



# Important Information about COVID-19 and CA, Los Angeles and Federal Legal Developments

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All of our Combined and CalWorkSafety & HR, LLC team are here to:

- Help answer your questions
- Help you draft notices to employees
- Help you create plans for dealing with the many government regulations including “Stay at Home” from the State of California, Los Angeles area county and cities, etc.

Realize we are dealing with rapidly and dramatically changing rules – and these answers will change – often without notice. We will do our best to keep you informed, and never hesitate to send an email to: HRhelp@Combinedca.com

Every employer needs to have a way to reach their employees with new and changed information by personal emails, phone numbers or text.

Employers should give information to employees only in writing, emails or texts. There will be lots of questions and misunderstanding and no one wants to argue about what was said.

## **FIRST: State of California “Stay Home” Order**

On March 19, 2020, Governor Newsom signed Executive Order N-33-20, effectively a “stay home” order, in an attempt to reduce the spread of the Coronavirus (COVID-19). There are exceptions for “critical infrastructure sectors” such as gas stations, pharmacies, grocery stores, farmers markets, food banks, convenience stores, takeout and delivery restaurants, banks, and laundromats / laundry services. You can download the Order [here](#).

There are exceptions to maintain continuity of the operations of the “federal critical infrastructure sectors,” critical government services, schools, childcare, and construction, including housing construction. Click [here](#) to see if your business falls within the 16 designated federal critical infrastructure sectors.

Generally, your employees will fall into a few different categories, and we want to provide you with guidance on how to handle each category:

1. **Continuing to work**: if your business falls under one of the exceptions, your employees may continue to work. Continue to advise them on proper health and safety precautions including social distancing at work. All companies have the option of having employees work from home. If you will be sending employees home to work, we recommend using a telecommuting agreement.
2. **Furloughed**: because we don’t know how long this Order will be in effect, you may want to temporarily furlough employees. Think of it as a leave of absence under unusual

circumstances or a temporary reduction/elimination of hours. There's no need to terminate their employment. Once the Order is lifted, they will return to work. ***They are eligible for [Unemployment Insurance](#) and should apply immediately.*** If you have periods where they do have available work, they are allowed to have income but must report it to EDD. Wages earned will offset their benefits. You should check with your insurance carriers/broker to understand your obligations to keep any health benefits in place.

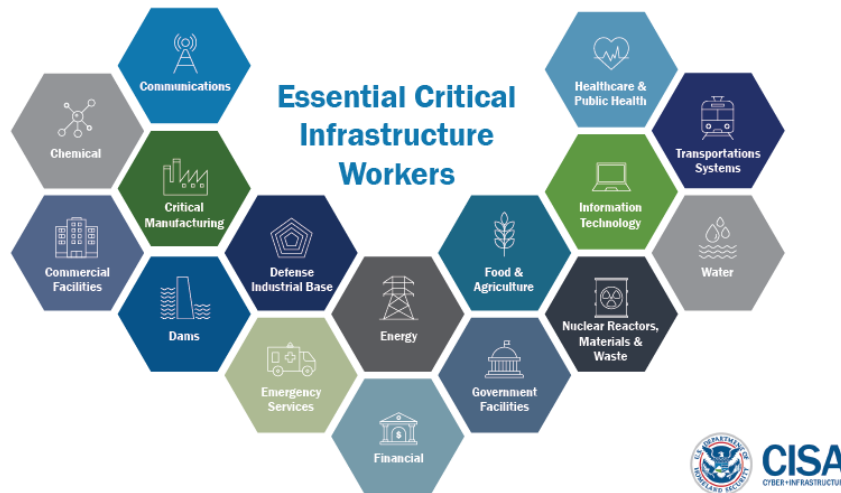
3. **Laid Off**: if you know that your business will suffer long term, and you won't need certain positions in the foreseeable future, you may need to reduce your workforce through a layoff. Be mindful about how you choose which employees are affected and seek counsel. Treat this as a termination of employment: pay out all monies due, including accrued vacation, and provide them with the appropriate paperwork. ***They are eligible for [Unemployment Insurance](#) and should apply immediately.***
4. **What is proper paperwork?** If you are going to temporarily furlough employees, a written notice stating when the last day of work is, that this is temporary caused by the Covid-19 and you hope to have employees to work as soon as possible, which may not be until April 19, but you will keep them notified. Ask them to make sure you have their current address, phone number and email if possible. The notice should state they will receive their pay through termination on \_\_\_\_, and that they are eligible to file for unemployment. On the internet, go to <https://www.edd.ca.gov/Unemployment/>

If you are laying employees off, without a future time expected return, then you must treat the change as a termination, which includes paying their full earned wages and accrued vacation benefits on the last day of work.

