required to meet national security commitments to the federal government and U.S. Military. These individuals, include but are not limited to, aerospace; mechanical and software engineers, manufacturing/production workers; IT support; security staff; security personnel; intelligence support, aircraft and weapon system mechanics and maintainers
- Personnel working for companies, and their subcontractors, who perform under contract to the Department of Defense providing materials and services to the Department of Defense, and government-owned/contractor-operated and government-owned/government-operated facilities

## APPENDIX 9



ORDER OF THE STATE PUBLIC HEALTH  
OFFICER  
May 7, 2020

On March 19, 2020, I issued an order directing all individuals living in the State of California to stay at home except as needed to facilitate authorized, necessary activities or to maintain the continuity of operations of critical infrastructure sectors. (See <https://covid19.ca.gov/stay-home-except-for-essential-needs/>.) I then set out California's path forward from this "Stay-at-Home" Order in California's Pandemic Roadmap <https://www.gov.ca.gov/wp-content/uploads/2020/05/5.4.20-Update-on-Californias-Pandemic-Roadmap.pdf>. That Roadmap identifies four stages of the pandemic: safety and preparation (Stage 1), reopening of lower-risk workplaces and other spaces (Stage 2), reopening of higher-risk workplaces and other spaces (Stage 3), and finally an easing of final restrictions leading to the end of the stay at home order (Stage 4).

Today, COVID-19 continues to present a significant risk to the health of individuals throughout California. There are confirmed cases of the virus in 54 of the 58 counties across the State, and each day over the past two weeks over one thousand new cases have been confirmed in California and dozens of people have lost their lives due to the virus. However, owing to Californians' mitigation efforts, statewide data currently demonstrates stable rates of new infections and hospitalizations, the maintenance of surge capacity, and an improved ability to test, contact trace, isolate, and provide support to individuals exposed to COVID-19. As State Public Health Officer, I have determined that the statewide data now supports the gradual movement of the entire state from Stage 1 to Stage 2 of California's Pandemic Resilience Roadmap.

Gradual movement into Stage 2 is intended to reintroduce activities and sectors in a phased manner and with necessary modifications, in order to protect public health and result in a lower risk for COVID-19 transmission and outbreak in a community. Such deliberate phasing is critical to allowing the State to protect the public, and to mitigate and manage the impact of the re-openings, such that our health care delivery system has the capacity to respond to potential increased demands. Differences across the state in the prevalence of COVID-19, as well as testing rates, containment capability, and hospital capacity, have resulted in differences among local health jurisdictions' ability to safely progress through the various stages. The low and stable data reported by some local health officers in their local health jurisdictions, combined with sufficient COVID-19 preparedness, justifies allowance for some variation in the speed with which some local health jurisdictions will be able to move through the phases of Stage 2.

NOW, THEREFORE, I as State Public Health Officer and Director of the California Department of Public Health, order:

1. All local health jurisdictions in the state may begin gradual movement into Stage 2, as set forth in this Order, effective on May 8, 2020; however, a local health jurisdiction may implement or continue more restrictive public health measures if the jurisdiction's Local Health Officer believes conditions in that jurisdiction warrant it.
2. I will progressively designate sectors, businesses, establishments, or activities that may reopen with certain modifications, based on public health and safety needs, and I will add additional sectors, businesses, establishments, or activities at a pace designed to protect public health and safety. Those sectors, businesses, establishments, or activities that are permitted to open will be designated, along with necessary modifications, at <https://covid19.ca.gov/roadmap/>, as I announce them.
3. To the extent that such sectors are re-opened, Californians may leave their homes to work at, patronize, or otherwise engage with those businesses, establishments, or activities and must, when they do so, continue at all times to practice physical distancing, minimize their time outside of the home, and wash their hands frequently. To prevent further spread of COVID-19 to and within other jurisdictions within the State, Californians should not travel significant distances and should stay close to home. My March 19, 2020, Order otherwise remains in full effect.

4. The California Department of Public Health has set forth criteria to help local health officers assess the capacity of their local health jurisdictions to move through Stage 2. Local health jurisdictions that meet the criteria and follow the process set forth <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/COVID-19-County-Variance-Attestation-Memo.aspx> will be permitted to move through Stage 2 more quickly than the State as a whole and reopen additional low-risk businesses before the rest of the state, if they choose to do so. A list of the sectors, businesses, establishments, or activities, and any necessary modifications, that such a qualifying jurisdiction may choose to reopen will be available at <https://covid19.ca.gov/roadmap-counties/>, and may be expanded if I deem it to be in the interest of public health and safety.

Pursuant to the authority under EO N-60-20, and Health and Safety Code sections 120125, 120140, 131080, 120130(c), 120135, 120145, 120175 and 120150, this Order is to go into effect immediately and shall stay in effect until further notice.

This Order is being issued to protect the public health of Californians as we move as expeditiously to minimize risk to the extent possible throughout the Stages of the Pandemic Resilience Roadmap.



Sonia Y Angell, MD, MPH  
State Public Health Officer & Director  
California Department of Public Health

## APPENDIX 10





# COVID-19 INDUSTRY GUIDANCE:

## Places of Worship and Providers of Religious Services and Cultural Ceremonies

May 25, 2020

[covid19.ca.gov](https://covid19.ca.gov)



## OVERVIEW

On March 19, 2020, the State Public Health Officer and Director of the California Department of Public Health issued an order requiring most Californians to stay at home to disrupt the spread of COVID-19 among the population.

The impact of COVID-19 on the health of Californians is not yet fully known. Reported illness ranges from very mild (some people have no symptoms) to severe illness that may result in death. Certain groups, including people aged 65 or older and those with serious underlying medical conditions, such as heart or lung disease or diabetes, are at higher risk of hospitalization and serious complications. Transmission is most likely when people are in close contact with an infected person, even if that person does not have any symptoms or has not yet developed symptoms.

Precise information about the number and rates of COVID-19 by industry or occupational groups, including among critical infrastructure workers, is not available at this time. There have been multiple outbreaks in a range of workplaces, indicating that workers are at risk of acquiring or transmitting COVID-19 infection. Examples of these workplaces include places of worship, long-term care facilities, prisons, food production, warehouses, meat processing plants, and grocery stores.

As stay-at-home orders are modified, it is essential that all possible steps be taken to ensure the safety of workers and the public.

Key prevention practices include:

- ✓ physical distancing to the maximum extent possible,
- ✓ use of face coverings by employees and volunteers (where respiratory protection is not required) and congregants/visitors,
- ✓ frequent handwashing and regular cleaning and disinfection,
- ✓ training employees and volunteers on these and other elements of the COVID-19 prevention plan.

In addition, it will be critical to have in place appropriate processes to identify new cases of illness in workplaces and, when they are identified, to intervene quickly and work with public health authorities to halt the spread of the virus.

## PURPOSE

This document provides guidance for places of worship and providers of religious services and cultural ceremonies (referred to collectively as “places of worship”) to support a safe, clean environment for employees, interns and trainees, volunteers, scholars, and all other types of workers (referred to collectively as “staff”) as well as congregants, worshippers, visitors, etc. (referred to collectively as “visitors” or “congregants”).

This guidance does not obligate places of worship to resume in-person activity. Further, it is strongly recommended that places of worship continue to facilitate remote services and other related activities for those who are vulnerable to COVID19 including older adults and those with co-morbidities.

Even with adherence to physical distancing, convening in a congregational setting of multiple different households to practice a personal faith carries a relatively higher risk for widespread transmission of the COVID-19 virus, and may result in increased rates of infection, hospitalization, and death, especially among more vulnerable populations. In particular, activities such as singing and group recitation negate the risk-reduction achieved through six feet of physical distancing.

\*Places of worship must therefore limit attendance to 25% of building capacity or a maximum of 100 attendees, whichever is lower. This limitation will be in effect for the first 21-days of a county public health department's approval of religious services and cultural ceremonies activities at places of worship within their jurisdictions.

Upon 21-days, the California Department of Public Health, in consultation with county Departments of Public Health, will review and assess the impact of these imposed limits on public health and provide further direction as part of a phased-in restoration of activities in places of worship.

NOTE: This guidance is not intended for food preparation and service, delivery of items to those in need, childcare and daycare services, school and educational activities, in-home caregiving, counseling, office work, and other activities that places and organizations of worship may provide. Organizations that perform these activities must follow applicable guidance on the [COVID-19 Resilience Roadmap website](#).

The guidance is not intended to revoke or repeal any employee rights, either statutory, regulatory or collectively bargained, and is not exhaustive, as it does not include county health orders, nor is it a substitute for any existing safety and health-related regulatory requirements such as those of Cal/OSHA.<sup>1</sup> Stay current on changes to public health guidance and state/local orders, as the COVID-19 situation continues. Cal/OSHA has more safety and health guidance on their Cal/OSHA Guidance on Requirements to Protect Workers from Coronavirus [webpage](#). The CDC has additional guidance [for community- and faith-based organizations](#).



## Workplace Specific Plan

- Establish a written, workplace-specific COVID-19 prevention plan at every location, perform a comprehensive risk assessment of all work areas, and designate a person at each workplace to implement the plan.
- Identify contact information for the local health department where the workplace is located for communicating information about COVID-19 outbreaks among staff and congregants/visitors.
- Train and communicate with staff and employee representatives on the plan.
- Regularly evaluate workplaces for compliance with the plan and document and correct deficiencies identified.
- Investigate any COVID-19 illness and determine if any work-related factors could have contributed to risk of infection. Update the plan as needed to prevent further cases.
- Identify close contacts (within six feet for 15 minutes or more) of an infected staff member and take steps to isolate COVID-19 positive staff and close contacts.
- Adhere to the guidelines below. Failure to do so could result in workplace illnesses that may cause operations to be temporarily closed or limited.



## Topics for Employee and Volunteer Training

- Information on [COVID-19](#), how to prevent it from spreading, and which underlying health conditions may make individuals more susceptible to contracting the virus.
- Self-screening at home, including temperature and/or symptom checks using [CDC guidelines](#).
- The importance of not coming to work or participating in activities if staff have symptoms of COVID-19 as [described by the CDC](#), such as a frequent cough, fever, difficulty breathing, chills, muscle pain, sore throat, recent loss of taste or smell, or if they or someone they live with have been diagnosed with COVID-19.

- To seek medical attention if their symptoms become severe, including persistent pain or pressure in the chest, confusion, or bluish lips or face. Updates and further details are available on [CDC's webpage](#).
- The importance of frequent handwashing with soap and water, including scrubbing with soap for 20 seconds (or using hand sanitizer with at least 60% ethanol or 70% isopropanol when staff cannot get to a sink or handwashing station, per [CDC guidelines](#)).
- The importance of physical distancing, both at work and off work time (see Physical Distancing section below).
- Proper use of face coverings, including:
  - Face coverings do not protect the wearer and are not personal protective equipment (PPE).
  - Face coverings can help protect people near the wearer, but do not replace the need for physical distancing and frequent handwashing.
  - Face coverings must cover the nose and mouth.
  - Employees should wash or sanitize hands before and after using or adjusting face coverings.
  - Avoid touching the eyes, nose, and mouth.
  - Face coverings should be washed after each shift.
- Ensure all types of staff including temporary, contract, and volunteer workers are also properly trained in COVID-19 prevention policies and have necessary PPE. Discuss these responsibilities ahead of time with organizations supplying temporary, contract, and/or volunteer staff.
- Information on employer or government-sponsored leave benefits the employee may be entitled to receive that would make it financially easier to stay at home. See additional information on [government programs supporting sick leave and worker's compensation for COVID-19](#), including employee's sick leave rights under the [Families First Coronavirus Response Act](#) and employee's rights to workers' compensation benefits and presumption of the work-relatedness of COVID-19 pursuant to the Governor's [Executive Order N-62-20](#).



## Individual Control Measures and Screening

- Provide temperature and/or symptom screenings for all staff at the beginning of their shift. Make sure the temperature/symptom screener avoids close contact with staff to the extent possible. Both screeners and staff should wear face coverings for the screening.
- If requiring self-screening at home, which is an appropriate alternative to providing it at the establishment, ensure that screening was performed prior to the worker and/or volunteer leaving the home for their shift and follows [CDC guidelines](#), as described in the Topics for Employee Training section above.
- Encourage staff and congregants/visitors who are sick or exhibiting symptoms of COVID-19, or who have family members who are ill, to stay home.
- Employers should provide and ensure workers and volunteers use all required protective equipment, including eye protection and gloves, where necessary.
- Places of worship should consider where disposable gloves use may be helpful to supplement frequent handwashing or use of hand sanitizer; examples are for staff who are screening others for symptoms or handling commonly touched items. All workers and volunteers should wear gloves when handling items contaminated by body fluids.
- Face coverings are strongly recommended when staff are in the vicinity of others. Workers and volunteers should have face coverings available and wear them when at all facilities, in offices, when making home visits as part of providing services, or in a vehicle during work-related travel with others. Face coverings must not be shared. Places of worship are generally encouraged to provide face coverings but must provide them when required by employer rules or these guidelines.
- Staff, volunteers, etc. should not enter the home or visit someone who as tested positive for, exhibited symptoms of, or has been in contact with someone infected with COVID-19 for an appropriate waiting period as [described by CDC guidelines](#).
- Places of worship must take reasonable measures, including posting signage in strategic and highly-visible locations, to remind congregants/visitors that they should use face coverings and practice physical distancing whenever possible. Babies and children under age two should not wear face coverings, in accordance with [CDC guidelines](#).

- Use social media, website, texts, email, newsletters, etc., to communicate the steps being taken to protect congregants/visitors and staff so that they are familiar with the policies (including to stay home if experiencing symptoms or are at increased risk of becoming sick, face coverings, physical distancing, handwashing and/or sanitizing, and cough etiquette), before arriving at the facility. Staff and volunteers are strongly encouraged to remind congregants/visitors of these practices with announcements during services or on welcoming guests.
- Congregants/visitors should be screened for temperature and/or symptoms upon arrival to places of worship and asked to use hand sanitizer and to wear face coverings.



## Cleaning and Disinfecting Protocols

- Perform thorough cleaning of high traffic areas such as lobbies, halls, chapels, meeting rooms, offices, libraries, and study areas and areas of ingress and egress including stairways, stairwells, handrails, and elevator controls. Frequently disinfect commonly used surfaces including doorknobs, toilets, handwashing facilities, pulpits and podiums, donation boxes or plates, altars, and pews and seating areas.
- Establish frequent cleaning and disinfection of personal work areas such as desks and cubicles and supply the necessary cleaning products. Provide time for workers to implement cleaning practices during their shift. Cleaning assignments should be assigned during working hours as **part of the staff's job duties**.
- Discourage sharing items used in worship and services (such as prayer books, cushions, prayer rugs, etc.) whenever possible and provide single-use or digital copies or ask congregants/visitors to bring personal items instead. Avoid sharing work equipment and supplies, such as phones, office equipment, computers, etc., wherever possible. Never share PPE.
- Where such items must be shared, disinfect between shifts or uses, whichever is more frequent, including the following: shared office equipment (copiers, fax machines, printers, telephones, keyboards, staplers, etc.) and items in shared worship items, etc., with a cleaner appropriate for the surface.
- Ensure that sanitary facilities stay operational and stocked at all times and provide additional soap, paper towels, and hand sanitizer when needed. Consider more frequently cleaning and disinfecting handwashing facilities that are used more often. Use signage to reinforce handwashing.



- Disinfect microphones and stands, music stands, instruments and other items on pulpits and podiums between each use. Consult equipment manufacturers to determine appropriate disinfection steps, particularly for soft, porous surfaces such as foam mufflers.
- Consider using disposable seat covers for congregants/visitors, particularly on porous surfaces or where a facility has multiple daily services. Discard and replace seat covers between each use. Provide disposable or washable covers on pillows used as seating on floors and change/wash them after each use.
- Install hand sanitizer dispensers, touchless whenever possible, at entrances and contact areas such as meeting rooms, lobbies, and elevator landings.
- When choosing cleaning chemicals, establishments should use products approved for use against COVID-19 on the [Environmental Protection Agency \(EPA\)-approved](#) list and follow product instructions. Use disinfectants labeled to be effective against emerging viral pathogens, diluted household bleach solutions (5 tablespoons per gallon of water), or alcohol solutions with at least 70% alcohol that are appropriate for the surface. Provide staff training on manufacturer's directions and Cal/OSHA requirements for safe use. Workers and volunteers using cleaners or disinfectants should wear gloves or other protective equipment as required by the product instructions.
- Wash religious garments and linens after each service or event, at the highest water setting possible. Ask congregants/visitors to bring their own storage bags for personal garments and shoes. Staff, congregants, and visitors should wear gloves when handling others' dirty linens, shoes, etc.
- Discontinue passing offering plates and similar items that move between people. Use alternative giving options such as secure drop boxes that do not require opening/closing and can be cleaned and disinfected. Consider implementing digital systems that allow congregants/visitors to make touch-free offerings.
- Mark walking paths between spaces designated for congregants/visitors to sit/kneel so that people do not walk where someone may touch their head to the floor.
- During meetings and services, introduce fresh outside air, for example by opening doors/windows (weather permitting) and operating ventilation systems.
- Consider installing portable high-efficiency air cleaners, upgrading the building's air filters to the highest efficiency possible, and making other

modifications to increase the quantity of outside air and ventilation in worship areas, offices, and other spaces.



