Assembly Bill 685

COVID-19 Written Notification Templates

**Background**

On September 17, 2020, [AB 685](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB685) was signed into law effective January 1, 2021, through January 1, 2023. The law outlines COVID-19 employer written notification requirements for worksite exposures. Employers will be required to notify potentially exposed employees, the exclusive representative if applicable, and the employers of subcontracted employees after becoming aware that a person with a confirmed COVID-19 case has been on the employer’s worksite. The written notice is required to be sent to those who were on the same premises/worksite as the person with the confirmed case. The employee notification must maintain the person with the confirmed case’s confidentiality. The written notice must be sent within one business day from employer awareness.

The notice can be sent through email, text, or other mediums as long as it can be reasonably anticipated to be received within one business day of sending and must be in both English and the language understood by the majority of the employees. The employer must retain records of the written notification for three years; this would include potentially exposed employees, exclusive representatives, and employers of subcontracted employees.

**Instructions**

Sedgwick Risk Control has developed three sample letter templates to assist employers with the notification requirements. Prior to customizing the templates, we recommend a thorough review of AB 685 and the newly adopted Cal/OSHA [COVID-19 Prevention Emergency Regulation](https://www.dir.ca.gov/OSHSB/documents/COVID-19-Prevention-Emergency-txtbrdconsider.pdf), which is effective on November 30, 2020.

There are several areas in the templates that need to be reviewed and customized based on the employer’s specific policies. These sections are indicated by BLUE TEXT,and guidance is indicated by SHADED TEXT. You should remove the shaded areas and change the blue text to black for the final document. We recommend retaining these instructions and copy/pasting the template language onto your entity’s letterhead for distribution.

This template has been updated to reflect the changes made due to new guidance from the California Department of Public Health and Governor Newsom’s Executive Order on December 14, 2020. These updates to the template are highlighted in YELLOW.

The following guidance will assist employers with customizing the templates:

**Template #1 – Notice to Employees**

The employer will need to determine who was on the same premises/worksite as the person with the confirmed case. The written notice to potentially exposed employees must include the following information:

1. **Notice of Potential Exposure to COVID-19**

The notice must be sent to the identified employees who may have been exposed to COVID-19. The template provides sample language on COVID-19 testing requirements that need to be modified based on the employer’s policies. It also includes language on the infectious period and when potentially exposed employees can return back to work. The employer will be required to determine the infectious period and enter this information in the notification.

For the purposes of this notification, the infectious period typically starts 2 days before the confirmed person’s symptoms or positive test date and ends 14 days later. Conditions such as extended fever/symptoms and other potential scenarios vary case by case, so we recommend reviewing the California Department of Public Health’s definition at [CDPH AB 685 Questions](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Employer-Questions-about-AB-685.aspx) to calculate the notification’s beginning and ending date of the infectious period.

1. **COVID-19-related Benefits & Options**

This section addresses remote work options and COVID-19-related benefits and options to which the employee may be entitled under applicable federal, state, or local laws, including, but not limited to, workers’ compensation and other options for exposed employees, such as COVID-19-related leave, company sick leave, state-mandated leave, supplemental sick leave, or negotiated leave provisions.

The California Labor & Workforce Development Agency has created a list of [Benefits for Workers Impacted by COVID-19](https://www.labor.ca.gov/coronavirus2019/#chart) as a reference for employers.

1. **Retaliation and Discrimination Protections**

Employers are required to outline their retaliation and discrimination protection policies in the notification as it relates to reporting a positive COVID-19 test or order to quarantine or isolate. Review this section and modify based on the employer’s policies.

1. **Disinfection and Safety Plan**

The employer is required to outline its disinfection and safety plan. If the employer already has procedures in place, they can be written into the notification, or the procedures can be attached to the notification.

The Cal/OSHA [COVID-19 Prevention Emergency Regulation](https://www.dir.ca.gov/OSHSB/documents/COVID-19-Prevention-Emergency-txtbrdconsider.pdf) requires employers to develop a COVID-19 Prevention Program. The program includes disinfection and safety plan procedures. The Cal/OSHA model program is available at [CalOSHA Model COVID-19 Prevention Program](https://www.dir.ca.gov/dosh/dosh_publications/CPP.doc).

**Template #2 – Notice to Employers of Subcontracted Employees (if applicable):**

The sample template is addressed to the employer of subcontracted employees and includes information about sections 1 and 4 of the employee notification as required.

**Template #3: - Notice to the Exclusive Representative (if applicable):**

The written notice to the exclusive (labor) representative must include all the information provided to employees. We recommend attaching the employee notification to the exclusive representative’s notification. The employer is also required to provide a list of the notified employees who are represented. The notified employee’s information should include what would be required on the Cal/OSHA 300 log unless the information is inapplicable or unknown to the employer. For additional details refer to the labor code section 6409.6 subsection (a) and (c) in [AB 685](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB685).

**Template 1: Employee Notification of Possible Exposure to COVID-19**

Date: Date notice is sent to employees

To: All potentially affected employees

**Possible Exposure to COVID-19**

We are writing to inform you that you may have been exposed to COVID-19 during the course of your work. A person who has either tested positive or otherwise been diagnosed with COVID-19 or a person who is subject to a public health isolation order resulting from COVID-19 or a person who has since died of COVID-19 was on the Name of Entity’s premises during the infectious time period of enter the start/end dates of the 14-day infectious period [REFER TO INSTRUCTIONS FOR GUIDANCE]. At some point during this period, you may have come into contact with this person. As a result, you may have been exposed to COVID-19.

Due to your potential exposure to COVID-19, if you are interested in obtaining a COVID-19 test, please contact Insert specific direction and the person to contact. To ensure the test provides valid results the test should not be administered before (insert dates between the range of 5 days from the first potential exposure to 5 days from the last potential exposure).