We also suggest you have a second form, a Receipt for Final Check, which asks the employees to confirm receipt of final check and also whether they have a work injury. Ask your CalWorkSafety & HR consultant for sample forms.

There are exemptions from the Governor's order. You can go to <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19> . If you have questions about your firm or organization's exemption under the California State order, please let me know.

## Identifying Critical Infrastructure During COVID-19



### **Guidance on the Essential Critical Infrastructure Workforce**

#### **16 Critical Infrastructure Sectors**

There are 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, national economic security, national public health or safety, or any combination thereof. Presidential Policy Directive 21 (PPD-21): PPD-21 identifies 16 critical infrastructure sectors.

[Chemical Sector](#)

[Commercial Facilities Sector](#)

[Communications Sector](#)

[Critical Manufacturing Sector](#)

[Dams Sector](#)

[Defense Industrial Base Sector](#)

[Emergency Services Sector](#)

[Energy Sector](#)

[Financial Services Sector](#)

[Food and Agriculture Sector](#)

[Government Facilities Sector](#)

[Healthcare and Public Health Sector](#)

[Information Technology Sector](#)

[Nuclear Reactors, Materials, and Waste Sector](#)

[Transportation Systems Sector](#)

[Water and Wastewater Systems Sector](#)

## **Second – What about Los Angeles City, County, Cities of Long Beach and Pasadena? Their shut down order is different and lists “Essential Services”.**

### **Los Angeles City and County “Safer at Home”: What You Need to Know**

To further combat the spread of COVID-19, Mayor Eric Garcetti has issued a “Safer at Home” emergency order — ordering all residents of the City of Los Angeles to stay inside their residences, and immediately limit all movement outside of their homes beyond what is absolutely necessary to take care of essential needs.

#### **THE BOTTOM LINE**

Residents of the City of Los Angeles, County of Los Angeles, Long Beach and Pasadena are required to stay inside their homes unless they are engaged in certain “essential activities.” On those occasions when you are out of your home for necessary tasks, stay at least six feet away from others.

#### **YOU CAN ...**

- Go to the grocery, convenience or warehouse store
- Go to the pharmacy to pick up medications and other healthcare necessities
- Go to medical appointments (check with your doctor or provider first)
- Go to a restaurant for take-out, delivery or drive-thru
- Care or support a friend or family member
- Take a walk, ride your bike, hike, jog and be in nature for exercise — just keep at least six feet between you and others in the community.
- Walk your pets and take them to the veterinarian if necessary
- Help someone to get necessary supplies

#### **YOU SHOULD NOT ...**

- Go to work unless you are providing essential services as defined by this Order
- Visit friends and family if there is no urgent need
- Maintain less than 6 feet of distance from others when you go out
- Visit loved ones in the hospital, nursing home, skilled nursing facility, or other residential care facility

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#### **Is this order mandatory? What happens if I don't comply?**

Yes. This is a legally enforceable order. It is against the law to violate this Order, and you may be punished by a fine or imprisonment for doing so.

### **Why is this happening now?**

This Emergency Order is being issued now because it is urgent that we slow and stop the spread of COVID-19 in the City of Los Angeles.

The virus spreads easily, and this Order is intended to prevent the spread of this disease from overwhelming our healthcare system. The goal here is to “flatten the curve” to slow down the spread of the virus and ensure we have adequate health care resources for those who get sick with COVID-19 and those who need emergency medical care for accidents, heart attacks, strokes, and other routine medical conditions.

### **What is the difference between “safer at home” and “social distancing”?**

Safer at home is a stricter form of social distancing. There are some differences. Safer at home means:

- Stay home (stay unexposed and do not expose others)
- Only go out for essential services
- Stay six feet or more away from others
- Don't gather in groups

The other concepts from social distancing will continue to apply when you are out shopping or walking or going to the doctor. These include washing hands, using hand sanitizer, disinfecting surfaces, not going out if sick, and staying at least six feet away from others at all times.