## Physical Distancing Guidelines

- Places of worship should continue to provide services through alternative methods (such as via internet live and/or recorded streaming, telephone, drive-in, etc.) whenever possible.
- Consider holding in-person meetings and providing in-person services outside whenever possible.
- Implement measures to ensure physical distancing of at least six feet between workers, staff, congregants/visitors, etc. This can include use of physical partitions or visual cues (e.g., floor or pew markings or signs to indicate where people should sit and stand). Reconfigure seating and standing areas to maintain physical distancing of six feet or more between congregants/visitors from different households. Consider limiting seating to alternate rows. Members of the same household may be seated together but should maintain at least six feet of distance from other households.
- Consider dedicating staff to help people maintain distances during activities.
- Shorten services to limit the length of time congregants/visitors spend at facilities whenever possible. This could include limiting speeches, asking congregants/visitors to put on garments at home before arrival, etc.
- Close places of worship for visitation outside of scheduled services, meetings, etc., whenever possible.
- Consider implementing a reservation system to limit the number of congregants/visitors attending facilities at a time. This can include the use of digital platforms or other types of tools.
- Encourage congregants/visitors to meet with the same group, particularly when services meet frequently and/or require a certain number of people to be present. This can reduce the spread of transmission by minimizing the number of different individuals who come into close contact with each other.
- Consider offering additional meeting times (per day or per week) so that fewer guests attend meetings and services at one time. Clean meeting areas between each use as described in this guidance.

- Discontinue large gatherings that encourage congregants/visitors to travel and break physical distances during activities, such as concerts, large holiday and life event celebrations and remembrances.
- Children should remain in the care of those in their household unit and not interact with children of other parties at any time while visiting facilities. Close play areas and discontinue activities and services for children where physical distancing of at least six feet cannot be maintained.
- Encourage congregants/visitors to physically distance themselves from others outside their household, avoid touching surfaces, and to leave the facility if they do not feel well.
- Consider limiting touching for religious and/or cultural purposes, such as holding hands, to members of the same household.
- Dedicate staff to direct guests to meeting rooms upon entry to places of worship rather than congregating in lobbies or common areas. Consider using ushers to help people find places to sit and stand that are at least six feet apart from other guests/household groups. Ask congregants/visitors to arrive and leave in a single group to minimize crossflow of people. Welcome and dismiss congregants/visitors from altars, podiums, meeting rooms, etc. in an orderly way to maintain physical distancing and minimize crossflow of traffic, to the extent possible.
- Prop or hold doors open during peak periods when congregants/visitors are entering and exiting facilities, if possible and in accordance with security and safety protocols.
- Close or restrict common areas, such as break rooms, kitchenettes, foyers, etc. where people are likely to congregate and interact. Consider installing barriers or increase physical distance between tables/seating when there is continued use of these areas.
- Turn off public drinking water fountains and place signs informing congregants/visitors they are inoperable.
- Remove from service or find low-community touch alternatives for communal/religious water containers such as fonts, sinks, and vessels. Empty and change water between uses. Where there is a possibility of contaminant splash, staff, congregants, visitors, etc., are strongly encouraged to use equipment to protect the eyes, nose, and mouth using a combination of face coverings, protective glasses, and/or face shields. Reusable protective equipment such as shields and glasses should be properly disinfected between uses.
- When washing is a required activity, modify practices whenever possible to limit splashing and the need to clean and disinfect washing facilities.

Encourage necessary washing to be performed at home prior to entering a facility, if possible.

- Reconfigure podiums and speaker areas, office spaces, meeting rooms, conference rooms, etc., to allow for at least six feet between people. Face coverings are strongly recommended at all times for congregants/visitors and staff, especially when physical distance of at least six feet is not possible.
- Establish directional hallways and passageways for foot traffic, if possible, and designate separate routes for entry and exit into meeting rooms, offices, etc., to help maintain physical distancing and lessen the instances of people closely passing each other.
- Limit the number of individuals riding in an elevator and ensure the use of face coverings. Post signage regarding these policies.
- Utilize practices, when feasible and necessary, to limit the number of staff and congregants/visitors in office, meeting spaces, etc., at one time. This may include scheduling (e.g. staggering start/end times), establishing alternating days for onsite reporting, returning to places of worship in phases, or continued use of telework when feasible.
- Consider offering workers and volunteers who request modified duties options that minimize their contact with congregants/visitors and other staff (e.g., office duties rather than working as an usher or managing administrative needs through telework).
- Stagger staff breaks, in compliance with wage and hour regulations, to maintain physical distancing protocols.
- Discontinue nonessential travel and encourage distance meetings via phone and internet.
- Close self-service item selection such as pamphlet displays and bookshelves and provide these items to congregants/visitors individually as necessary. Consider delivering items and information electronically.
- Consider limiting the number of people that use the restroom at one time to allow for physical distancing.
- Discourage staff, congregants, visitors, etc., from engaging in handshakes, hugs, and similar greetings that break physical distance. Take reasonable measures to remind people to wave or use other greetings.
- Reconfigure parking lots to limit congregation points and ensure proper separation (e.g., closing every other space). If performing drive-in

services, ensure vehicle windows and doors are closed if six feet of distance is not possible between vehicles.

- Continue to support non-in person attendance of services and other related activities by those who are vulnerable to COVID19 including older adults and those with co-morbidities.



## Considerations for Places of Worship

- Discontinue offering self-service food and beverages. Do not hold potlucks or similar family-style eating and drinking events that increase the risk of cross contamination. If food and beverages must be served, provide items in single-serve, disposable containers whenever possible. Employees or volunteers serving food should wash hands frequently and wear disposable gloves and face coverings.
- Strongly consider discontinuing singing, group recitation, and other practices and performances where there is increased likelihood for transmission from contaminated exhaled droplets. Modify practices such as limiting the number people reciting or singing, ensuring physical distancing greater than six feet between people, or opt to celebrate these practices outside with physical distancing, etc., if these practices cannot be discontinued.
- Consider modifying practices that are specific to particular faith traditions that might encourage the spread of COVID-19. Examples are discontinuing kissing of ritual objects, allowing rites to be performed by fewer people, avoiding the use of a common cup, offering communion in the hand instead of on the tongue, providing pre-packed communion items on chairs prior to service, etc., in accordance with [CDC guidelines](#).



## Considerations for Funerals

- Consider reduced visitor capacity and stagger visitation times at funerals, wakes, etc., if possible. Follow all cleaning and disinfection measures as described in this guidance. Whenever possible, remind visitors to maintain physical distance from each other, from staff and volunteers, and from the deceased.
- Consider modifying religious or cultural practices when washing or shrouding bodies of those who have died from COVID-19, in accordance with guidance from [CDPH](#) and the [CDC](#). If washing the body or shrouding are important religious or cultural practices, work with funeral home staff and families to reduce exposure as much as possible. All people

participating in these activities must wear disposable gloves and if there will be splashing of fluids, people must use additional protective equipment including protection for the eyes, nose, and mouth, such as face shields.

- Consult and comply with local guidance regarding limits on gathering sizes, travel, holding funerals for those who died from COVID-19, etc.
- Consider other recommendations and modifications of services related to places of worship outlined above, as applicable for funeral services.

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<sup>1</sup>Additional requirements must be considered for vulnerable populations. Places of worship must comply with all [Cal/OSHA](#) standards and be prepared to adhere to its guidance as well as guidance from the [Centers for Disease Control and Prevention \(CDC\)](#) and the [California Department of Public Health \(CDPH\)](#). Additionally, places of worship must be prepared to alter their operations as those guidelines change.



## APPENDIX 11

## **Guidance of Closure of Sectors in Response to COVID-19**

## **Guidance on Closure of Sectors in Response to COVID-19**

**July 13, 2020**

### **Summary**

COVID-19 transmission rates continue to rise across the state, including increasing numbers of cases in rural counties that had not previously experienced significant infection rates. Despite the closure of certain indoor sectors in counties on the County Monitoring list, those counties continue to demonstrate concerning levels of disease transmission that impact not only the general population but vulnerable populations in the community.

This guidance and the Statewide Public Health Officer Order, dated July 13, 2020:

- Closes, on a statewide basis, indoor operations for certain sectors, and both indoor and outdoor operations for bars and similar establishments, consistent with the June 28 and July 1 restrictions on counties on the County Monitoring List.
- Closes, for counties on the County Monitoring List for three or more consecutive days, indoor operations for additional sectors which promote the mixing of populations beyond households and make adherence to physical distancing with face coverings difficult. Within these sectors, and in the affected counties, those specified businesses that are not able to continue their business through outdoor operations must close that portion of their business effective immediately in order to further mitigate the spread of the virus.

### **Background**



As part of the State's efforts to address COVID-19, the State monitors county specific data to determine whether and how to modify the pace of reopening. Additionally, the State provides technical assistance, support and interventions to counties that have concerning levels of disease transmission, hospitalizations, or insufficient testing. Counties on the County Monitoring List are under active monitoring by the State, and may receive targeted engagement and technical support from CDPH and other agencies and departments including the Business, Consumer Services and Housing Agency, the Department of Industrial Relations and the California Department of Food and Agriculture.

As of July 13, there are 29 counties that have been on the County Monitoring List for three consecutive days:

- Colusa
- Contra Costa
- Fresno
- Glenn
- Imperial
- Kings
- Los Angeles
- Madera
- Marin
- Merced
- Monterey
- Napa
- Orange
- Placer
- Riverside
- Sacramento
- San Benito
- San Bernardino
- San Diego
- San Joaquin
- Santa Barbara
- Solano
- Sonoma
- Stanislaus
- Sutter
- Tulare
- Ventura
- Yolo

- Yuba

#### **Actions Taking Effect Immediately**

Given current rates of disease transmission and the increase in hospitalization and ICU utilization, CDPH is:

- Closing, on a statewide basis, consistent with the [June 28](#) and [July 1](#) restrictions on counties on the County Monitoring List, the following sectors:
  - Dine-in Restaurants (indoor)
  - Wineries and Tasting Rooms (indoor)
  - Movie Theater (indoor)
  - Family Entertainment Centers (indoor)
  - Zoos and Museums (indoor)
  - Cardrooms (indoor)
  - Brewpubs, breweries, bars, and pubs (indoor and outdoor), unless an exception below applies:
    1. Bars, pubs, brewpubs, and breweries, may operate outdoors if they are offering sit-down, outdoor, dine-in meals. Alcohol can be sold only in the same transaction as a meal. When operating outdoors, they must follow the dine-in restaurant guidance and should continue to encourage takeout and delivery service whenever possible.
    2. Bars, pubs, brewpubs, and breweries that do not provide sit-down meals themselves, but can contract with another vendor to do so, can serve dine-in meals when operating outdoors provided both businesses follow the dine-in restaurant guidance and alcohol is sold only in the same transaction as a meal.
    3. Venues that are currently authorized to provide off sale beer, wine, and spirits to be consumed off premises and do not offer sit-down, dine-in meals must follow the guidance for retail operations and offer curbside sales only.
    4. Concert, performance, or entertainment venues must remain closed until they are allowed to resume modified or full operation through a specific reopening order or guidance. Establishments that serve full meals must discontinue this type of entertainment until these types of activities are allowed to resume modified or full operation.

- Closing, for counties on the Monitoring List for three or more consecutive days, additional **indoor** operations for certain sectors which promote the mixing of populations beyond households and make adherence to physical distancing with face coverings difficult. Within those sectors, those that are not able to continue their business through outdoor operations must close that portion of their business effective immediately in order to further mitigate the spread of the virus. This applies to the following sectors/events:
  - Gyms and Fitness Centers
  - Places of Worship
  - Indoor Protests
  - Personal Care Services (including nail salons, massage parlors, and tattoo parlors)
  - Hair Salons and Barbershops
  - Malls

These actions remain in effect until further notice.

All industry or sector guidance documents that have been issued to date, including all infectious control measures outlined in those guidance documents, including the [use of face coverings](#), which is mandated statewide apply in outdoor settings, and thus must be adhered to. Outdoor operations may be conducted under a tent, canopy, or other sun shelter, but only as long as no more than one side is closed, allowing sufficient outdoor air movement.

### **Justification**

The data is clear that community spread of infection is of increasing concern across the state, and continues to grow in those counties on the County Monitoring List. The number of hospitalized patients with COVID has increased between 50-100% in all regions in California, with a state average increase of 77% since June 12. In that same time, the number of counties with case rates over 100 per 100,000 residents has gone from 3 counties to 31 counties, confirming state-wide increased transmission of COVID. While these counties are primarily located in the south and central valley, there are now counties on the monitoring list from all regions of California. Beyond the impact on the general population, community spread increases the likelihood of expanded transmission of COVID-19 in congregate settings such as nursing homes, homeless shelters, jails and prisons. Infection of vulnerable populations in these settings can be

catastrophic, both in terms of high rates of morbidity and mortality of individual residents, as well as through the high demand such infections would place on the hospital delivery system. We are seeing these increases already in many of the counties. Higher levels of community spread also increase the likelihood of infection among individuals at high risk of serious outcomes from COVID-19, including the elderly and those with underlying health conditions who might live or otherwise interact with an infected individual.

California's Pandemic Resiliency Roadmap for reopening is a risk-based framework that guides state and local governments on a path to re-opening activities and industries under strict workplace modifications. The above outlined sectors operating indoors create an environment that increases levels of community mixing of individuals outside of one's own household, increasing the risk of escalating the R-effective, or effective transmission rate, of COVID-19.

As described in the June 28 [guidance](#) and July 1 [guidance](#), the sectors required to modify operations statewide under this guidance are sectors where there is increased risk of transmission due to a number of features of the business and the behaviors that occur within them. Because of noted trends in community spread statewide, well beyond those on the monitoring list, it is necessary to expand changes made to sectors in our order of June 28 and July 1 statewide.

Additionally, given the increased level of community transmission, this guidance requires additional sectors to close indoor operations in counties on the County Monitoring List for three or more consecutive days. Counties continue to be added to the county monitoring list and evidence of community transmission persists in these jurisdictions, requiring enhanced intervention through the additional sectors modifications.

The rationale for moving activities outdoors to reduce risk is anchored in the science of disease transmission and recent studies show that transmission is greater in indoor settings due to the release of infectious particles into the air when someone speaks, coughs, sneezes, or sings, which is exacerbated in indoor spaces particularly when lacking appropriate ventilation.

Physical distancing also protects an individual with brief exposures or outdoor exposures. When distanced, there is not enough time to

achieve the infectious viral load when standing six (6) feet apart or where wind and the infinite outdoor space for viral dilution reduces viral load. A study, which still needs to be peer-reviewed, suggests that the odds an infected person transmitting the virus in a closed environment was 18.7 times greater compared to an open-air environment. (1)

In the setting of an increasing body of evidence demonstrating that transmission is decreased when activities are conducted outside, and risk for exposure is increased when mixing beyond those with whom one lives, in an effort to mitigate to potential spread of COVID 19, the state is requiring that additional settings where patrons gather to be served or participate in the businesses' primary activity be moved outdoors.

(1) Nishiura et al. (2020)

## **July 1, 2020**

### **Summary**

As COVID-19 transmission rates continue to rise, this guidance instructs counties that have been on the County Monitoring List for three consecutive days or more to close indoor operations for certain sectors which promote the mixing of populations beyond households and make adherence to physical distancing with face coverings difficult. Within those sectors, those that are not able to continue their business through outdoor operations must close that portion of their business effective immediately for at least three (3) weeks, in order to further mitigate the spread of the virus. In addition, all brewpubs, breweries, bars, and pubs in these counties must close, both indoors and outdoors, unless they are offering sit down, dine-in meals as described under the actions section of the [guidance](#) issued on June 28.

### **Background**

As part of the State's efforts to address COVID-19, the State monitors county specific data and provides technical assistance, support and interventions to counties that have concerning levels of disease transmission, hospitalizations, or insufficient testing. Counties on the County Monitoring List are under active monitoring by the state, and may receive targeted engagement and technical support from CDPH and other agencies and departments including the Business,

Consumer Services and Housing Agency, the Department of Industrial Relations and the California Department of Food and Agriculture.

As of July 1, there are 19 counties on the County Monitoring List, which includes:

- Contra Costa
- Fresno
- Glenn
- Imperial
- Kern
- Kings
- Los Angeles
- Merced
- Orange
- Riverside
- Sacramento
- San Bernardino
- San Joaquin
- Santa Barbara
- Santa Clara
- Solano
- Stanislaus
- Tulare
- Ventura

To reduce disease transmission and to protect residents across the state, one strategy available to the state is to work with counties to further modify or close some or all of the sector openings currently allowed under the State order.