If you have not exhibited any COVID-19 symptoms, you must not return to work until you have a confirmed negative test result, or in the absence of a confirmed negative test, you complete the requisite quarantine of **10 days** from the last possible day of exposure, which was insert last date the subject individual was at the worksite. If you return prior to completing 14 days in quarantine, you must comply with all of the following conditions:

* Adhere strictly to all recommended non-pharmaceutical interventions, including wearing face coverings at all times, maintaining a distance of at least 6 feet from others, and
* Self-monitor for COVID-19 symptoms through Day 14 and if symptoms occur, immediately self-isolate and contact your local public health department or healthcare provider and seek testing.

If you have a confirmed positive test, you must not report to work in person until you are cleared by your medical provider or a public health official. If you have a confirmed positive test, are otherwise diagnosed with COVID-19, or become subject to a public health isolation order unrelated to your employment, you are not required to report this medical information to us as your employer, although we would appreciate that you do as a means of helping keep our staff and community safe.

**COVID-19-related Benefits & Options**

During your absence, you may be able to work remotely with your supervisor’s/insert name’s approval. If you are not approved to work remotely, you may use any accrued leave or any federal, state, or local benefits that you may be eligible for. Additionally, you may be entitled to other COVID-19-related benefits under applicable federal, state, or local laws, including, workers’ compensation and other options for exposed employees, including COVID-19-related leaveunder the federal Families First Coronavirus Response Act and state AB 1867, District sick leave, state-mandated leave, and supplemental sick leave. See insert appropriate contact for more information about employee benefits. [YOU CAN ALSO INSERT LOCATION OF ANY RELEVANT LEAVE POLICIES.]

**Retaliation & Discrimination Protections**

Our policies and state law protect you from retaliation or discrimination for reporting a positive COVID-19 test or order to quarantine or isolate. If in the future, you believe you are subjected to any retaliation or discrimination for your protected conduct, please inform insert appropriate contact. Workers who believe they have wrongfully experienced retaliation or discrimination may also file a complaint with the [Division of Labor Standards Enforcement](https://www.dir.ca.gov/dlse/).

**Disinfection & Safety Plan**

We endeavor to maintain a safe and healthy workplace for all. As a result of this possible exposure, we are implementing the following disinfection and safety plan, pursuant to guidelines from the Centers for Disease Control. [YOU CAN INSERT YOUR PLAN HERE OR REFER THE READER TO ANOTHER DOCUMENT, SUCH AS THE COVID-19 PREVENTION PROGRAM.]

If you have any questions about this notification or if you wish to discuss your eligibility for certain COVID-19 benefits, please do not hesitate to contact insert appropriate contact.

**Template 2: Notice to Employers of Subcontracted Employees (if applicable)**

Date: Date notice is sent

To: Name of employer of subcontracted employees

We are writing to inform you that your employees may have been exposed to COVID-19 during the course of their work at our workplace. A person who has either tested positive or otherwise been diagnosed with COVID-19 or a person who is subject to a public health isolation order resulting from COVID-19 or a person who has since died of COVID-19 was on the Name of Entity’s premises during the infectious time period of enter the start/end dates of the 14-day infectious period [REFER TO INSTRUCTIONS FOR GUIDANCE], and at some point during this period, your employees may have come into contact with this person. As a result, they may have been exposed to COVID-19. Your potentially exposed employees include list name(s) of employees.

Due to their potential exposure to COVID-19, Cal/OSHA requires you to offer COVID-19 testing. To ensure the test provides valid results, the test should not be administered before (insert dates between the range of 5 days from the first potential exposure to 5 days from the last potential exposure). If they have not exhibited any COVID-19 symptoms, they must not report to our workplace in person until they have a confirmed negative test result, or in the absence of a confirmed negative test, they complete the requisite quarantine of **10 days** from the last possible day of exposure, which was insert last date the subject individual was at the worksite. If they return prior to completing 14 days in quarantine, they must comply with all of the following conditions:

* Adhere strictly to all recommended non-pharmaceutical interventions, including wearing face coverings at all times, maintaining a distance of at least 6 feet from others, and
* Self-monitor for COVID-19 symptoms through Day 14 and if symptoms occur, immediately self-isolate and contact their local public health department or healthcare provider and seek testing.

If the subcontracted employees have a confirmed positive test, they must not report to our workplace in person until they are cleared by your medical provider or a public health official.

If remote working options are available, you will be contacted by insert appropriate contact.

We endeavor to maintain a safe and healthy workplace for all. As a result of this possible exposure, we are implementing the following disinfection and safety plan, pursuant to guidelines from the Centers for Disease Control. [INSERT THE INFORMATION YOU DEVELOPED IN TEMPLATE #1]

If you have any questions about this notification, please do not hesitate to contact insert appropriate contact.

**Template 3: Notice to the Exclusive Representative**

Date: Date notice is sent

To: Name of exclusive representative

We are writing to inform you that some of our employees may have been exposed to COVID-19 during the course of their work. A person who has either tested positive or otherwise been diagnosed with COVID-19 or a person who is subject to a public health isolation order resulting from COVID-19 or a person who has since died of COVID-19 was on the Name of Entity’s premises during the time period of enter the 14-day infectious period stating the beginning and ending dates, and at some point during this period, employee(s) may have come into contact with this person. As a result, they may have been exposed to COVID-19.

The notification includes exposure information, testing information, quarantine requirements, related benefit options, retaliation and discrimination protections, and our disinfection and safety plan protocols. Attached is a copy of the notification to employees.

In addition, we are attaching a list of the employee(s) who received the notification of potential exposure. The list includes their job title and department.

If you have any questions about this notification, please contact insert appropriate contact.