### **When does the Order go into effect and how long will it last?**

- The Order goes into effect immediately after midnight, starting at 11:59 p.m., Thursday, March 19, 2020. For a 24-hour period following the effective date above, employees and business owners will be exempt to allow access to their workplaces to gather belongings, so long as social distancing requirements are followed. Such workplaces shall remain closed to the public in accordance with this Order.

The Order is currently set to expire on April 19, 2020. The duration can be either shortened or extended by the Mayor. We want to be sure the Order is in place for only as long as necessary, and the Mayor, in coordination with the Los Angeles County Department of Public Health, will be closely monitoring the situation every day in order to determine what adjustments are appropriate.

### **What are essential activities and what businesses that will stay open?**

The following essential activities will remain open:

- City/County government services:
  - Police stations
  - Fire stations
  - Jails
  - Courts
  - Garbage/sanitation
  - Public Transportation

- Water, power, and gas utilities
  - Public works construction, including construction of housing
  - Airport and Port operations
- Gas service stations, auto supply, auto repair, bicycle repair shops and related facilities.
- Health care operations, including:
  - Hospitals
  - Clinics
  - Dentists
  - Pharmacies
  - Pharmaceutical and biotechnology companies
  - Medical and scientific research
  - Laboratories
  - Healthcare suppliers
  - Home healthcare services providers
  - Veterinary care providers
  - Mental health providers
  - Physical therapists and chiropractors
  - Cannabis dispensaries, or any related and/or ancillary healthcare services
  - Manufacturers and suppliers
  - *Healthcare operations does not include fitness and exercise gyms and similar facilities*
- Food providers, including:
  - Restaurants offering take-out, delivery or drive-thru. No dine-in service.
  - Grocery stores
  - Water retailers
  - Certified farmers' markets
  - Farm and produce stands
  - Supermarkets
  - Convenience stores
  - Warehouse stores
  - Food banks
  - Convenience stores
  - Pet supply
  - Take-out from restaurants, drive-thru restaurants, and delivery from restaurants
- Food cultivation, including farming, livestock, and fishing
- Organizations and businesses that provide food, shelter, and social services (including gang prevention and intervention, domestic violence and homeless services agencies)
- Gas service stations, auto supply, mobile auto repair operations, auto repair shops, bicycle repair shops and related facilities.
- Hardware and building supply stores and nurseries.
- Plumbers, electricians, exterminators, custodial/janitorial workers, handyman services, funeral home workers and morticians, moving services, HVAC installers, carpenters, landscapers, gardeners, property managers, private security personnel and other service providers who provide services to maintain the safety, sanitation, and essential operation to properties and other essential activities.
- Banks, credit unions, financial institutions and insurance companies.
- Businesses providing mailing and shipping services, including post office boxes.
- Laundromats/laundry service
- Newspapers, magazines, television, radio, podcasts and other media services

- Educational institutions, including public and private K-12 schools, colleges, and universities -- for purposes of facilitating distance learning or performing essential functions provided that social distancing of six-feet per person is maintained to the greatest extent possible.
- Businesses that supply products needed for people to work from home.
- Utility companies and other businesses that supply other essential businesses with the support, services, or supplies necessary to operate, provided that strict social distancing is maintained.
- Individuals or businesses that ship or deliver groceries, food, beverages or goods directly to residences or businesses, including rail and trucking.
- Airlines, taxis, ride sharing services, and other private transportation services providing transportation services necessary for essential activities and other purposes expressly authorized in this Order.
- Home-based care for disabled persons, seniors, adults, or children.
- Residential facilities and shelters for disabled persons, seniors, adults, and children.
- Professional services, such as legal, payroll or accounting services, when necessary to assist in compliance with legally mandated activities.
- Hotels, motels, shared rental units and similar facilities.
- Military/Defense Contractors/FFRDC (Federally Funded Research and Development Centers)
- Childcare facilities providing services that enable employees exempted in this Order to work as permitted, under restrictions contained in the Order.

Assuming your company falls within an “**Essential Business**”, you still need to practice social distancing and make sure your employees do. Have you issued policies telling them what to do?