### **Proposed Action**

Given current rates of disease transmission in some counties and the need to reduce gatherings where mixing with individuals outside of one's household and disease spread occur, CDPH is requiring closure, within counties on the county monitoring list for three or more consecutive days, of indoor operations, while allowing outdoor operations with appropriate modifications, including physical distancing and face coverings, for the following sectors:

- Dine-in Restaurants
- Wineries and Tasting Rooms
- Movie Theaters
- Family Entertainment Centers
- Zoos and Museums
- Cardrooms

All industry or sector guidance documents that have been issued to date, including all infectious control measures outlined in those guidance documents, apply in outdoor settings, and thus must be adhered to. In addition, all brewpubs, breweries, bars, and pubs must close indoor and outdoor operations in these counties.

### **Justification**

The data is clear that community spread of infection is of increasing concern across the state, and in particular for those counties on the County Monitoring List. Beyond the impact on the general population, community spread increases the likelihood of expanded transmission of COVID-19 in congregate settings such as nursing homes, homeless shelters, jails and prisons. Infection of vulnerable populations in these settings can be catastrophic, both in terms of high rates of morbidity and mortality of individual residents, as well as through the high demand such infections would place on the hospital delivery system. We are seeing these increases already in many of the counties. Higher levels of community spread also increase the likelihood of infection among individuals at high risk of serious outcomes from COVID-19, including the elderly and those with underlying health conditions who might live or otherwise interact with an infected individual.

California's Pandemic Resiliency Roadmap for reopening is a risk-based framework that guides state and local governments on a path to re-opening industries under strict workplace modifications. Whereas other industries and establishments were permitted to open with modifications in Stage 2 or Stage 3, the above outlined sectors operating indoors operate at the highest risk of all sectors allowed to open so far. These specific sectors also create an environment that increases levels of community mixing of individuals outside of one's own household, increasing the risk of escalating the R-effective, or effective transmission rate, of COVID-19.

The sectors at issue in this document are all high risk of transmission due to a number of features of the businesses and the behaviors that occur within them. These sectors, foundationally, are settings where groups convene and may mix with others for prolonged periods of time without appropriate protective equipment, such as a face covering. For example, it is difficult to consistently wear a face covering in a restaurant. Additionally, physical movement within the establishment, duration of time spent in the establishment, and the degree of social mixing among individuals and groups outside one's household are all significant in these sectors, which substantially elevates the risk of transmission even where face coverings can be worn.

The risk is particularly high in indoor settings. Reinstating indoor closures among these sectors is not only important because of data from counties on the monitoring list, but because the science of disease transmission and from recent studies have shown that the transmissions is greater in indoor settings due to the release of infectious particles into the air when someone speaks, coughs, sneezes, or sings, which is exacerbated in indoor spaces particularly when lacking appropriate ventilation. Furthermore, in some of these sectors centered on eating and drinking, compliance with face coverings is not possible for the full duration of time someone spends in these establishments. Additionally, the workforce of these sectors face higher exposure to diseases transmission because of the environment in which they work.

A recent study published by the Centers for Disease Control and Prevention, for example, demonstrates clearly the effect of a single asymptomatic carrier in a restaurant environment. The study shows that approximately 50 percent of the people at the infected person's table become sick over seven (7) days, 75 percent of the people on



the adjacent table that is downwind in the interior ventilation system become infected, and even two of seven people on the upwind table become infected. (1)

Physical distancing also protects an individual with brief exposures or outdoor exposures. When distanced, there is not enough time to achieve the infectious viral load when standing six (6) feet apart or where wind and the infinite outdoor space for viral dilution reduces viral load. A study, which still needs to be peer-reviewed, suggests that the odds an infected person transmitting the virus in a closed environment was 18.7 times greater compared to an open-air environment. (2)

Alcohol consumption slows brain activity, reduces inhibition, and impairs judgment, factors which contribute to reduced compliance with recommended core personal protective measures, such as the mandatory use of face coverings and maintaining six feet of distance from people outside of one's own household, making outdoor operations for brewpubs, breweries, bars, and pubs challenging, further creating opportunities for virus transmission and thus need for closure. Additionally, there is a growing body of evidence tracing large COVID-19 outbreaks in both urban and rural states, to indoor and outdoor operations of bars.

In the setting of an increasing body of evidence demonstrating that transmission is decreased when activities are conducted outside, and risk for exposure is increased when mixing beyond those with whom one lives, in an effort to mitigate to potential spread of COVID 19, the state is requiring that settings where patrons gather to be served or participate in the businesses' primary activity be moved outdoors.

(1) Lu, J., Gu, J., Li, K., Xu, C., Su, W., Lai, Z....Yang, Z. (2020). COVID-19 Outbreak Associated with Air Conditioning in Restaurant, Guangzhou, China, 2020. *Emerging Infectious Diseases*, 26(7), 1628-1631. <https://dx.doi.org/10.3201/eid2607.200764>.

(2) Nishiura et al. (2020). Closed environments facilitate secondary transmission of coronavirus disease 2019 (COVID-19). <https://www.medrxiv.org/content/10.1101/2020.02.28.20029272v2>.



*California Department of Public Health*

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*Department Website ([cdph.ca.gov](http://cdph.ca.gov))*

*Page Last Updated : July 2, 2020*



California Governor  
Gavin Newsom

## APPENDIX 12

## Menu



# County variance info

Last updated August 17, 2020 at 11:50 AM

## County data monitoring

California is [monitoring COVID-19 closely](#) in each local community and keeping the public informed. We're teaming up with counties to fight it with every tool we have: [current local data](#), testing, contact tracing, infection control, emergency supplies, containment measures, and more.

Counties should be ready to restore limitations if outbreaks increase. The State Public Health Officer may take action if needed.

Effective July 13, 2020, ALL counties must close indoor operations in these sectors:

- Dine-in restaurants
- Wineries and tasting rooms
- Movie theaters
- Family entertainment centers (for example: bowling alleys, miniature golf, batting cages and arcades)
- Zoos and museums
- Cardrooms

Additionally, bars, brewpubs, breweries, and pubs must close all operations both indoor and outdoor statewide, unless they are offering sit-down, **outdoor** dining. Alcohol can only be sold in the same transaction as a meal.

Counties that have remained on the County Monitoring List for 3 consecutive days will be required to shut down the following industries or activities unless they can be modified to operate outside or by pick-up.

- Gyms and fitness centers
- Places of worship and cultural ceremonies, like weddings and funerals
- Offices for non-critical infrastructure sectors
- Personal care services, like nail salons and body waxing
- Hair salons and barbershops
- Shopping malls

Shops that offer tattoos, piercings and electrolysis may not be operated outdoors and must close.

## **County monitoring list updates (8/17/2020)**

California Department of Public Health has updated the County Monitoring List (CML) now that the recent backlog of data has been cleared. As a result, CDPH has retroactively updated the list for each day over the entire period impacted (July 25 – August 16).

If a county should have moved off the CML while the list was frozen, that date is being calculated retroactively. The calculation will use the first date after three consecutive days of being under the threshold for the CML metrics.

If a county moved onto the CML during the period the list was frozen (August 1 through August 16), to implement sector closures in compliance with the July 13 order. New closures must be effective by 11:59pm, August 19th.

Counties on the list below are currently on the County Monitoring List. Retroactive dates were added for counties newly added during the list freeze:

### **County Monitoring List**

1. Alameda
2. Amador – 7/25/2020
3. Butte
4. Calaveras – 8/13/2020
5. Colusa
6. Contra Costa
7. Fresno
8. Glenn

9. Imperial
10. Inyo – 8/6/2020
11. Kern
12. Kings
13. Los Angeles
14. Madera
15. Marin
16. Mendocino – 7/25/2020
17. Merced
18. Mono
19. Monterey
20. Napa
21. Orange
22. Placer
23. Riverside
24. Sacramento
25. San Benito
26. San Bernardino
27. San Diego
28. San Francisco
29. San Joaquin
30. San Luis Obispo
31. San Mateo
32. Santa Barbara
33. Santa Clara
34. Sierra – 8/15/2020
35. Solano
36. Sonoma
37. Stanislaus
38. Butte

38. Sutter

39. Tulare

40. Ventura

41. Yolo

## **The following counties are no longer on the County Monitoring List:**

- Santa Cruz as of 8/14/2020

Once a county appears on the County Monitoring List for three consecutive days, indoor operations in the sectors listed in Section 3 of the [July 13<sup>th</sup> State Health Officer Order](#) must close.

- The July 13<sup>th</sup> order specifies that these indoor operations shall remain closed, even when a county is removed from the County Monitoring List, until the State Health Officer modifies the Order and authorizes re-opening.
- The State of California is actively reassessing the July 13 order in light of evolving scientific evidence regarding disease transmission and the risk of transmission in different settings and will provide updates in the coming week

[Learn more on the CDPH County Monitoring List page here.](#)

The State Public Health Officer may take additional action if needed.

## **Track county data and monitoring status**

- Campgrounds and outdoor recreation

The following industries must close indoor operations, but they may be modified to operate outside or by pick-up:

- Dine-in restaurants
- Wineries and tasting rooms
- Movie theaters
- Family entertainment centers (for example: bowling alleys, miniature golf, batting cages and arcades)
- Zoos and museums
- Cardrooms
- Gyms and fitness centers
- Personal care services, like nail salons and body waxing
- Places of worship and cultural ceremonies, like weddings and funerals
- Offices for non-critical infrastructure sectors
- Shopping malls

## For counties without attestations

- [Industries open statewide](#)

## County attestation process

Local health jurisdictions that meet the criteria set forth by the California Department of Public Health and follow the process in the [county guidance](#) may move further ahead in the Resilience Roadmap.

If a county decides to pursue a variance to move further ahead in the Resilience Roadmap, the local public health officer must:

1. Notify the California Department of Public Health (CDPH).



2. Certify through submission of a written attestation to CDPH that the county has met the readiness criteria (outlined below), including guidance to be issued by the county and detailed plans, and that the county is designed to mitigate the spread of COVID-19.

See the [list of counties](#) that have met the criteria.

The three steps below outline the county data monitoring process.



**STEP 1:**

**Active Data Monitoring**



**STEP 2:**

**Targeted Engagement with CDPH**



**STEP 3:**

**Reinstitute Community Measures**

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Yes

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**COVID-19 hotline:** 1-833-422-4255 M-F 8AM-8PM, Sa-Su 8AM-5PM

Official California State Government Website

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**Note:** There were 6,469 newly recorded confirmed cases Sunday. Numbers do not represent true day-over-day change as these results include cases from prior to yesterday.

## What is allowed to open in my county?

Use the map above to see which category your county falls into. See [guidance for each of the mentioned industries](#).

### For attested counties not on Monitoring List

- [Industries open statewide](#)
- Dine-in restaurants (outdoors only)
- Wineries and tasting rooms (outdoors only)
- Family entertainment centers (outdoors only)
- Zoos and museums (outdoors only)
- Cardrooms (outdoors only)
- Casinos
- Gyms and fitness centers
- Hotels (for tourism and individual travel)
- Campgrounds and outdoor recreation
- Personal care services, like nail salons and body waxing
- Hair salons and barbershops

### For counties on Monitoring List for 3 consecutive days

- [Industries open statewide](#)
- Casinos
- Hotels (for tourism and individual travel)

## APPENDIX 13



SANDRA SHEWRY, MPH, MSW  
Acting Director

State of California—Health and Human Services Agency  
**California Department of Public Health**



GAVIN NEWSOM  
Governor

**Statewide Public Health Officer Order,  
August 28, 2020**

On March 19, 2020, the State Public Health Officer issued an order directing all individuals living in the State of California to stay at home except as needed to facilitate authorized activities or to maintain the continuity of operations of critical infrastructure sectors. (See [March 19, 2020 Order](#).) The scope of activities authorized under this order was subsequently modified in additional state public health directives. Then, consistent with Executive Order N-60-20, the State Public Health Officer set out California's path forward from this "Stay-at-Home" Order in California's [Pandemic Resilience Roadmap](#). That Roadmap identified four stages of the pandemic: safety and preparation (Stage 1), reopening of lower-risk workplaces and other spaces (Stage 2), reopening of higher-risk workplaces and other spaces (Stage 3), and finally an easing of final restrictions leading to the end of the stay-at-home order (Stage 4). On July 13, 2020, in response to a significant increase in the spread of COVID-19, the State Public Health Officer ordered the statewide closure of operations in certain high-risk sectors. (See [July 13, 2020 Order](#).) Counties on the County Monitoring List for three consecutive days were also required to close additional indoor operations for certain sectors in order to further slow community transmission.

Community spread of infection remains a significant concern across the state. In addition to the impact on the general population, community spread increases the likelihood of expanded transmission of COVID-19 in congregate settings such as nursing homes, homeless shelters, jails and prisons. Infection of vulnerable populations in these settings can be catastrophic. Higher levels of community spread also increase the likelihood of infection among individuals at higher risk of serious outcomes from COVID-19, including the elderly and those with underlying health conditions who might live or otherwise interact with an infected individual. COVID-19 infection is also disproportionately impacting our essential workforce. The anticipated influenza season is likely to impose additional burdens on the healthcare delivery system, increasing demand for space, supplies, and personnel.

The COVID-19 pandemic continues to evolve, and CDPH is continually monitoring new scientific evidence and improving its understanding of the disease. Based on the current state of the pandemic in California and current scientific understanding of transmission, it is my judgment that it is appropriate to further refine the approach in order to gradually reopen businesses and activities while reducing the risk of increased community spread. A targeted system for sector reopenings which considers both current epidemiological conditions and the latest understanding of transmission risk in certain



sectors will allow CDPH to monitor both counties and sectors for evidence of increased epidemiological risk and will reduce risk as California continues to reopen its economy and protect public health. [California's Plan for Reducing COVID-19 and Adjusting Permitted Sector Activities to Keep Californians Healthy and Safe](#) sets forth in detail the basis for the new Framework.

**NOW, THEREFORE, I, as Acting State Public Health Officer of the State of California, order all of the following:**

1. The updated framework for reopening, which shall be known as California's Plan for Reducing COVID-19 and Adjusting Permitted Sector Activities to Keep Californians Healthy and Safe, will rely on a set of Tiers corresponding to specific epidemiological profiles based on indicators of disease burden including case rates per capita and percent of positive covid-19 tests and proportion of testing and other covid-19 response efforts addressing the most impacted populations within a county. For each progressive Tier, this framework will permit a broader range of reopening guided by risk-based criteria pertinent to each sector. I may modify the epidemiological criteria for each Tier as well as the sectors, businesses, establishments, or activities within the Tiers as necessary based on the latest available public health information and research to protect public health and safety. The up-to-date Tier profiles and those sectors, businesses, establishments, or activities that are permitted to open in each Tier will be posted (along with necessary modifications), at <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/COVID19CountyMonitoringOverview.aspx>.
2. Pursuant to this framework, all local health jurisdictions in the state may reopen specified sectors according to their respective county's Tier. However, a local health jurisdiction that moves to a Tier permitting further reopening must pause for 21 days, or a different period that I identify, before reopening additional sectors.
3. Conversely, a local health jurisdiction must also close sectors according to their respective county's Tier consistent with the timeline and procedures set forth in California's Plan for Reducing COVID-19 and Adjusting Permitted Sector Activities to Keep Californians Healthy and Safe.
4. A local health jurisdiction may continue to implement or maintain more restrictive public health measures if the jurisdiction's Local Health Officer determines that health conditions in that jurisdiction warrant such measures.

### Terms of Orders

5. This order shall go into effect August 31, 2020 and shall supersede the July 13, 2020 State Public Health Officer Order.
6. This order shall remain in effect until I determine it is appropriate to modify the order based on public health conditions.
7. I will continue to monitor the epidemiological data and will modify California's Plan for Reducing COVID-19 and Adjusting Permitted Sector Activities to Keep Californians Healthy and Safe as required by the evolving public health conditions. If I determine that it is necessary to change what will reopen or close, or otherwise modify the Plan, these modifications will be posted at [California's Plan for Reducing COVID-19 and Adjusting Permitted Sector Activities to Keep Californians Healthy and Safe](#).
8. Except to the extent this order or other state public health directives expressly provide otherwise, all CDPH guidance continues to apply statewide.
9. All references in CDPH or other State guidance to the County Monitoring List or the County Data Monitoring List shall refer to those counties falling within Tier 1 of California's Plan for Reducing COVID-19 and Adjusting Permitted Sector Activities to Keep Californians Healthy and Safe.
10. This order is issued pursuant to Health and Safety Code sections 120125, 120130(c), 120135, 120140, 120145, 120150, 120175, 120195 and 131080; EO N-60-20, N-25-20, and other authority provided for under the Emergency Services Act; and other applicable law.



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Erica S. Pan, MD, MPH  
Acting State Public Health Officer  
California Department of Public Health



## APPENDIX 14

## COVID-19

# Blueprint for a Safer Economy

California has a blueprint for reducing COVID-19 in the state with revised criteria for loosening and tightening restrictions on activities. Every county in California is assigned to a tier based on its test positivity and adjusted case rate for tier assignment. Additionally, a health equity metric took effect on October 6, 2020. In order to advance to the next less restrictive tier, each county will need to meet an equity metric or demonstrate targeted investments to eliminate disparities in levels of COVID-19 transmission, depending on its size. The California Health Equity Metric is designed to help guide counties in their continuing efforts to reduce COVID-19 cases in all communities and requires more intensive efforts to prevent and mitigate the spread of COVID-19 among Californians who have been disproportionately impacted by this pandemic.

## Updates as of 12/08/2020:

- CDPH continues to implement and operate the Blueprint For a Safer Economy under the emergency brakes action announced on November 9, 2020. Counties who are not currently under a regional Stay at Home Order may be moved to a more restrictive tier based on Blueprint data assessed each week. Once announced, the county is required to implement tier related restrictions by 11:59pm the next day.
- Thereafter, if a county enters into a regional Stay at Home Order based on ICU capacity, the restrictions associated with that order would take effect.
- In light of the recent, unprecedented surge in rate of increase of cases, notwithstanding the Blueprint framework outlined below, the following changes have been effective since 11/9/2020 and will stay in place until further notice:
  - Tier assignments may occur any day of the week and may occur more than once a week when CDPH determines that the most recent reliable data indicate that immediate action is needed to address COVID-19 transmission in a county.
  - Counties may be moved back more than one tier if CDPH determines that the data support the more intensive intervention. Key considerations will include the rate of increase in new cases and/or test positivity, more recent data as noted below, public health capacity, and other epidemiological factors.
  - The most recent reliable data will be used to complete the assessment.
- The California Blueprint Data Chart (Excel) has been updated to show county tier status, date of tier assignment, adjusted case rate for tier assignment, countywide test positivity, and the Health Equity quartile test positivity.
- County requests for tier adjudication will *not* hold the county in the current tier during adjudication, and given the current environment of rapidly escalating cases and widespread disease transmission across California, tier adjudication requests are unlikely to be approved unless unique, extreme circumstances and data are submitted justifying how the county is not impacted by the statewide increases.

## Additional information about the Blueprint:

- Find the status of activities in your county
- Understand which activities and businesses are open in the four tiers (PDF)
- Learn more about the California Health Equity Metric and the Targeted Equity Investment Plans from each county
- County Tier Adjudication Request
- Explore the complete data by county - California Blueprint Data Chart (Excel)
- Find archived California Blueprint Data Charts
- Proyecto para una economía más segura | For other languages, visit our Multilingual Documents page

## Plan for Reducing COVID-19 and Adjusting Permitted Sector Activities to Keep Californians Healthy and Safe

This guidance outlines an updated framework for a safe progression of opening more businesses and activities in light of the pandemic. The framework for this guidance is informed by increased knowledge of disease transmission vulnerabilities and risk factors and is driven by the following goals:

1. To progress in phases based on risk levels with appropriate time between each phase in each county so impacts of any given change can be fully evaluated.
2. To aggressively reduce case transmission to as low a rate as possible across the state so the potential burden of flu and COVID-19 in the late fall and winter does not challenge our healthcare delivery system's ability to surge with space, supplies and staff. Also, with winter weather pushing more activities indoors, low levels of transmission in the community will make large outbreaks in these riskier settings less likely.
3. To simplify the framework and lay out clear disease transmission goals for counties to work towards.

## Tier Framework

This framework lays out the measures that each county must meet, based on indicators that capture disease burden, testing, and health equity. A county may be more restrictive than this framework. This framework also notes signals of concern, including impacted healthcare capacity that may lead towards a dimming intervention. This framework replaces the former County Data Monitoring metrics. As the COVID-19 pandemic continues to be an evolving situation and new evidence and understanding emerges, the California Department of Public Health (CDPH), in collaboration with other State officials, will continue to reassess metrics and thresholds.

See chart below for the framework metrics as set according to tiers based on risk of community disease transmission. Calculation of metrics is described in Appendix 1. Description of the Health Equity Metric can be found on the Health Equity Metric page.

	Higher Risk <span style="font-size: 0.8em;">→</span> Lower Risk of Community Disease Transmission***			
	Widespread Tier 1	Substantial Tier 2	Moderate Tier 3	Minimal Tier 4
<b>Measure</b>				
<b>Adjusted Case Rate for Tier Assignment**</b> (Rate per 100,000 population* excluding prison cases^, 7 day average with 7 day lag)	>7	4-7	1-3.9	<1
<b>Testing Positivity^</b> (Excluding prison cases^, 7 day average with 7 day lag)	>8%	5-8%	2-4.9%	<2%

Metrics with values greater than or less than tier cut points by 0.05 are rounded up or down using conventional rounding rules.

^Excludes state and federal inmates, ICE facility residents, State Hospital inmates and US Marshal detainees

\*Population denominators from the Department of Finance: State Population Projections - Total Population by County- Table P-1

\*\*Case rate will be determined using cases confirmed by PCR

\*\*\* Counties are assigned a tier based on two metrics: test positivity and case rate. Large counties with populations greater than approximately 106,000 must also meet the health equity metric described on the Health Equity Metric page in order to advance to a less restrictive tier.

The case rate is adjusted based on testing volume per 100,000 population as described below. Due to variability in data, this adjustment does not apply to small counties (defined as those with a population less than 106,000 residents).

As counties focus on increased testing in their health equity quartiles and to support school openings, they are likely to experience an increased number of cases. We want to avoid disincentivizing increased testing, provided that test positivity is low and there is sufficient capacity for contact tracing and isolation. We are therefore increasing the adjustment for higher volume testing.

- For counties with testing volume above the state median, the factor is less than 1, decreasing in a linear manner from 1.0 to 0.5 as testing volume increases from the state median to 2x the state median. The factor remains at 0.5 if the testing volume is greater than 2x the state median.
- For counties with testing volume below the state median, the factor is greater than 1, increasing in a linear manner from 1.0 to 1.4 as testing volume decreases from the state median to zero. However, this adjustment for low testing volume will not be applied to counties with a test positivity < 3.5%.

### California COVID-19 Case Rate Adjustment Factor

Testing Volume	Case Rate Adjustment Factor*
0	1.4
0.25* State Median	1.3
0.50* State Median	1.2
0.75* State Median	1.1
State Median	1
1.25* State Median	0.875
1.5* State Median	0.75
1.75* State Median	0.625
2.0*State Median and above	0.5

- Counties with fewer than 106,000 residents, will be exempted from case rate adjustments, and counties with test positivity <3.5% will be exempted from adjustment for testing rates lower than the state median.
- If the two metrics are not within the same tier, the county's tier assignment will be determined by the more restrictive of the two. For example, if a county's test positivity corresponds to tier 3 (orange, moderate), but the case rate corresponds to tier 1 (purple, widespread), the county will be assigned as tier 1. Movement will be determined by criteria described below.

# Moving through the Tiers

## Rules of the framework:

- CDPH will assess indicators weekly on Mondays and release updated tier assignments on Tuesdays.
- A county must remain in a tier for a minimum of three weeks before being able to advance to a less restrictive tier.
- A county can only move forward one tier at a time, even if metrics qualify for a more advanced tier.
- If a county's adjusted case rate for tier assignment and test positivity measure fall into two different tiers, the county will be assigned to the more restrictive tier.
- The health equity metric is applied to jurisdictions with populations greater than 106,000. Rules of the health equity metric are described on the Health Equity Metric page.
- City local health jurisdiction (LHJ) data will be included in overall metrics, and city LHJs will be assigned the same tier as the surrounding county
- An LHJ may continue to implement or maintain more restrictive public health measures if the local health officer determines that health conditions in that jurisdiction warrant such measures.
- Tier status goes into effect the Wednesday following each weekly tier assignment announcement on Tuesdays.

## To advance:

1. A county must have been in the current tier for a minimum of three weeks.
2. A county must meet criteria for the next less restrictive tier for both measures for the prior **two** consecutive weeks in order to progress to the next tier.
3. In addition, counties must meet the health equity criteria to demonstrate the county's ability to address the most impacted communities within a county.

### **To move back:**

1. During the weekly assessment, if a county's adjusted case rate and/or test positivity has fallen within a more restrictive tier for two consecutive weekly periods, the state will review the most recent 10 days of data, and if CDPH determines there are objective signs of improvement the county may remain in the tier. If the county's most recent 10 days data does not show objective signs of improvement the county must revert to the more restrictive tier. For subsequent weekly assessments, the above rules apply.
2. At any time, state and county public health officials may work together to determine targeted interventions or county wide modifications necessary to address impacted hospital capacity and drivers of disease transmission, as needed, including movement across more than one tier. Key considerations will also include the rate of increase in new cases and/or test positivity, more recent data as noted above, public health capacity, and other epidemiological factors.
3. Counties with a population less than 106,000 will have a small county criteria applied to it to ensure movement to a more restrictive tier is appropriate. Description of the small county framework is below.
4. Counties will have three days, beginning the Wednesday after tier assignments are announced on Tuesdays, to implement any sector changes or closures unless extreme circumstances merit immediate action.

## **Small County Framework**

Because California's case rate metric is normalized per 100,000 population, a number of counties with small populations have experienced large swings in their daily case rate as a result of a small number of newly reported cases. For some counties, this has raised the specter of needing to move back to a more restrictive tier despite overall disease stability and a demonstrated ability to trace, follow up with, investigate and support cases.

For example, once a small county is in yellow tier, a small number of cases – as low as 1 case per week for 2 consecutive weeks – could cause it to return to a more restrictive tier. While the overall proportion of cases may be the same as a larger county, the absolute number of cases is also an important consideration in gauging county capacity to control transmission through disease investigation, contact tracing and supportive isolation.

It is not in the interest of the public health of communities to close or restrict entire business sectors on the basis of such a small number of cases, and in some situations a small swing in week over week case counts can move a county from yellow tier all the way to purple tier. Because the state wants to avoid swift shifts in tier status based on small absolute case number changes, we are creating an alternate case assessment measure to apply to small counties. Small counties are defined as having fewer than 106,000 residents.[1]

**Alternate Case Assessment Measure.** Small counties are subject to all existing Blueprint rules (test positivity thresholds, minimum duration of 3 weeks in a tier before moving to a less restrictive tier, inability to skip over a tier while moving from more restrictive to less restrictive tier designations, etc.) with the exception of the case rate thresholds as delineated below.

The alternate case assessment measure provides a small county protection against sudden tier changes as a result of small increases in cases.

For a small county that has test positivity that meets the threshold of that county's currently assigned tier, but is flagged for potentially moving to a more restrictive tier based on its weekly case rate assessment, the following criteria shall be applied in lieu of the Blueprint case rate thresholds.

If the county exceeds the following absolute weekly case numbers based on its population and tier for two consecutive weeks, it will be required to move to a more restrictive tier:

Current Tier	Pop ≤ 35K	Pop 35K-70K	Pop 70K-106K
Yellow	7	14	21
Orange	14	21	28
Red	35	42	49

### Movement into Yellow Tier

In moving from purple to red or red to orange tiers, small counties are subject to all existing Blueprint rules (test positivity thresholds, minimum duration of 3 weeks in a tier before moving to a less restrictive tier, inability to skip over a tier while moving from more restrictive to less restrictive tier designations, etc.).

For a small county to move from the orange to yellow tier, it must meet the existing test positivity threshold of less than 2%. However, in lieu of meeting the established daily case rate threshold for yellow tier of less than 1 case per 100,000, a small county is allowed to have a daily case rate of less than or equal to 2 cases per 100,000. Of note, these are the same parameters used for the health equity acceleration criteria to yellow tier.

[1] Twenty-two California counties have a population of less than 100,000. Sutter, which has a population of 106,000 is also included as it shares a health officer with Yuba County. Counties below this size have similar challenges and opportunities in controlling COVID-19 transmission and generally do not have major or large, densely populated cities. This distinction factors into how rapidly COVID-19 transmission can increase beyond households and the ability of the county to rapidly identify and contain outbreaks with existing contact tracing, isolation and quarantine resources.

### Risk Criteria

Activities and sectors will begin to open at a specific tier based on risk-based criteria (PDF), as outlined below. Lower risk activities or sectors are permitted sooner and higher risk activities or sectors are not permitted until later phases. Many activities or sectors may increase the level of operations and capacity as a county reduces its level of transmission.

#### Criteria used to determine low/medium/high risk sectors

- Ability to accommodate face covering wearing at all times (e.g. eating and drinking would require removal of face covering)
- Ability to physically distance between individuals from different households

- Ability to limit the number of people per square foot
- Ability to limit duration of exposure
- Ability to limit amount of mixing of people from differing households and communities
- Ability to limit amount of physical interactions of visitors/patrons
- Ability to optimize ventilation (e.g. indoor vs outdoor, air exchange and filtration)
- Ability to limit activities that are known to cause increased spread (e.g. singing, shouting, heavy breathing; loud environs will cause people to raise voice)

Schools

Schools may reopen for in-person instruction based on equivalent criteria to the July 17 School Re-opening Framework (PDF) previously announced. That framework remains in effect except that Tier 1 is substituted for the previous County Data Monitoring List (which has equivalent case rate criteria to Tier 1). Schools in counties within Tier 1 are not permitted to reopen for in-person instruction, with an exception for waivers granted by local health departments for TK-6 grades. Schools that are not authorized to reopen, including TK-6 schools that have not received a waiver, may provide structured, in-person supervision and services to students under the Guidance for Small Cohorts/Groups of Children and Youth.

Schools are eligible for reopening at least some in-person instruction following California School Sector Specific Guidelines once the county is out of Tier 1 (and thus in Tier 2) for at least 14 days, which is similar to being off the County Data Monitoring List for at least 14 days. The first day a county is considered in Tier 2 is the Wednesday after the weekly county tier assignments are announced and posted on the CDPH website (Tuesdays). For example, if a county is assigned to Tier 2 on Tuesday, October 13, the first full day the county is in Tier 2 is Wednesday, October 14. The county will have completed 14 days in Tier 2 on Tuesday, October 27 and may reopen schools for in-person instruction on Wednesday, October 28. As noted above, an LHJ may continue to implement or maintain more restrictive public health measures if the local health officer determines that health conditions in that jurisdiction warrant such measures.

As stated in the July 17 School Re-opening Framework (PDF), schools are not required to close if a county moves back to Tier 1, but should consider surveillance testing of staff. However, if a school or district had not already reopened for in-person instruction while in Tier 2 and is then moved to Tier 1, it may not reopen those schools until the county moves back to Tier 2 and remains in Tier 2 for 14 days.

County Tier Adjudication Process

For more information, visit our County Tier Adjudication Request page.