### **What about infrastructure and construction?**

Individuals may leave their residences to provide any services or goods or perform any work necessary to the operations, maintenance and manufacturing of essential infrastructure, including without limitation:

- Construction of commercial and institutional buildings, and residential buildings and housing
- Airport operations, food supply, concessions, and construction
- Port operations and construction.
- Water, sewer, gas, electrical, oil extraction and refining.
- Roads, highways, public transportation and rail.
- Solid waste collection and removal.
- Flood control and watershed protection.
- Internet and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services).
- And manufacturing and distribution companies deemed essential to the supply chains of the above industries.

### **Can this Order be changed?**

Yes. It was important to get this Order in place quickly given the spread of the virus in Southern California. However, it can and will likely be updated as conditions warrant. Follow updates at <https://corona-virus.la/> and sign up for Notify LA at <https://emergency.lacity.org/notifyla>. We will also share new updates with the media.



**What if I need to visit a health care provider?**

If you are feeling sick, please first call your doctor, a nurse hotline, or an urgent care center.

Do not go to the emergency room of a hospital unless you have deemed that you have an actual emergency.

For purposes of this Order, individuals may leave their residence to work for or obtain services at any health care provider, including hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, medical and scientific research facilities, laboratories, healthcare suppliers, home healthcare services providers, veterinary care providers, mental health providers, physical therapists and chiropractors, cannabis dispensaries with medicinal permits, or any related and/or ancillary healthcare services, manufacturers and suppliers. Health care providers do not include exercise gyms and similar facilities.

**Can I still get deliveries from online stores?**

Yes. The mail and other delivery services to your home can continue to function, as can food delivery services. Just keep six feet between you and the person delivering the item.

**Can I still order the things I need online and have them delivered to my residence?**

Yes. The Order identifies businesses that deliver goods or services directly to residences may continue to operate. But keep your social distance by staying six feet from the person delivering the item.

**Can I use ride share, on demand service, or a taxi?**

Only for essential travel. You should avoid being in a vehicle with many other people. In circumstances under which such transportation is needed, you must practice social distancing, cover your mouth and nose if you cough or sneeze, use hand sanitizer or wash your hands before and after rides. Airlines, taxis, and other private transportation providers, like Uber and Lyft, providing transportation services necessary for essential activities and other purposes are expressly authorized in the "Safer at Home" Order.

**Can I take public transportation (bus, subway, train)?**

Only for essential travel. Public transit will continue to operate on a limited basis. When using public transit, maintain at least six feet of distance from others.

**Can I still seek non-essential medical care and doctor's appointments?**

To the extent possible, all health care visits that are not cancelled or rescheduled should be done remotely.

### **Should I stock up on food, necessities like toilet paper, and on medicines?**

No. You will continue to be able to purchase these items whenever you need them, as stores selling necessary items like grocery stores, pharmacies, and hardware stores will remain open and are frequently restocking. Please continue to buy normal quantities of these items on the same schedule you normally do. This will ensure that there is enough for everyone.

### **What should I do if I'm sick or a family member is sick?**

If you are feeling sick, please first call your primary care doctor, a nurse hotline, or an urgent care center before going to the hospital. Check online resources like the [CDC website](#) if you are worried that you or a loved one has the COVID-19 virus. Do not go to the emergency room of a hospital unless you have deemed that you have an actual emergency. Call 911 or go to the emergency room if you are experiencing a medical emergency.

### **What should I do if I'm sick or a family member is sick and needs to go to the hospital or a medical provider? How can I protect others?**

If possible, walk or drive yourself to the hospital or medical provider. If someone else in your home is sick and can drop you off, that is another good option.

If you have Personal Protective Equipment (PPE) like a surgical mask or N-95 mask, you can wear that to prevent exposing others. If you don't have that, you could use a temporary method such as wrapping a clean scarf around your mouth and nose to try to reduce droplets when you cough and sneeze. Although this is not an approved method, it is something you can do to try and limit exposure to others.

### **Can I leave home to care for my elderly parents or friends who require assistance to care for themselves? Or a friend or family member who has disabilities?**

Yes. Be sure that you protect them and you by following social distancing guidelines such as washing hands before and after, using hand sanitizer, maintaining at least 6 feet of distance when possible, and coughing or sneezing into a tissue.