APPENDIX 1: Calculation of metrics

Metric	Definition
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<p><b>Case Rate (rate per 100,000 excluding prison cases, 7-day average with 7-day lag)</b></p>	<p>Calculated as the average (mean) daily number of COVID-19+ cases, this excludes: (a) persons out of state or with unknown county of residence and (b) persons incarcerated at state or federal prisons, ICE facilities, US Marshal only detention facilities or Department of State Hospitals (identified as cases with an ordering facility name or address associated with these locations), over 7 days (based on episode date), divided by the number of people living in the county/region/state. This number is then multiplied by 100,000. Due to reporting delays, there is a 7-day lag built into this calculation. For example, for data updated through 8/22/20, the case rate will be dated as 8/15/20 and will include the average case rate from 8/9/20 - 8/15/20.</p>
<p><b>Linear adjusted case Rate per 100,000 per day, excluding prisoners (7-day average with 7-day lag)</b></p>	<p>Calculated as the case rate multiplied by a case rate adjustment factor that is based on the difference between the county testing volume (testing volume, tests per 100,000 per day, described below) and the median county testing volume calculated across all counties. The median testing volume thus forms an anchor for this adjustment and is recalculated every four weeks to prevent undue fluctuation while remaining sensitive to evolving testing trends. For counties with a testing volume above the median, the adjustment factor is less than 1, decreasing in a linear manner from 1.0 to 0.5 as testing volume increases from the anchor point to 2x that value. The adjustment factor remains at 0.5 if the county testing volume is greater than 2x the state median. For counties with a testing volume below the state median, the adjustment factor is greater than 1, increasing in a linear manner from 1.0 to 1.4 as county testing volume decreases from the state median to zero. The linear adjustment formula can be expressed mathematically as follows:</p> <p>For counties testing above the state median:</p> $1 - (((\text{county testing rate} - \text{state median testing rate}) / \text{state median testing rate}) * 0.5)$ <p>For counties testing below the state median:</p> $1 - (((\text{county testing rate} - \text{state median testing rate}) / \text{state median testing rate}) * 0.4)$ <p>There are two conditions in which this formula is not applied. The first is small counties, those with a population less than approximately 100,000 based on CA Department of Finance population projections (see reference * in tier framework table). The small county exception prevents potential spurious adjustment due to fluctuations in testing influenced by secular events unrelated to underlying transmission risk. As a second condition for exception from the adjustment, counties with a testing volume below the state median and testing positivity &lt; 3.5% are not adjusted, based on the assumption that volume of testing in these counties may not need to be as high with low test positivity. Under both these conditions, the adjusted case rate is equal to the unadjusted rate.</p>

<b>Overall testing Positivity, excluding prisoners over 7-days (PCR only, 7-day lag)</b>	<p>Calculated as the total number of positive polymerase chain reaction (PCR) tests for COVID-19 over a 7-day period (based on specimen collected date) divided by the total number of PCR tests conducted; this excludes tests for: (a) persons out of state or with unknown county of residence and (b) persons incarcerated at state or federal prisons, ICE facilities, US Marshal only detention facilities and Department of State Hospitals (identified as cases with an ordering facility name or address associated with prison/state hospitals locations). This number is then multiplied by 100 to get a percentage. Due to reporting delay (which may be different between positive and negative tests), there is a 7-day lag.</p> <p><i>Example:</i> For cumulative lab data received on 6/30/20, reported test positivity is dated as 6/23/20 and is calculated based on tests with specimen collection dates from 6/17-6/23</p>
<b>Tests per 100,000 per day, excluding prisoners (7-day average with 7-day lag)</b>	<p>Calculated as the number of polymerase chain reaction (PCR) tests per day over a 7-day period (based on specimen collection date), excluding tests for persons incarcerated at state or federal prisons, ICE facilities, US Marshal only detention facilities and Department of State Hospitals (identified as cases with an ordering facility name or address associated with prison/state hospitals locations), and divided by the number of people living in the county/region/state. This number is then multiplied by 100,000. Due to reporting delay, there is a 7-day lag included in the calculation.</p> <p><i>Example:</i> For cumulative lab data received through 8/22/20, the reported 7-day average number of tests will be dated as 8/15/20 and will include PCR tests with specimen collection dates from 8/9/20 - 8/15/20.</p>

Data Source: CalREDIE

## Helpful Links

- Find the status of activities in your county
- Understand which activities and businesses are open in the four tiers (PDF)
- Learn more about the California Health Equity Metric and the Targeted Equity Investment Plans from each county
- County Tier Adjudication Request
- Explore the complete data by county (Excel)
- Find archived California Blueprint Data Charts
- School Re-opening Framework (PDF)
- Guidance for Small Cohorts/Groups of Children and Youth
- [www.covid19.ca.gov](http://www.covid19.ca.gov)
- Proyecto para una economía más segura | For other languages, visit our Multilingual Documents page



## APPENDIX 15



Sandra Shewry  
Acting Director  
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Acting State Health Officer

State of California Health and Human  
Services Agency  
**California Department of  
Public Health**



GAVIN NEWSOM  
Governor

November 13, 2020

**TO:** All Californians

**SUBJECT:** CDPH Guidance for the Prevention of COVID-19 Transmission for Gatherings

## Summary

This guidance provides an updated plan for Californians to gather outside their household and replaces the March 16, 2020, October 9, 2020 and other prior gatherings guidance. It applies to private gatherings, and all other gatherings not covered by existing sector guidance are prohibited. It also applies to activities protected by the First Amendment to the extent that they are not already permitted by other guidance, notwithstanding any guidance, orders, or directives to the contrary. Gatherings are defined as social situations that bring together people from different households at the same time in a single space or place. When people from different households mix, this increases the risk of transmission of COVID-19.

## Context

COVID-19 continues to pose a severe risk to communities and requires all people in California to follow necessary precautions and to adapt the way they live and function in light of this ongoing risk. The safest way to gather is to spend time with people in the same household, gather virtually, or gather outdoors.

The season of cold weather has now arrived in many parts of the state, and rainy season is imminent, making it more difficult to gather outdoors. Because of this, many people in California may feel the need to gather indoors instead. Indoor gatherings remain risky activities, and it would always be safer to gather outdoors or virtually whenever possible. But this guidance explains some important and necessary steps to make indoor gatherings less risky if they do occur.

In general, the more people from different households a person interacts with at a gathering, the closer the physical interaction is, and the longer the interaction lasts, the higher the risk that a person with a COVID-19 infection, symptomatic or asymptomatic, may spread it to others. Public health studies have also shown that the risk of transmission is increased in indoor spaces, particularly when there isn't appropriate ventilation. [1] Unlike indoor spaces, wind and air in outdoor spaces can help reduce spread of the virus from one person to another.

Planning scenarios published by the CDC estimate that, on average, a person with COVID-19 goes on to infect between 2-4 people, with a best estimate of 2.5 when there are no preventive measures.[2] For example, if each infected person spreads the virus to two people, who in turn spread it to two others each; those four will spread the virus to eight others; those eight will spread the virus to 16; and so on. As a result, after 10 transmission cycles, one person could be responsible for 1,024 other people contracting the virus.[3] Additionally, there is broad

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agreement that people who are not experiencing symptoms can still spread COVID-19[4].The fact that COVID-19 can be spread by people who don't have symptoms or aren't showing symptoms yet is one of the aspects of the COVID-19 that makes it difficult to control.

All gatherings pose a higher risk of transmission and spread of COVID-19 when people mix from different households and communities. The likelihood of transmission and spread increases with laughing, singing, loud talking and difficulty maintaining physical distance. Limiting attendance at gatherings is a way to reduce the risk of spread as it lowers the number of different people who are interacting. Additionally, by limiting attendance there is an improved ability to perform effective contact tracing if there is a positive case discovered, which can help to slow the spread of COVID-19[5]. People who do choose to attend gatherings should discuss and agree upon the specific group rules before convening together.

Like other types of activities, activities protected by the First Amendment pose risks of COVID-19 transmission. People who wish to engage in political, artistic, or other forms of expression or in religious expression and practice are strongly encouraged to find means of expression that do not involve in-person gatherings or to wait to gather in person until those activities are permitted by the Blueprint for a Safer Economy. However, because this guidance offers safer ways to operate in the colder climate, with higher likelihood of rain, associated with the time of year we now enter, the safeguards in this guidance apply as well to activities protected by the First Amendment and those activities are not prohibited if conducted in accordance with this guidance.

## Recommendations & Mandatory Requirements for All Gatherings

All persons planning to host or participate in a private gathering, as defined above, must comply with the requirements identified below and are strongly encouraged to follow the recommendations as well. Activities protected by the First Amendment may proceed under this guidance notwithstanding any guidance, orders, or directives to the contrary. Local health jurisdictions may be more restrictive than this guidance. Refer to your local guidance for what is allowed in your area.

### 1. Attendance

- a. Gatherings that include more than 3 households are prohibited. This includes everyone present, including hosts and guests. Remember, the smaller the number of people, the safer.
- b. Keep the households that you interact with stable over time. By spending time with the same people, risk of transmission is reduced. Participating in multiple gatherings with different households or groups is strongly discouraged.
- c. The host should collect names of all attendees and contact information in case contact tracing is needed later.

### 2. Location: Gatherings Must be Outdoors for Counties in the Purple Tier

- a. Gatherings that occur outdoors are significantly safer than indoor gatherings. All gatherings must be held outside in the Purple Tier, and indoor gatherings are strongly discouraged in Red, Orange and Yellow Tiers.
  - i. If gathering indoors, increase fresh air circulation by opening windows or doors, as much as possible, especially in the rooms where people are gathering.

b. A gathering of no more than three households is permitted in a public park or other outdoor space, even if unrelated gatherings of other groups up to three households are also occurring in the same park or other outdoor space. If multiple such gatherings are occurring, mixing between groups gatherings is not allowed. Additionally, multiple gatherings of three households cannot be jointly organized or coordinated to occur in the same public park or other outdoor space at the same time – this would constitute a gathering exceeding the permitted household limits.

### **3. Don't Attend Gatherings If You Feel Sick**

a. Anyone with any COVID-19-like symptoms (fever, cough, shortness of breath, chills, night sweats, sore throat, nausea, vomiting, diarrhea, tiredness, muscle or body aches, headaches, confusion, or loss of sense of taste/smell), must stay home and not come into contact with anyone outside their household.

b. Anyone who develops COVID-19 within 48 hours after attending a gathering should notify the organizer of the gathering and/or other attendees as soon as possible regarding the potential exposure.

### **4. Individuals in a High-Risk Group are Discouraged from Attending any Gatherings**

a. People at higher risk of severe illness or death from COVID-19 (such as older adults and people with chronic medical conditions) are strongly urged not to attend any gatherings, especially indoor gatherings.

b. If higher-risk individuals do attend any gatherings, they should do the following to decrease the risk for exposure:

- i. Spend as much time outside, or near outside air flow such as open windows or doors, as possible.
- ii. Wear a respirator or surgical mask instead of a cloth mask, and minimize any time at the event with the mask off.
- iii. Remain at least six feet, or ideally even farther away, from others outside their household as much as possible, especially when people are eating or drinking without face coverings.
- iv. Spend a shorter time at the gathering than others to reduce potential exposure.

### **5. Practice Physical Distancing and Hand Hygiene at Gatherings**

a. For any gatherings permitted under this guidance, the space must be large enough so that everyone at a gathering can maintain at least a 6-foot physical distance from others (not including their own household) at all times.

b. Seating must provide at least 6 feet of distance (in all directions—front-to-back and side-to-side) between different households.

c. Everyone at a gathering should frequently wash their hands with soap and water, or use hand sanitizer if soap and water are not available.

d. Shared items should be minimized during a gathering. Food and beverages should be served by a person who washes or sanitizes their hands frequently, and who must wear a face covering. Self-serve items from communal containers should be minimized.

e. Remind all persons to sanitize hands before eating or drinking, and after touching shared items if shared items are unavoidable.

## **6. Wear a Face Covering to Keep COVID-19 from Spreading**

a. When gathering, face coverings must be worn in accordance with the CDPH Guidance on the Use of Face Coverings, unless an exemption is applicable.

b. People at gatherings are advised to limit removal of their face coverings to when they are actively eating or drinking. While face coverings are removed for this purpose, they should stay at least 6 feet away from everyone outside their own household, and put their face covering back on as soon as they are done with the activity.

c. Face coverings can also be removed to meet urgent medical needs (for example, to use an asthma inhaler, take medication, or if feeling light-headed).

## **7. Keep it short**

a. Gatherings should be two hours or less. The longer the duration, the risk of transmission increases.

## **8. Singing, Chanting, Shouting, Cheering and Similar Activities Are Strongly Discouraged at Outdoor Gatherings and Prohibited at Indoor Gatherings**

a. Singing, chanting, shouting, cheering, physical exertion, and similar activities significantly increase the risk of COVID-19 transmission because these activities increase the release of respiratory droplets and fine aerosols into the air. Because of this, singing, chanting, shouting, cheering, and similar activities are strongly discouraged in outdoor settings, but if they occur, the following rules and recommendations apply:

i. All people who are singing, chanting, shouting, cheering, or engaging in similar activities should wear a face covering at all times while engaging in those activities, including anyone who is leading a song, chant, or cheer. Because these activities pose a very high risk of COVID-19 transmission, face coverings are essential to reduce the spread of respiratory droplets and fine aerosols;

ii. People who are singing, shouting, chanting, cheering, or exercising are strongly encouraged to maintain physical distancing beyond 6 feet to further reduce risk.

iii. People who are singing or chanting are strongly encouraged to do so quietly (at or below the volume of a normal speaking voice).

b. Instrumental music is allowed outdoors as long as the musicians maintain at least 6-foot physical distancing. Musicians must be from one of the three households. Playing of wind instruments (any instrument played by the mouth, such as a trumpet or clarinet) is strongly discouraged, and if played should use protective or tightly woven cloth barriers on the instrument bells or at the end of the instrument to protect from spread of condensation droplets. If music is played, it is recommended that the volume be quiet enough that attendees can speak in a normal voice without shouting.

c. Singing, chanting, shouting, cheering, playing of wind instruments and similar activities are not permitted in indoor gatherings.



[1] See, e.g., Hiroshi Nishiura, et al., Closed environments facilitate secondary transmission of coronavirus disease 2019 (COVID-19); Hu Qian, et al., “Indoor transmission of SARS-CoV-2” [pre-print] published in medRxiv on April 4, 2020.

[2] See Planning Scenarios.

[3] See, e.g., Report 3: Natsuko Imai et al, WHO Collaborating Centre for Infectious Disease Modelling, MRC Centre for Global Infectious Disease Analysis, J-IDEA, “Imperial college London, UK. Transmissibility of 2019 -n-CoV).” See also Inglesby T B JAMA Public Health Measures and the Reproduction Number of SARS-CoV-2. JAMA Network.2020.7878 (May 1, 2020).

[4] Transmission of SARS-CoV-2: implications for infection prevention precautions.

[5] See Preventing the Spread of the Coronavirus

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Page Last Updated : November 13, 2020

## APPENDIX 16

# Blueprint for a Safer Economy

## Activity and Business Tiers

SECTORS	Widespread Tier 1	Substantial Tier 2	Moderate Tier 3	Minimal Tier 4
<b>Critical Infrastructure</b>	Open with modifications	Open with modifications	Open with modifications	Open with modifications
<b>Gatherings*</b>	Outdoor gatherings only with modifications <ul style="list-style-type: none"> <li>Max 3 households</li> </ul>	Indoor gatherings strongly discouraged, allowed with modifications <ul style="list-style-type: none"> <li>Max 3 households</li> </ul>	Indoor gatherings strongly discouraged, allowed with modifications <ul style="list-style-type: none"> <li>Max 3 households</li> </ul>	Indoor gatherings strongly discouraged, allowed with modifications <ul style="list-style-type: none"> <li>Max 3 households</li> </ul>
<b>Limited Services</b>	Open with modifications	Open with modifications	Open with modifications	Open with modifications
<b>Outdoor Playgrounds &amp; Outdoor Recreational Facilities **</b>	Open with modifications	Open with modifications	Open with modifications	Open with modifications
<b>Hair Salons &amp; Barbershops</b>	Open Indoors with modifications	Open indoors with modifications	Open indoors with modifications	Open indoors with modifications

SECTORS	Widespread Tier 1	Substantial Tier 2	Moderate Tier 3	Minimal Tier 4
<b>All Retail</b> (including critical infrastructure, except standalone grocers)	Open Indoors with modifications • Max 25% capacity	Open Indoors with modifications • Max 50% capacity	Open Indoors with modifications	Open Indoors with modifications
<b>Shopping Centers (Malls, Destination Centers, Swap Meets)</b>	Open Indoors with modifications • Max 25% capacity • Closed common areas • Closed food courts	Open indoors with modifications • Max 50% capacity • Closed common areas • Reduced capacity food courts (see restaurants)	Open indoors with modifications • Closed common areas • Reduced capacity food courts (see restaurants)	Open Indoors with modifications • Reduced capacity food courts (see restaurants)
<b>Personal Care Services***</b>	Open Indoors with modifications	Open indoors with modifications	Open indoors with modifications	Open indoors with modifications
<b>Museums, Zoos, and Aquariums</b>	Outdoor Only with modifications	Open indoors with modifications • Indoor activities max 25% capacity	Open indoors with modifications • Indoor activities max 50% capacity	Open indoors with modifications



SECTORS	Widespread Tier 1	Substantial Tier 2	Moderate Tier 3	Minimal Tier 4
Places of Worship	Outdoor Only with modifications	Open indoors with modifications <ul style="list-style-type: none"> <li>• Max 25% capacity or 100 people, whichever is fewer</li> </ul>	Open indoors with modifications <ul style="list-style-type: none"> <li>• Max 50% capacity or 200 people, whichever is fewer</li> </ul>	Open indoors with modifications <ul style="list-style-type: none"> <li>• Max 50% capacity</li> </ul>
Movie Theaters	Outdoor Only with modifications	Open Indoors with modifications <ul style="list-style-type: none"> <li>• Max 25% capacity or 100 people, whichever is fewer</li> </ul>	Open indoors with modifications <ul style="list-style-type: none"> <li>• Max 50% capacity or 200 people, whichever is fewer</li> </ul>	Open indoors with modifications <ul style="list-style-type: none"> <li>• Max 50% capacity</li> </ul>
Hotels and Lodging	Open with modifications	Open with modifications <ul style="list-style-type: none"> <li>• +Fitness centers (+10%)</li> </ul>	Open with modifications <ul style="list-style-type: none"> <li>• +Fitness centers (+25%)</li> <li>• +Indoor pools</li> </ul>	Open with modifications <ul style="list-style-type: none"> <li>• +Fitness Centers (50%)</li> <li>• +Spa facilities etc.</li> </ul>
Gyms and Fitness Centers	Outdoor Only with modifications	Open indoors with modifications <ul style="list-style-type: none"> <li>• Max 10% capacity</li> <li>• +Climbing walls</li> </ul>	Open indoors with modifications <ul style="list-style-type: none"> <li>• Max 25% capacity</li> <li>• +Indoor pools</li> </ul>	Open indoors with modifications <ul style="list-style-type: none"> <li>• +Saunas</li> <li>• +Steam rooms</li> <li>• Max 50% capacity</li> </ul>

SECTORS	Widespread Tier 1	Substantial Tier 2	Moderate Tier 3	Minimal Tier 4
<b>Restaurants</b>	Outdoor Only with modifications	Open indoors with modifications <ul style="list-style-type: none"> <li>• Max 25% capacity or 100 people, whichever is fewer</li> </ul>	Open indoors with modifications <ul style="list-style-type: none"> <li>• Max 50% capacity or 200 people, whichever is fewer</li> </ul>	Open indoors with modifications <ul style="list-style-type: none"> <li>• Max 50% capacity</li> </ul>
<b>Wineries</b>	Outdoor Only with modifications	Outdoor Only with modifications	Open indoors with modifications <ul style="list-style-type: none"> <li>• Max 25% capacity indoors, or 100 people, whichever is fewer</li> </ul>	Open indoors with modifications <ul style="list-style-type: none"> <li>• Max 50% capacity or 200 people indoors, whichever is fewer</li> </ul>
<b>Bars, Breweries, and Distilleries</b> (where no meal provided) (follow restaurant guidance where meal is provided)	Closed	Closed	Open Outdoors with modifications	Open indoors with modifications <ul style="list-style-type: none"> <li>• Max 50% capacity</li> </ul>
<b>Family Entertainment Centers</b>	Outdoor Only with modifications e.g. <ul style="list-style-type: none"> <li>• Kart Racing</li> <li>• Mini Golf</li> <li>• Batting Cages</li> </ul>	Outdoor Only with modifications e.g. <ul style="list-style-type: none"> <li>• Kart Racing</li> <li>• Mini Golf</li> <li>• Batting Cages</li> </ul>	Open Indoors for naturally distanced activities with modifications <ul style="list-style-type: none"> <li>• Max 25% capacity</li> <li>• Bowling Alleys</li> </ul>	Open indoors for activities with increased risk of proximity and mixing with modifications <ul style="list-style-type: none"> <li>• Max 50% capacity</li> <li>• Arcade Games</li> <li>• Ice and roller skating</li> <li>• Indoor playgrounds</li> </ul>



SECTORS	Widespread Tier 1	Substantial Tier 2	Moderate Tier 3	Minimal Tier 4
Cardrooms, Satellite Wagering	Outdoor Only with modifications	Outdoor Only with modifications	Open indoors with modifications • Max 25% capacity	Open indoors with modifications • Max 50% capacity
Offices	Remote	Remote	Open indoors with modifications • Encourage telework	Open indoors with modifications • Encourage telework
Professional Sports	Open • Without live audiences • With modifications	Open • Without live audiences • With modifications	Open • Without live audiences • With modifications	Open • Without live audiences • With modifications
Live Audience Sports***	Closed	Closed	Outdoors Only • Max 20% • Regional visitors (120 miles) • Advanced reservations only • Assigned seating only • In-seat concessions only (No concourse sales)	Outdoors Only • Max 25% • Regional visitors (120 miles) • Advanced reservations only • Assigned seating only • In-seat concessions only (No concourse sales)

SECTORS	Widespread Tier 1	Substantial Tier 2	Moderate Tier 3	Minimal Tier 4
Amusement Parks***	Closed	Closed	Smaller Parks Open <ul style="list-style-type: none"> <li>• 25% capacity or 500 people, whichever is fewer</li> <li>• Outdoor attractions only</li> <li>• In-county visitors only</li> <li>• Advanced reservations only</li> </ul>	Larger Parks Open <ul style="list-style-type: none"> <li>• 25% capacity</li> <li>• Advanced reservations only</li> </ul>

\*Gatherings updated November 13, 2020

\*\*Outdoor playgrounds and outdoor recreational facilities updated September 28, 2020

\*\*\*Personal care services, live audience professional sports and amusement parks updated October 20, 2020



## APPENDIX 17



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State of California—Health and Human Services Agency  
**California Department of Public Health**



GAVIN NEWSOM

*Governor*

**Regional Stay At Home Order  
 12/03/2020**

Upon assessment of the recent, unprecedented rise in the rate of increase in COVID-19 cases, hospitalizations, and test positivity rates across California, the California Department of Public Health (CDPH) is taking immediate actions to prevent the spread of the virus.

The State, like the nation, continues to record an unprecedented surge in the level of community spread of COVID-19. California implemented an accelerated application of the Blueprint Framework metrics on November 16 and a limited Stay at Home Order issued on November 19. However, in the interim, the number of new cases per day has increased by over 112%, (from 8,743 to 18,588) and the rate of rise of new cases per day continues to increase dramatically. The number of new hospital admissions has increased from 777 on November 15, to 1,651 on December 2, and because of the lag between case identification and hospitalizations, we can only expect these numbers to increase.

Current projections show that without additional intervention to slow the spread of COVID-19, the number of available adult Intensive Care Unit (ICU) beds in the State of California will be at capacity in mid-December. This is a sign that the rate of rise in cases, if it continues, is at risk of overwhelming the ability of California hospitals to deliver healthcare to its residents suffering from COVID-19 and from other illnesses requiring hospital care. ICU beds are a critical resource for individuals who need the most advanced support and care and the ability to add additional ICU capacity is limited by the lack of available ICU nurses and physicians as a result of the nationwide surge in hospitalizations and ICU admissions.

Because the rate of increases in new cases continues to escalate and threatens to overwhelm the state's hospital system, further aggressive action is necessary to respond to the quickly evolving situation. While vaccines are promising future interventions, they are not available to address the immediate risks to healthcare delivery in the current surge. The immediate aggressive institution of additional non-pharmaceutical public health interventions is critical to avoid further overwhelming hospitals and to prevent the need to ration care.



**NOW, THEREFORE, I, as Acting State Public Health Officer of the State of California, order:**

1. CDPH will evaluate public health based on Regions, responsive to hospital capacity for persons resident in those Regions.
2. CDPH will evaluate the adult ICU bed capacity for each Region and identify on [covid19.ca.gov](https://covid19.ca.gov) any Regions for which that capacity is less than 15%. When that capacity is less than 15%, the following terms (the Terms of this Order) will apply.
  - a. All gatherings with members of other households are prohibited in the Region except as expressly permitted herein.
  - b. All individuals living in the Region shall stay home or at their place of residence except as necessary to conduct activities associated with the operation, maintenance, or usage of critical infrastructure,<sup>1</sup> as required by law, or as specifically permitted in this order.
  - c. [Worship](#) and [political expression](#) are permitted outdoors, consistent with existing guidance for those activities.
  - d. Critical infrastructure sectors may operate and must continue to modify operations pursuant to the [applicable sector guidance](#).
  - e. [Guidance](#) related to schools remain in effect and unchanged. Accordingly, when this Order takes effect in a Region, schools that have previously reopened for in-person instruction may remain open, and schools may continue to bring students back for in-person instruction under the [Elementary School Waiver Process](#) or [Cohorting Guidance](#).
  - f. In order to reduce congestion and the resulting increase in risk of transmission of COVID-19 in critical infrastructure retailers, all retailers may operate indoors at no more than 20% capacity and must follow the [guidance for retailers](#). All access to retail must be strictly metered to ensure compliance with the limit on capacity. The sale of food, beverages, and alcohol for in-store consumption is prohibited.
  - g. To promote and protect the physical and mental well-being of people in California, outdoor recreation facilities may continue to operate. Those facilities may not sell food or drink for on-site consumption. Overnight stays at

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<sup>1</sup> See <https://covid19.ca.gov/essential-workforce/> for full list of California's Critical Infrastructure workforce.

campgrounds are not permitted.

- h. Nothing in this Order prevents any number of persons from the same household from leaving their residence, lodging, or temporary accommodation, as long as they do not engage in any interaction with (or otherwise gather with) any number of persons from any other household, except as specifically permitted herein.
  - i. Terms (a) and (b) of this section do not apply to persons experiencing homelessness.
- 3. Except as otherwise required by law, no hotel or lodging entity in California shall accept or honor out of state reservations for non-essential travel, unless the reservation is for at least the minimum time period required for quarantine and the persons identified in the reservation will quarantine in the hotel or lodging entity until after that time period has expired.
- 4. This order shall take effect on December 5, 2020 at 1259pm PST.
- 5. For Regions where the adult ICU bed capacity falls below 15% after the effective date of this order, the Terms of this Order shall take effect 24 hours after that assessment.
- 6. The Terms of this Order shall remain in place for at least three weeks from the date the order takes effect in a Region and shall continue until CDPH's four-week projections of the Region's total available adult ICU bed capacity is greater than or equal to 15%. Four-week adult ICU bed capacity projections will be made approximately twice a week, unless CDPH determines that public health conditions merit an alternate projection schedule. If after three weeks from the effective date of the Terms of this Order in a Region, CDPH's four-week projections of the Region's total available adult ICU bed capacity is greater than or equal to 15%, the Terms of this Order shall no longer apply to the Region
- 7. After the termination of the Terms of this Order in a Region, each county within the Region will be assigned to a tier based on the [Blueprint for a Safer Economy](#) as set out in my August 28, 2020 Order, and the County is subject to the restrictions of the Blueprint appropriate to that tier.
- 8. I will continue to monitor the epidemiological data and will modify this Regional Stay-at-Home Order as required by the evolving public health conditions. If I determine that it is necessary to change the Terms of this Order, or otherwise modify the Regional Stay-at-Home Order, these modifications will be posted at [covid19.ca.gov](https://covid19.ca.gov).

9. When operative in a Region, the Terms of this Order supersede any conflicting terms in other CDPH orders, directives, or guidance. Specifically, for those Regions with ICU bed capacity triggering this order, the Terms of this Order shall supersede the State's [Blueprint for a Safer Economy](#) and all guidance (other than guidance for critical infrastructure sectors) during the operative period. In all Regions that are not subject to the restrictions in this order, the [Blueprint for a Safer Economy](#) and all guidance shall remain in effect.
10. This order is issued pursuant to Health and Safety Code sections 120125, 120130(c), 120135, 120140, 120145, 120175, 120195 and 131080; EO N-60-20, N-25-20, and other authority provided for under the Emergency Services Act; and other applicable law.



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Erica S. Pan, MD, MPH  
Acting State Public Health Officer  
California Department of Public Health

## APPENDIX 18

Language ▼

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**COVID19.CA.GOV**  
Your Actions Save Lives

# Industry guidance to reduce risk

Last updated December 8 2020 at 1:39 PM

## New Regional Stay Home Order

COVID-19 continues to surge at alarming rates in California. The Regional Stay Home Order, announced December 3, 2020, will prohibit gatherings of any size, close operations except for critical infrastructure and retail, and require 100% masking and physical distancing. Read more about the [Regional Stay Home Order](#).

California has a [Blueprint for a Safer Economy](#) in the state with revised criteria for loosening and tightening restrictions on activities.

Every county in California is assigned to a tier based on its rate of new cases and positivity. Check [your county's tier status](#) to see how businesses and activities can open.

## Reopen your business or facility safely

Use the [Employer Playbook for a Safe Reopening](#) to help plan and prepare for reopening your business.

Review how to [respond to COVID-19 cases in your workplace](#) and prevent further spread.

Wearing a [mask or face covering](#) is required statewide in public or common spaces. Employers must provide face coverings to workers, or must reimburse workers for the reasonable cost of obtaining them. Find all requirements and exceptions to these rules in the guidance on this page below.

All businesses and facilities **must** follow the items listed here before reopening:

1. **Scroll down this page to find the guidance for your industry, business, event, or activity.**
2. Review it completely.
3. Perform a detailed risk assessment and create a worksite-specific protection plan.
4. Train employees on how to limit the spread of COVID-19. This includes how to [screen themselves for symptoms](#) and when to stay home.
5. Set up individual control measures and screenings.
6. Put disinfection protocols in place.
7. Establish physical distancing guidelines.
8. Establish universal face covering requirements (with allowed exceptions). See [CDPH guidelines \(PDF\)](#).
9. Post your completed checklist so everyone can know the steps you've taken. Feel free to add more safety measures to the ones included in your industry's guidance.

As it starts to get colder, restaurants and other businesses required to operate outdoors may wish to enclose outdoor temporary structures like tents and canopies to contain heat and avoid rain. Find out what qualifies as outdoor operations in the [CDPH guidance for temporary structures](#).

## Employer policies and resources

It's important that employees with COVID-19 know they should stay home. Your sick leave policies need to support that. Workers also need safe and reliable childcare options during the COVID-19 response. See information on:

- [Government programs supporting COVID-19 sick leave](#) and [workers' compensation](#)
- [Family friendly practices for employers \(PDF\)](#).
- [Support for working families \(PDF\)](#).
- [Find childcare](#)
- [CDPH guidance for the use of face coverings \(PDF\)](#).

## Industry guidance

[See guidance in other languages](#)



## Agriculture and livestock

Follow this [guidance for the agriculture and livestock industry](#) to create a safer environment for workers.

Review the guidance, prepare a plan, and post the [checklist for the agriculture and livestock industry](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

### **Shared transportation in agriculture**

Shared transportation is common in agriculture. Employers may provide shared transportation for workers. Workers may arrange a carpool to and from the worksite. Check the additional [considerations for shared transportation in agriculture](#) to support a safe, clean environment for passengers and drivers.

## Amusement parks and theme parks – New

### **Tier status:**

Widespread (purple):

- Closed

Substantial (red):

- Closed

Moderate (orange):

- Smaller parks can open with modifications
- Capacity must be limited to 25% or 500 people, whichever is less
- Outdoor attractions only can open
- Reservations or advanced ticket sales required
- Local attendees only (from the same county as the park's location)

Minimal (yellow):

- Larger parks can open with modifications
- Park capacity must be limited to 25%
- Reservations or advanced ticket sales required

Follow this [guidance for amusement parks and theme parks](#). Review the guidance and prepare a plan to support a safe, clean environment for workers and visitors.

This guidance includes additional considerations for:

- Admission, entry, and security
- All rides and attractions
- Dining and concessions
- Performances, interactive exhibits, and events
- Uniform, costume, and wardrobe protocols

Review the guidance, prepare a plan, and post the [checklist for amusement parks and theme parks](#) in your workplace to show visitors and employees that you've reduced the risk and are open for business.

## **Auto dealerships**

Follow this [guidance for the automobile dealerships and rental operators industry](#) to create a safer environment for workers.

Review the guidance, prepare a plan, and post the [checklist for the automobile dealerships and rental operators industry](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

## **Cardrooms and racetracks – updated September 10**



Widespread (purple):

- Outdoor only with modifications
- Racetracks may resume training and competition without live audiences, subject to approval by county public health officers

Substantial (red):

- Outdoor only with modifications
- Racetracks may resume training and competition without live audiences, subject to approval by county public health officers

Moderate (orange)

- Indoor with modifications
- Capacity must be limited to 25%
- Racetracks may resume training and competition without live audiences, subject to approval by county public health officers

## Minimal (yellow)

- Indoor with modifications
- Capacity must be limited to 50%
- Racetracks may resume training and competition without live audiences, subject to approval by county public health officers

## Outdoor operations of cardrooms and satellite wagering facilities

- Follow this [guidance for outdoor operations of cardrooms](#) and satellite wagering facilities to support a safer environment for workers and patrons.
- Review the guidance, prepare a plan, and post the [checklist for outdoor cardrooms](#) and satellite wagering in your workplace to show customers and employees that you've reduced the risk and are open for business.

Cardrooms, satellite wagering facilities, and racetracks with onsite wagering

- Follow this [guidance for cardrooms](#), racetracks, and satellite wagering to support a safer environment for workers and patrons.
- Review the guidance, prepare a plan, and post the [checklist for cardrooms](#), racetracks, and satellite wagering in your workplace to show customers and employees that you've reduced the risk and are open for business.

## **Childcare**

Follow the [guidance for the childcare industry](#) to minimize the spread of COVID-19. Review the guidance, prepare a plan, and post the [checklist for childcare](#) in your facility to show employees and families that you've reduced the risk and are open for operation.

- Follow the [guidance related to cohorts](#) of children and youth.
- See the answers to [frequently asked questions about cohorts and waivers](#) for childcare providers.
- Follow the [case and contact management guidance](#) related to cohorts for childcare facilities.

## **Cohorts for children and youth in supervised settings – updated September 4**

A **cohort** is a stable group of no more than 14 children or youth and no more than two supervising adults in a supervised environment. The group stays together for all activities, including meals and recreation. And this group avoids contact with anyone not in their group.

Kids and adults in supervised care environments must be in groups as small as possible. Kids and supervising adults in one group must not physically interact with:

- kids and supervising adults in other groups
- other facility staff
- parents of kids in other groups



Practicing a cohort structure:

- decreases opportunities for exposure to or transmission of the virus
- facilitates more efficient contact tracing in the event of a positive case
- allows for targeted testing, quarantine, and isolation of a single group instead of an entire population of kids and supervising adults

The [guidance related to cohorts](#) of children and youth sets minimum guidelines for providing specialized, targeted support services, necessary in-person child supervision and limited instruction, and facilitation of distance learning in small group environments in ways that maintain the focus on health and safety to minimize transmission. This guidance enables schools to provide specialized services for students with disabilities and English learners, and in-person support for at-risk and high-need students.