### **What if I am diagnosed with the COVID-19 virus or have been exposed to someone who was?**

If you have been diagnosed with the COVID-19 virus, you will need to be isolated to protect those around you. If you were exposed to someone who was diagnosed with the COVID-19 virus, you should quarantine for the recommended time in order to not expose others if you happen to have the virus yourself. Contact your healthcare provider if you have additional questions, or go to the City's website at <https://corona-virus.la/> or the Los Angeles County Department of Public Health's website at <http://publichealth.lacounty.gov/>.

### **Can I visit loved ones in the hospital, nursing home, skilled nursing facility, or other residential care facility?**

Generally no. There are limited exceptions, such as if you are going to the hospital with a minor who is under 18 or someone who is developmentally disabled and needs assistance. For most other situations, the Order prohibits non-necessary visitation to these kinds of facilities. If you need more information, please contact the facility directly by phone. This is difficult, but necessary in order to protect hospital staff and other patients.

### **Does the Order allow me to have my children in childcare? Will my daycare be shut down?**

Childcare facilities may only operate if they comply with the conditions of this Order as they related to child care. Among these conditions, children must be cared for in groups of 12 or fewer, groups of children may not mix with each other, and providers may not circulate between groups.

### **Are non-profit organizations allowed to continue operating?**

Yes, but only if they provide essential services as described in the order. This would include non-profit operating food pantries, providing housing and services for homeless residents, and many other critical services.

## **Third – what about the new laws and benefits from the Federal Government?**

### **Families First Coronavirus Response Act Passed This Week!**

Applies to Employers with <500 Employees.

Wednesday evening the president signed into law H.R. 6201, the "Families First Coronavirus Response Act," which has far-reaching implications for employers nationwide. Key provisions of the Act that will have the greatest impact on employers will be in effect within 15 days (no later than April 2nd) and will remain in place through December 31st, 2020.

The full, ten-page Act is available [HERE](#): Families First Coronavirus Response Act.

Employers will particularly need to become familiar with the new requirements for Paid Sick Leave and expanded FMLA provisions. Be aware that the paid sick leave

requirements are in addition to those already in effect at the state or local level and the new FMLA provisions apply to almost all employers (not just those with 50 or more employees within 75 miles).

Also, be sure to pay attention to developments at the state and local level, as additional employer obligations may be forthcoming.

Here are some of the highlights of the Act signed into law on March 18, 2020:

### **The Emergency Paid Sick Leave Act Applies to companies with fewer than 500 employees.**

There is no requirement for tenure of employment and the leave is a grant (not accrued) so the appropriate full amount is available immediately.

Full-time employees must be provided with 80 hours of paid sick leave and part-time employees are eligible for paid sick leave equivalent to the average number of hours they work over a two-week period.

The paid sick leave is for COVID-19-related issues. There are six designated justifications for an employee using the leave and they have differing pay requirements as indicated below:

- The employee is subject to a federal, state, or local quarantine or isolation order for Coronavirus – paid at the regular rate of pay capped at \$511 per day and/or \$5,110 in the aggregate;
- The employee is advised by a health care provider to self-quarantine due to Coronavirus concerns - paid at the regular rate of pay capped at \$511 per day and/or \$5,110 in the aggregate;
- The employee is experiencing symptoms of Coronavirus and seeking a medical diagnosis - paid at the regular rate of pay capped at \$511 per day and/or \$5,110 in the aggregate;
- The employee is caring for an individual who is under a quarantine or isolation order or has been advised to self-quarantine - paid at 2/3 of the regular rate of pay and capped at \$200 per day and/or \$2,000 in the aggregate;
- The employee is caring for a child whose school or child care has been closed due to Coronavirus - paid at 2/3 of the regular rate of pay and capped at \$200 per day and/or \$2,000 in the aggregate;
- The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services - paid at 2/3 of the regular rate of pay and capped at \$200 per day and/or \$2,000 in the

aggregate or employees that do not have a set schedule, paid sick leave is based on the average number of hours the employee was scheduled per day over the six-month period prior to the use of the leave

Because the federal paid sick leave is in addition to other statutory paid sick leave, an employer cannot incorporate it into an existing PTO policy. The additional time off must be separate. Further, the employer cannot require an employee to exhaust other forms of paid sick or PTO before utilizing the new leave.

Guidelines for calculating the amount of sick leave pay are to be provided by the Secretary of Labor within 15 days.