- See the answers to [frequently asked questions](#) about cohort guidance in K-12 school settings.
- See the answers to [frequently asked questions about cohorts and waivers](#) for childcare providers.
- Follow the [case and contact management guidance](#) related to cohorts for childcare facilities.

Local educational agencies, nonprofits, or other authorized providers must follow the guidance for cohorts of children and youth in controlled, supervised and indoor environments. These environments include, but are not limited to, the following:

- public and private schools
- licensed and license-exempt childcare settings
- organized and supervised care environments, like “distance learning hubs”
- recreation programs
- before and after school programs
- youth groups
- day camps



## **Communications infrastructure**

Follow this [guidance for the communications infrastructure industry](#) to create a safer environment for workers.

Review the guidance, prepare a plan, and post the [checklist for the communications infrastructure industry](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

## **Construction**

Follow this [guidance for the construction industry](#) to create a safer environment for workers.

Review the guidance, prepare a plan, and post the [checklist for the construction industry](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

## **Day camps**

Follow this [guidance for day camps](#) to minimize the spread of COVID-19. Review the guidance, prepare a plan, and post the [checklist for day camps](#) in your facility to show employees, campers, and families that you've reduced the risk and are open for operation. Follow the [guidance related to cohorts](#) of children and youth.

## **Delivery services**

Follow this [guidance for the delivery services industry](#) to create a safer environment

for workers.

Review the guidance, prepare a plan, and post the [checklist for the delivery services industry](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

## **Energy and utilities**

Follow this [guidance for the energy and utilities industry](#) to create a safer environment for workers.

Review the guidance, prepare a plan, and post the [checklist for the energy and utilities industry](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

## **Family friendly practices for employers**

Follow this [guidance for family friendly practices for employers](#) to keep employees safe and be responsive to their needs in order to ensure continued productivity. As workplaces reopen, employees will require both child care supports and workplace flexibility. Work-life balance policies will become even more important and continued investment in family-friendly workplace policies by employers is critical.

## **Food packing**

Follow this [guidance for facilities that process or pack meat, dairy, or produce](#) to create a safer environment for workers.

Review the guidance, prepare a plan, and post the [checklist for facilities that process or pack meat, dairy or produce](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.



## Gyms and fitness centers – updated December 3

### **Tier status:**

#### Widespread (purple):

- Outdoor only with modifications
- Indoor pools, hot tubs, saunas, and steam rooms must close
  - Drowning prevention classes, including swim lessons with certified instructors, are permitted in indoor and outdoor swimming pools in all tiers, as they are deemed essential

#### Substantial (red):

- Indoor with modifications
- Capacity must be limited to 10%
- Indoor pools, hot tubs, saunas, and steam rooms must close
  - Drowning prevention classes, including swim lessons with certified instructors, are permitted in indoor and outdoor swimming pools in all tiers, as they are deemed essential
- Climbing walls can open

#### Moderate (orange)

- Indoor with modifications
- Capacity must be limited to 25%
- Indoor pools can open
- Indoor hot tubs, saunas, and steam rooms must close
- Climbing walls can open

#### Minimal (yellow)



- Indoor with modifications
- Capacity must be limited to 50%
- Indoor pools, hot tubs, saunas, and steam rooms can open
- Climbing walls can open

Follow this [guidance for gyms and fitness centers](#), including yoga and dance studios, to support a safe, clean environment for workers, customers, and the public.

This guidance includes additional considerations for:

- Communal restrooms and shower facilities
- Swimming pools and aquatic venues

Review the guidance, prepare a plan, and post the [checklist for gyms and fitness centers](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

## **Hair salons and barbershops – updated October 20**

Follow this [guidance for hair salons and barbershops](#) to support a safe, clean environment for workers and customers. Review the guidance, prepare a plan, and post the [checklist for hair salons](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

## **Higher education – updated October 1**

### **Tier status:**

Widespread (purple):

- Closed for indoor lectures and student gatherings
- Some courses conducted in certain indoor settings, like labs and studio arts, may be open

### Substantial (red):

- Capacity for indoor lectures and student gatherings must be limited to 25% or 100 people, whichever is less
- Some courses conducted in certain indoor settings, like labs and studio arts, may be open at regular capacity
- Conduct student activities virtually when possible

### Moderate (orange):

- Capacity for indoor lectures and student gatherings must be limited to 50% or 200 people, whichever is less
- Some courses conducted in certain indoor settings, like labs and studio arts, may be open at regular capacity
- Conduct student activities virtually when possible

### Minimal (yellow):

- Capacity for indoor lectures and student gatherings must be limited to 50%
- Some courses conducted in certain indoor settings, like labs and studio arts, may be open at regular capacity
- Conduct student activities virtually when possible

This interim [guidance for institutions of higher education](#) provides guidelines to help institutions and their communities plan and prepare to resume in-person instruction. It includes interim guidance for collegiate athletics to help plan for and prepare to resume training and competition. Below, the guidance and preparatory steps are divided

## Hotels, lodging, and short-term lodging rentals – updated December 3

### Tier status:

#### Widespread (purple):



- Open with modifications
- Fitness centers can be open outdoors only with modifications
- Indoor pools, hot tubs, saunas and steam rooms must close
  - Drowning prevention classes, including swim lessons with certified instructors, are permitted in indoor and outdoor swimming pools in all tiers, as they are deemed essential

#### Substantial (red):

- Open with modifications
- Fitness centers can open to 10% capacity
- Indoor pools, hot tubs, saunas, and steam rooms must close
  - Drowning prevention classes, including swim lessons with certified instructors, are permitted in indoor and outdoor swimming pools in all tiers, as they are deemed essential

#### Moderate (orange)

- Open with modifications
- Fitness centers can open to 25% capacity
- Indoor pools can open
- Indoor hot tubs, saunas, and steam rooms must close

#### Minimal (yellow)

- Open with modifications
- Fitness centers can open to 50% capacity
- Indoor pools, hot tubs, saunas, and steam rooms can open

Follow this [guidance for hotels and short-term lodging rentals](#) for tourism and individual travel to support a safe, clean environment for workers and customers.

This guidance includes additional considerations for:

- Short-term rental units
- Swimming pools and aquatic venues

Review the guidance, prepare a plan, and post the [checklist for hotels, lodging, and short-term lodging rentals](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

## Life sciences

Follow this [guidance for the life sciences industry](#) to create a safer environment for workers.

Review the guidance, prepare a plan, and post the [checklist for the life sciences industry](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

## Limited services – updated October 20

Follow this [guidance for limited services](#) to support a safe, clean environment for workers and customers. A limited service is one that generally does not require close contact. Examples include:

- Laundromats
- Dry cleaners
- Auto repair shops
- Car washes
- Landscapers
- Door-to-door services and sales
- Pet grooming
- Dog walking

This guidance also applies to:

- Residential and janitorial cleaning services
- HVAC services



- Appliance repair
- Electricians
- Plumbers
- Mechanical tradespersons
- Handypersons
- General contractors

Review the guidance, prepare a plan, and post the [checklist for limited services](#) in your workplace to show clients and employees that you've reduced the risk and are open for business.

This guidance is not intended for:

- In-home healthcare, other in-home care, or assisted living
- Services that require close customer contact, including:
  - Hair salons
  - Barbershops
  - Nail salons
  - Massage parlors
  - Estheticians
  - Ear piercing
  - Tattoo parlors

See [guidance for hair salons and barbershops](#) and [guidance for personal care services](#).

Faith-based counseling can reopen within the following parameters:

1. Counseling services are permissible in-person where the service cannot reasonably be practiced remotely;
2. Counseling services should adopt state guidance on Limited Services, where applicable;

Follow this [guidance for businesses operating in the logistics/warehousing industry](#) to create a safer environment for workers.

Review the guidance, prepare a plan, and post the [checklist for the logistics/warehousing industry](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

## **Manufacturing**

Follow this [guidance for the manufacturing industry](#) to create a safer environment for workers.

Review the guidance, prepare a plan, and post the [checklist for the manufacturing industry](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

## **Mining and logging**

Follow this [guidance for the mining and logging industries](#) to create a safer environment for workers.

Review the guidance, prepare a plan, and post the [checklist for the mining and logging industries](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

## **Movie theaters and family entertainment centers – updated October 20**

**Tier status:**



## Widespread (purple)

- Movie theaters: Outdoor only with modifications
- Family entertainment centers: Outdoor only with modifications for activities like kart racing, mini golf, batting cages
- Playgrounds: Outdoor only with modifications

## Substantial (red)

- Movie theaters:
  - Indoor with modifications
  - Capacity must be limited to 25% or 100 people, whichever is less
- Family entertainment centers: Outdoor only with modifications for activities like kart racing, mini golf, batting cages
- Playgrounds: Outdoor only with modifications

## Moderate (orange)

- Movie theaters:
  - Indoor with modifications
  - Capacity must be limited to 50% or 200 people, whichever is less
- Family entertainment centers:
  - Outdoor with modifications for activities like kart racing, mini golf, batting cages
  - Indoor with modifications for naturally distanced activities, like bowling alleys, and escape rooms
  - Capacity must be limited to 25%
- Playgrounds: Outdoor only with modifications

## Minimal (yellow)

- Movie theaters:

- Indoor with modifications
- Capacity must be limited to 50%
- Family entertainment centers:
  - Outdoor with modifications for activities like kart racing, mini golf, batting cages
  - Indoor with modifications for naturally distanced activities, like bowling alleys, and escape rooms
  - Indoor with modifications for activities with increased risk of proximity and mixing, like arcade games, ice and roller skating, and indoor playgrounds
  - Capacity must be limited to 50%
- Playgrounds: Outdoor only with modifications

#### Movie theaters

- Follow this [guidance for movie theaters](#) to support a safe, clean environment for workers and customers. This guidance includes additional considerations for indoor movie theaters and drive-in movie theaters. Review the guidance, prepare a plan, and post the [checklist for movie theaters](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

#### Family entertainment centers

- Follow this guidance for [family entertainment centers](#), like bowling alleys, miniature golf, batting cages, and arcades, to support a safe, clean environment for workers and customers. Review the guidance, prepare a plan, and post the [checklist for family entertainment centers](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

## Museums, zoos, and aquariums – updated October 20



Widespread (purple): Outdoor only with modifications

Substantial (red)

- Indoor with modifications
- Indoor activities must be limited to 25% of capacity

Moderate (orange)

- Indoor with modifications
- Indoor activities must be limited to 50% of capacity

Minimal (yellow): Indoor with modifications

Follow this [guidance for zoos, museums](#), galleries, botanical gardens, aquariums, and other similar spaces to support a safe, clean environment for workers and customers. Review the guidance, prepare a plan, and post the [checklist for zoos, museums](#), galleries, and aquariums in your workplace to show customers and employees that you've reduced the risk and are open for business.

## Music, film, and TV production

This industry can open with modifications. Music, TV, and film production may resume, subject to approval by county public health officers. To reduce the risk of COVID-19 transmission, productions, cast, crew and other industry workers must abide by safety protocols agreed by labor and management, which may be further enhanced by county public health officers. Back office staff and management must follow the [guidance for office workspaces](#).

## Office workspaces

**Tier status:**

Widespread (purple): Remote work



Substantial (red): Remote work

Moderate (orange): Indoor with modifications, encourage telework

Minimal (yellow): Indoor with modifications, encourage telework

Follow this [guidance for office workspaces](#) to create a safer environment for workers.

Review the guidance, prepare a plan, and post the [checklist for office workspaces](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

Faith-based office workspaces can reopen within the following parameters:

1. Faith-based facilities are considered "offices" only for those employed by the organization and where the facility is their regular place of work.
2. The employer should implement state guidance relating to offices before reopening the facility for employees.
3. This designation does not permit gatherings of non-employees, such as the organization's congregation.

## ▲ Outdoor recreation, including campgrounds, playgrounds, and ski resorts – updated December 3

Follow this [guidance for campgrounds](#), RV parks, ski operations, and other outdoor recreation to create a safer environment for workers and patrons.

Review the guidance and prepare a plan for your workplace to show customers and employees that you've reduced the risk and are open for business.

Outdoor playgrounds can open with modifications in all tiers. See [requirements for outdoor playgrounds](#) to keep them safe and fun for everyone.

Outdoor skateparks can open with modifications in all tiers. Attendees must adhere to physical distancing requirements and mask wearing as outlined in the [outdoor playground guidance](#).



Drowning prevention classes, including swim lessons with certified instructors, are permitted in indoor and outdoor swimming pools in all tiers, as they are deemed

## **Personal care services – updated October 20**

Personal care services can open indoors with modifications in all tiers. Follow this [guidance for personal care services](#) like nail salons, tattoo parlors, and body waxing to support a safe, clean environment for workers and customers. This guidance applies to services that require touching a client's face, like facials, electrolysis, and waxing. It also applies to esthetic services, skin care, and massage therapy. Review the guidance, prepare a plan, and post the [checklist for personal care services](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

This guidance and checklist include additional considerations for:

- Esthetic and skin care services
- Electrology services
- Nail services
- Body art professionals, tattoo parlors, and piercing shops
- Massage services (in non-healthcare settings)

## **Places of worship and cultural ceremonies**

### **Tier status:**

Widespread (purple): Outdoor only with modifications

Substantial (red)

- Indoor with modifications
- Indoor activities must be limited to 25% of capacity or 100 people, whichever is less

Moderate (orange)

- Indoor with modifications
- Indoor activities must be limited to 50% of capacity or 200 people, whichever is less

#### Minimal (yellow)

- Indoor with modifications
- Indoor activities must be limited to 50% of capacity

Follow this [guidance for places of worship](#) and providers of religious services to support a safe, clean environment for congregants, visitors, workers, and volunteers. Places of worship include:

- Churches
- Mosques
- Synagogues
- Temples

## Ports

Follow this [guidance for the port industry](#) to create a safer environment for workers.

Review the guidance, prepare a plan, and post the [checklist for the port industry](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

## Professional sports – updated October 20

### Tier status:

Widespread (purple):



- Open with modifications
- No live audiences

Substantial (red):

- Open with modifications
- No live audiences

Moderate (orange):

- Open with modifications
- Permanent venues with live audiences outdoors only
- Capacity must be limited to 20%
- Reservations required
- Assigned seating only
- In-seat concessions only (no concourse sales)
- Regional attendees only (within 120 miles)

Minimal (yellow):

- Open with modifications
- Permanent venues with live audiences outdoors only
- Capacity must be limited to 25%
- Reservations required
- Assigned seating only
- In-seat concessions only (no concourse sales)
- Regional attendees only (within 120 miles)

Follow this [guidance for professional sports](#) outdoors with live audiences to support a safe, clean environment for workers and guests. This guidance applies to outdoor operations of sporting event venues like stadiums and racetracks.

This guidance includes additional considerations for:

- Entry and security
- Venue support operations, like sound and lighting

Review the guidance, prepare a plan, and post the [checklist for professional sports](#) in your workplace to show players, coaches, spectators, and workers that you've reduced the risk and are open for business.

Athletes, coaching staff, medical staff, broadcasting staff and others at sporting facilities or events should refer to COVID-19 protocols agreed to by labor and management. Local health departments may further enhance these protocols. Back office staff and management should follow the [guidance for office workspaces](#).

Professional sports may resume training and competition without live audiences, subject to approval by county public health officers. This guidance does not apply to semi-professional, amateur, or recreational sports.

## **Public transit and intercity passenger rail – updated October 20**

Follow this [guidance for public transit agencies](#) to support a safe, clean environment for workers and customers. This guidance includes additional considerations for passenger carriers, like taxis, rideshare vehicles, shuttles, and limousines.

Review the guidance, prepare a plan, and post the [checklist for public transit agencies](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

### **Shared transportation in agriculture**

Shared transportation is common in agriculture. Employers may provide shared transportation for workers. Workers may arrange a carpool to and from the worksite. Check the additional [considerations for shared transportation in agriculture](#) to support a safe, clean environment for passengers and drivers.

## **Real estate transaction**

Follow this [guidance for businesses operating in the real estate industry](#) to create a

- App. 148 -



Review the guidance, prepare a plan, and post the [checklist for the real estate industry](#) in your workplace to show customers and employees that you've reduced

## Restaurants, wineries, and bars – updated December 1

### **Tier status:**

#### Widespread (purple)

- Restaurants: Outdoor only with modifications
- Wineries and tasting rooms: Outdoor only with modifications
- Bars, breweries, and distilleries: Closed

#### Substantial (red)

- Restaurants:
  - Indoor with modifications
  - Capacity must be limited to 25% or 100 people, whichever is less
- Wineries and tasting rooms: Outdoor only with modifications
- Bars, breweries, and distilleries: Closed

#### Moderate (orange)

- Restaurants:
  - Indoor with modifications
  - Capacity must be limited to 50% or 200 people, whichever is less
- Wineries and tasting rooms:
  - Indoor with modifications
  - Capacity must be limited to 25% or 100 people, whichever is less
- Bars, breweries, and distilleries: Outdoor only with modifications

## Minimal (yellow)

- Restaurants:
  - Indoor with modifications
  - Capacity must be limited to 50%
- Wineries and tasting rooms:
  - Indoor with modifications
  - Capacity must be limited to 50% or 200 people, whichever is less
- Bars, breweries, and distilleries:
  - Indoor with modifications
  - Capacity must be limited to 50%

### Restaurants

Follow this [guidance for restaurants](#) to support a safe, clean environment for workers and customers. Review the guidance, prepare a plan, and post the [checklist for restaurants](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

### Wineries and tasting rooms

Follow this [guidance for wineries and tasting rooms that do not serve meals](#) to support a safe, clean environment for workers and customers. Review the guidance, prepare a plan, and post the [checklist for wineries](#) in your workplace to show customers and employees that you've reduced the risk and are open for business. Establishments that serve meals must follow the guidance and checklist for restaurants.

### Bars, breweries, and distilleries

Follow this [guidance for bars, breweries, and distilleries that do not serve meals](#) to support a safe, clean environment for workers and customers. Review the guidance, prepare a plan, and post the [checklist for bars](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.



## Retail – updated October 20

### Tier status:

Widespread (purple)

- Open with modifications
- Retail capacity must be limited to 25%
- Grocery store capacity must be limited to 50%

Substantial (red)

- Open with modifications
- Retail capacity must be limited to 50%

Moderate (orange): Indoor with modifications

Minimal (yellow): Indoor with modifications

Follow this [guidance for retailers](#) to support a safe, clean environment for workers and customers. Review the guidance, prepare a plan, and post the [checklist for retail](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

Retailers and libraries can re-open, along with the manufacturing and logistics sectors that support retail.

Libraries should follow the [guidance for retailers](#). The State Library has also released guidance for the [re-opening of libraries for in-person services](#). See the [State Library's COVID-19 website](#) for more information. Find [resources for public libraries](#) by the California Library Association and the State Library.

Drive-in and movie theaters can re-open with additional considerations. Check the [guidance for movie theaters and family entertainment centers](#) for details.

Retail doesn't include personal services such as beauty salons, but does include the sale of goods such as:

- Bookstores
- Jewelry stores
- Toy stores
- Clothing and shoe stores
- Home and furnishing stores
- Sporting goods stores
- Florists

Retail stores identified in the [essential workforce list](#) can open for in-store shopping. They include:

- Retail facilities specializing in medical goods and supplies
- Grocery stores, pharmacies, convenience stores, and other retail that sells food or beverage products, and animal/pet food
- Fuel centers such as gas stations and truck stops
- Hardware and building materials stores, consumer electronics, technology and appliances retail

## Schools

Find information for [your school district](#).

Follow this [guidance for schools and school-based programs](#) to create a safer environment for your students, families, and staff. This guidance applies to in-person learning and distance learning.

- Review the guidance, prepare a plan, and post the [checklist for schools](#) in your facility to show students, families, and staff that you've taken steps to mitigate COVID-19 spread.
- Check the answers to [frequently asked questions](#) about guidance for schools.
- Follow the [guidance related to cohorts](#) of children and youth.
- See the [California Interscholastic Federation statement](#) for information about



Some schools may have reopened based on the [COVID-19 and Reopening In-Person Learning Framework for K-12 Schools](#). These schools should follow the guidance on school closure provided in that framework when determining whether to close due to COVID-19 spread.

Elementary education waiver:

## Shopping centers – updated October 20

### **Tier status:**

Widespread (purple):

- Open with modifications
- Indoor capacity must be limited to 25% for shopping malls, destination shopping centers, and swap meets
- Closed common areas
- Closed food courts

Substantial (red):

- Open with modifications
- Indoor capacity must be limited to 50% for shopping malls, destination shopping centers, and swap meets
- Closed common areas
- Reduced capacity food courts (see [restaurants](#))

Moderate (orange):

- Open with modifications
- Closed common areas
- Reduced capacity food courts (see [restaurants](#))

Minimal (yellow):

- Open with modifications
- Reduced capacity food courts (see [restaurants](#))

Follow this [guidance for shopping malls](#), destination shopping centers, and swap meets to support a safe, clean environment for workers, customers, and the public.

Review the guidance, prepare a plan, and post the [checklist for shopping centers](#) in your workplace to show customers and employees that you've reduced the risk and are open for business.

## Support for working families

The [support for working families](#) guidance provides information to help you locate child care, find assistance to pay for child care, and connect you to additional supports for your family. As stay-at-home orders are lifted for additional industries to promote California's economic recovery, the need for child care and other supports for working families increases.

## Youth sports

Follow this [guidance for youth sports](#) programs, including school-based, club, and recreational programs. Review the guidance and prepare a plan to support a safe environment for players, coaches and trainers, families, spectators, event/program/facility managers, workers, and volunteers.

- Check the [questions and answers](#) about youth sports.
- Follow the [guidance related to cohorts](#) of children and youth.

Is this page useful?

YES NO

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## APPENDIX 19



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**COVID19.CA.GOV**  
Your Actions Save Lives

# Blueprint for a Safer Economy

Last updated December 11 2020 at 1:46 PM

## New Regional Stay Home Order

COV D-19 continues to surge at alarming rates in California. The Regional Stay Home Order, announced December 3, 2020, adds restrictions in regions with less than 15% CU bed capacity. t prohibits gatherings of any size, closes operations except for critical infrastructure and retail, and requires 100% masking and physical distancing. Read more about the **Regional Stay Home Order**.

California has a blueprint for reducing COV D-19 in the state with revised criteria for loosening and tightening restrictions on activities.

## Find the status for activities in your county

County

Enter county

Activity

Enter a business or activi



GET LATEST RISK LEVELS

# Understand your county's status

Every county in California is assigned to a tier based on its test positivity and adjusted case rate.

In light of the recent, unprecedented surge in rate of increase of cases, the following changes are effective until further notice:

- Tier assignments may occur any day of the week and may occur more than once a week when the California Department of Public Health (CDPH) determines that the most recent reliable data indicate that immediate action is needed to address COVID-19 transmission in a county.
- Counties may be moved back more than one tier if CDPH determines that the data supports more intensive intervention. Key considerations will include the rate of increase in new cases and/or test positivity, more recent data as noted below, public health capacity, and other epidemiological factors.
- The most recent reliable data will be used to complete the assessment.
- In light of the extreme circumstances requiring immediate action, counties will be required to implement any sector changes the day following the tier announcement.
- Full details on the Blueprint are available in CDPH's [Blueprint for a Safer Economy framework](#).

## Reopening safely for all communities

COVID-19 has impacted some communities more than others. They face higher rates of infection and death. These include our Latino, Black, Pacific Islander, low income, and essential worker communities.

Counties must address COVID-19 in **all** communities to open further, including making sure the positivity rate in certain neighborhoods (health equity metric)

does not significantly lag behind overall county positivity rates. These efforts need cross-sector and broad partnerships to succeed. The health equity metric is only used to decide whether a county can move to a less restrictive tier. Learn more about this [focus on equity](#).

WIDESPREAD

Many non-essential indoor business operations are closed

Adjusted cases\*

7-day average of daily COVID-19 cases per 100K with 7-day lag, adjusted for number of tests performed

More than 7.0

Daily new cases (per 100k)

Positivity rate\*\*

7 day average of a COVID 19 tests performed that are positive

Entire county

More than 8.0%

Positive tests

SUBSTANTIAL

Some non-essential indoor business operations are closed

Adjusted cases\*

7-day average of daily COVID-19 cases per 100K with 7-day lag, adjusted for number of tests performed

4.0 – 7.0

Daily new cases (per 100k)

Positivity rate\*\*

7 day average of a COVID 19 tests performed that are positive

Case 3:20-cv-00001-UNA Document 1-1 Filed 01/20/22 Page 1 of 1

5.0 – 8.0%

## Positive tests

## Healthy equity quartile

5.3 – 8.0%

## Positive tests

## MODERATE

Some indoor business operations are open with modifications

## Adjusted cases\*

7-day average of daily COVID-19 cases per 100K with 7-day lag, adjusted for number of tests performed

1.0 – 3.9

Daily new cases (per 100k)

## Positivity rate\*\*

7 day average of a COVID 19 tests performed that are positive

## Entire county

2.0 – 4.9%

## Positive tests

## Healthy equity quartile

2.2 – 5.2%

## Positive tests

# MINIMAL

Most indoor business operations are open with modifications

## Adjusted cases\*

7-day average of daily COVID-19 cases per 100K with 7-day lag, adjusted for number of tests performed

Less than 1.0

Daily, 0.00000 (per 100%)

**Positivity rate\*\***

7 day average of a COVID 19 tests performed that are positive

**Entire county**

Less than 2.0%

Positive tests

**Healthy equity quartile**

Less than 2.2%

Positive tests

\*Small counties (those with a population less than 106 000) may be subject to alternate case assessment measures for purposes of tier assignment.  
\*\*Health equity metric is not applied for small counties. The health equity metric is used to move to a less restrictive tier.

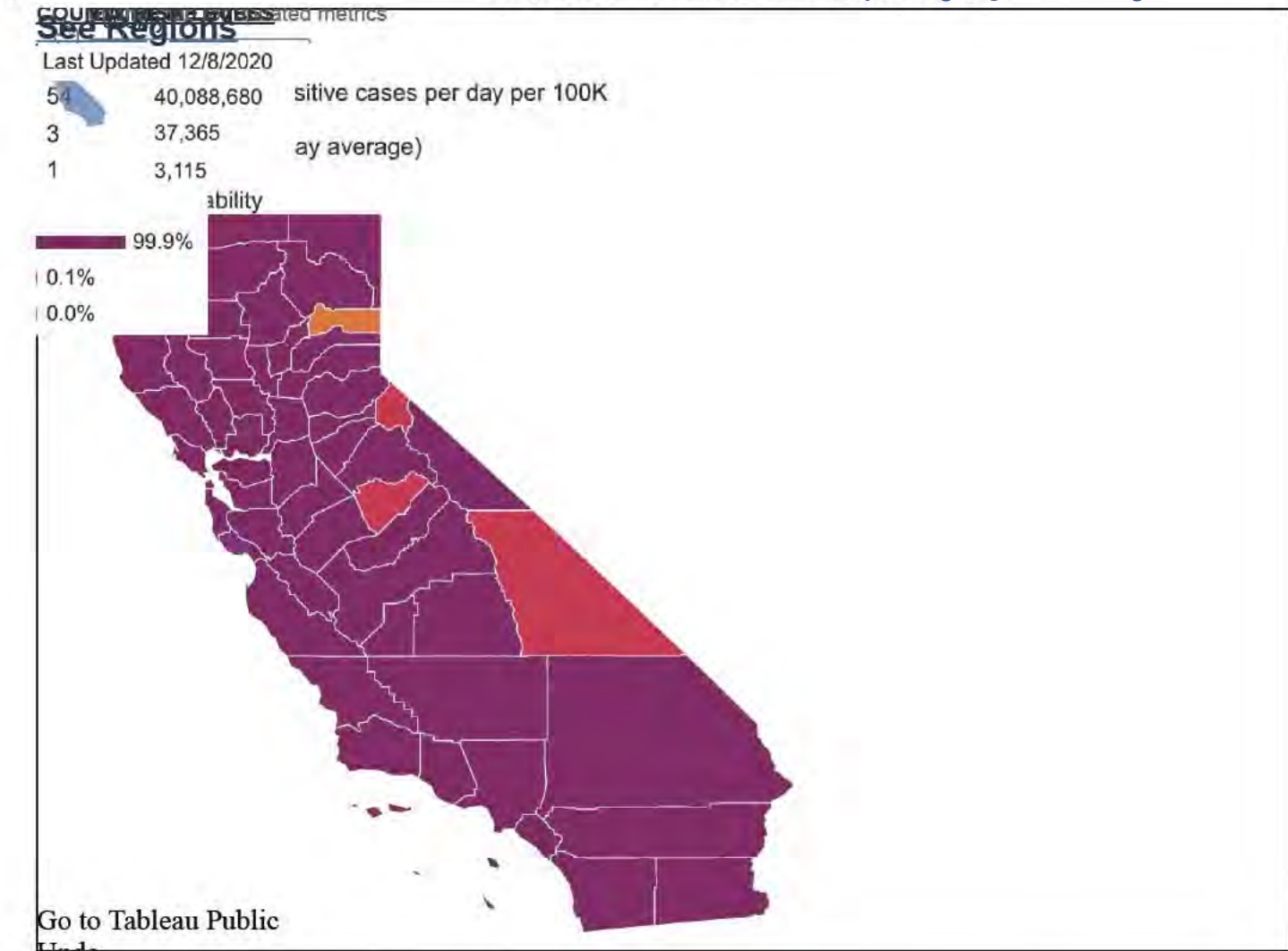
**Regional Stay Home Order**

The State continues to record an unprecedented surge in the level of community spread of COVID-19. The Regional Stay Home Order, announced December 3, 2020, and a supplemental order, signed December 6, 2020, will go into effect at 11:59 PM the next day in regions with less than 15% intensive care unit (ICU) availability.

Learn more about the [actual ICU capacity](#) remaining in each region.

**Current tier assignments as of December 8, 2020**

Tier assignments may occur any day of the week and may occur more than once a week. Select a county to see what region it's in.



All data and tier assignments are based on results from week ending November 28 2020. See how tiers are assigned and change as well as county historical data (**California Blueprint Data Chart**) at [CDPH's Blueprint for a Safer Economy framework](#).

## Questions and answers

### Why can some activities and businesses open while others have to stay closed?

Activities and businesses that have a lower risk of spreading COV D-19 are allowed to open sooner. Higher-risk activities or businesses aren't allowed until later tiers. An activity or business's tier depends on whether it can:

- Accommodate mask wearing at all times (for example, eating and drinking



- Allow physical distance between individuals from different households
- Limit the number of people per square foot
- Limit time that an individual is at the business or activity
- Limit time of exposure
- Limit mixing of people from different households
- Limit amount of physical interactions of visitors/patrons
- Increase airflow (such as operating outdoors or opening windows and doors)
- Limit activities that are known to increase virus spread (like singing, shouting and heavy breathing)

## What happened to the County Monitoring List?

On August 31, the Blueprint for a Safer Economy replaced the County Data Monitoring List for determining what business can and cannot open.

So why change? We learned a lot over the first several months of the pandemic about COV D-19 and how it spreads. For example, we know how much safer outdoor activities are than indoor ones and that it's critical everyone wears a mask to limit the spread of the disease. This blueprint incorporates what we've learned.

The Blueprint for a Safer Economy is the next evolution of our response. We've revised the criteria and the time between changing tiers. We've made it easy for counties to see how changes affect the disease's trajectory and for businesses and customers to plan ahead. And we've given Californians one place to look up whether a business or activity is allowed near them.

## What happens if my county's case rate and positivity measures fall into two different tiers?



If a county's case rate and positivity rate fall into different tiers, the county remains in the stricter tier.

## Can my school open under the Blueprint for a Safer Economy?

Schools in the Widespread (purple) tier aren't permitted to reopen for in-person instruction, unless they receive a waiver from their local health department for grades TK-6. However, they may provide supervision of children in accordance with the [cohorts guidance](#).

Schools can reopen for in-person instruction once their county has been in the Substantial (red) tier for two weeks. Tiers take effect the day after assignment. For example, if a county moves to the Substantial (red) tier on Tuesday, September 8, and stays there for two weeks, schools can open Wednesday, September 23.

Schools that have reopened for in-person instruction are not required to close if their county moves back to the Widespread (purple) tier.

Learn more about [guidance for schools](#).

## What can I do to help my county reach a lower tier?

- Stay home except for essential services.
- Wear a mask in public.
- Wash your hands regularly.
- Keep at least six feet of physical distance when in public.
- Limit mixing with people you don't live with.



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YES NO

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## APPENDIX 20

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10 Attorneys for Plaintiffs

11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**  
13 **EASTERN DIVISION**

14 **WENDY GISH**, an individual, *et al.*,

15 Plaintiffs,

16 v.

17 **GAVIN NEWSOM**, in his official  
18 capacity as Governor of California, *et al.*,

19 Defendants.

Case Number: 5:20-cv-00755-JGB-KK

Hon. Jesus G. Bernal

**ORDER DENYING  
APPLICATION FOR  
EMERGENCY INJUNCTION  
PENDING APPEAL**

20  
21 IT IS HEREBY ORDERED that, for the reasons set forth in this Court's Orders  
22 (Dkt. 51, 76, and 88), Plaintiffs' Application for Injunction Pending Appeal is  
23 DENIED.  
24

25 January 5, 2021

26   
27 Hon. Jesus G. Bernal  
28 United States District Judge