The ability to use this new leave ends when the qualifying event ends. It does not carry over to the next year and is not payable upon termination.

The bill ensures employees who work under a multiemployer collective agreement and whose employers pay into a multiemployer plan are provided with leave.

Employers are required to post a notice informing employees of their expanded sick leave rights. This notice is scheduled to be published within seven days.

Leave will be in place through December 31, 2020.

## **Emergency Family and Medical Leave Expansion Act**

The Families First Coronavirus Response Act also includes a temporary expansion of the Family and Medical Leave Act (FMLA) through December 31, 2020.

The expanded FMLA leave entitlement only applies to employers with fewer than 500 employees. At the time of signing, the Act does not exempt businesses with fewer than 50 employees (those normally not subject to FMLA), but the Secretary of Labor has authority to issue regulations to provide an exemption. This will be an important follow up item for employers with under 50 employees.

The expanded FMLA is specifically intended for childcare-related issues and has pay implications significantly different from the regular FMLA:

Allows FMLA leave (up to 12 weeks) to be used for a qualifying need related to a

public health emergency concerning Coronavirus, as declared by federal, state, or local authorities.

A “qualifying need” is limited to circumstances where the employee is unable to work or telework due to the need to care for a child under 18 if the child’s school or childcare is closed due to a Coronavirus-related public health emergency.

Employees are eligible for the leave if they have worked for the employer for at least 30 calendar days. Note that this is a considerably wider eligibility rule than the existing FMLA.

The rules for when this Coronavirus-related FMLA leave is paid versus unpaid differ greatly from existing forms of FMLA leaves, all of which are unpaid:

- o If an employee takes leave to care for a child due to a Coronavirus-related school closure, the first 10 days of the leave may be unpaid. The employee may elect (but may not be required) to use accrued vacation or sick leave during this time;
- o After this first 10 days, the employer must provide PAID leave of no less than 2/3 of the employee’s regular rate of pay, capped at \$200 per day and \$10,000 aggregate.

An employee who uses this FMLA leave is entitled to reinstatement to the same or equivalent position UNLESS the employer has fewer than 25 employees, the position held by the employee at the time the leave started no longer exists due to economic conditions or other operating condition caused by the public health emergency, and the employer has tried to restore the employee to an equivalent position. If there is no position available, the employer still must make reasonable effort for one year to contact the employee if an equivalent position becomes available.

Employers of health care providers and emergency responders may elect to exclude such employees from the provisions of this law.

### **Additional Key Component of the Act-Payroll Tax Credits**

The Act contains a number of additional key provisions. Employers, in particular, should be aware of the following:

Payroll Tax Credits are available to employers that provide the paid sick leave or paid family leave to employees for the specific Coronavirus-related purposes

defined by the Act. Employers will be entitled to a payroll tax credit for each calendar quarter in an amount equal to 100% of the qualified paid sick leave wages paid by the employer in the quarter, and the amount of qualified family leave wages paid by the employer, not to exceed \$200 per day and \$10,000 aggregate per employee.

The Act also provides for \$1 billion in 2020 for emergency grants to states for activities related to unemployment insurance benefits.

The Act requires private health plans, Medicare, Medicaid, CHIP, TRICARE, Coverage for Veterans and Coverage for Federal Civilians to provide coverage at no cost sharing for COVID-19 testing and additionally provides for reimbursement by the National Disaster Medical System to reimburse testing costs for uninsured individuals. American Indians and Alaskan Natives are also entitled to testing without cost sharing including when sent for care away from the tribal health care facility.

The bill, Families First Coronavirus Response Act, would:

- Offer two weeks of paid sick and family leave to many American workers who have been forced to stay home because of COVID-19 or who have children whose schools have closed. Workers will get 100% of their normal salary.
- Provide up to 12 weeks of paid leave to many of those who have children whose schools have closed. Workers would get about 67% of their normal salary for this period.
- Bolster unemployment insurance protections.
- Provide free testing for the coronavirus for those who need it.

We are sure you likely will have questions about some or all of this. Please let me know. Ideally best to email questions so that I can respond to you in writing.  
Thank you!

We are sure you likely will have questions about some or all of this. Ideally best to email your questions to [HRhelp@CombinedCa.com](mailto:HRhelp@CombinedCa.com); and one of our committed team member will assist and guide you on getting the answers.