

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

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SOUTH BAY UNITED PENTECOSTAL CHURCH, AND  
BISHOP ARTHUR HODGES III,

*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, SONIA ANGELL, in her official capacity as California Public Health Officer, WILMA J. WOOTEN, in her official capacity as Public Health Officer, County of San Diego, HELEN ROBBINS-MEYER, in her official capacity as Director of Emergency Services, County of San Diego, and WILLIAM D. GORE, in his official capacity as Sheriff, County of San Diego

*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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**Supplemental Brief in Support of  
Emergency Application for Writ of Injunction  
Relief Requested by Sunday, May 31, 2020**

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and Bishop Arthur Hodges III*

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**TO THE HONORABLE ELENA KAGAN, ASSOCIATE JUSTICE OF THE SUPREME COURT AND CIRCUIT JUSTICE FOR THE NINTH CIRCUIT:**

This supplemental brief is written with respect to the above-entitled emergency application that was submitted on Saturday, May 23, 2020. The application concerns California’s restrictions placed on worship activities during the COVID-19 pandemic.

On May 22, 2020, President Trump announced that all states must immediately lift their restrictions on places of worship. Then, on May 25, 2020, Governor Newsom issued safety guidelines concerning how and when places of worship may reopen in California. These guidelines were not issued along with an executive order, press release, or press conference. Because these new guidelines were issued yesterday (Memorial Day), they were not included in the record below, and they are therefore attached to this brief. Exhibit A is a copy of the new safety guidelines. Exhibit B is the relevant portions of the modified “Stay Home Q&A” page from the Governor’s pandemic website.

Plaintiffs submit this supplemental brief to apprise Your Honor of this development and briefly explain its impact on Plaintiffs’ emergency application. As stated therein, Plaintiffs seek an injunction from this Court by **Sunday May 31, 2020—the Christian holy day of Pentecost**. *See* App., at 5.

First, the Guidelines merely set a ceiling above which no county may go. Thus, in all of California, “[p]laces of worship must [] limit attendance to 25% of building capacity or a maximum of 100 attendees, whichever is lower.” Ex. A, at 3. The Guidelines are also not immediately effective, but require individual counties to issue

an order adopting them, or setting stricter standards. Ex. A, at 3; Ex. B, at 4–5. As of the time of this writing, the County of San Diego has not confirmed whether it intends to issue any such order.

Second, Plaintiffs’ sanctuary seats 600 persons, and each service normally brings in between 200 and 300 congregants. 2ER308. Some of the larger houses of worship in California can seat 1,000 congregants or more. But under California’s Guidelines, Plaintiffs will only be permitted to welcome 100 congregants, with no explanation as to the justification for this arbitrary cap. In contrast, there is no percentage limitation for manufacturing and warehousing facilities—simply a social distancing requirement. 3ER570–84. A review of California’s sector-specific guidelines shows that the only two industries with percentage caps are retail and houses of worship,<sup>1</sup> and retail is set at a 50% cap.<sup>2</sup> Offices, manufacturing, food packaging, museums, and every other sector has no percentage cap.

As stated in Plaintiffs’ application, Plaintiffs seek an injunction permitting them to hold worship services this Pentecost Sunday (May 31, 2020), adhering to the *neutral* social distancing requirements that apply in the County of San Diego. *See* App. at 5; 3ER591, 598–605. Those requirements, which are good enough for every other industry, do not include a 25% or 100-person cap. Therefore, Plaintiffs still seek the injunction to prevent irreparable harm to their fundamental constitutional rights.

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<sup>1</sup> <https://covid19.ca.gov/industry-guidance/>

<sup>2</sup> <https://covid19.ca.gov/pdf/guidance-auto-dealerships.pdf>; <https://covid19.ca.gov/pdf/guidance-retail.pdf>; <https://covid19.ca.gov/pdf/guidance-shopping-centers.pdf>.

Third, these new guidelines do not moot Plaintiffs’ requested relief. “As long as the parties have a concrete interest, however small, in the outcome of the litigation, the case is not moot.” *Campbell-Ewald Co. v. Gomez*, 136 S. Ct. 663, 669 (2016) (quoting *Chafin v. Chafin*, 568 U.S. 165, 172 (2013)). And here, “the parties remain[] adverse; both retain[] the same stake in the litigation they had at the outset.” *Id.* at 665. As demonstrated above, Plaintiffs have still not received equal treatment with every other similarly situated industry.

In addition, a “dispute remains live, if (1) the challenged action is in its duration too short to be fully litigated prior to its cessation or expiration, and (2) there is a reasonable expectation that the same complaining party will be subjected to the same action again.” *Turner v. Rogers*, 564 U.S. 431, 439–40 (2011) (quotation marks and brackets omitted). Here, individual California counties may only permit worship services for intervals of 21 days. At the end of each period, the State will reevaluate their statistics and practices. Ex. A, at 3; Ex. B, at 3, 5. Thus, every three weeks Plaintiffs face the risk of having their constitutional rights again trampled upon. And, as stated in Plaintiffs’ Application, there is a real possibility that California will re-issue unconstitutional orders restricting religious rights during later stages of the pandemic. *See App.*, at 4.

Fourth, the action by California has cast in stark relief the disparate treatment of California’s churches, by moving Plaintiffs from full prohibition to 25% allowance (or 100-person cap). The State has not moved churches from “Stage 3” of its Reopening Plan to “Stage 2,” but has created an entirely new regime to regulate them alone. But

there is a significant problem with the entire concept of a regime specifically regulating worship alone. And the Circuit Courts of Appeal have drastically split even on the issue of whether the types of executive orders at issue here must satisfy strict scrutiny.

- The Ninth Circuit ruled that California’s Reopening Plan was both neutral and generally applicable, and thus strict scrutiny was not triggered. But at the same time, the panel emphasized the importance of “temper[ing] doctrinaire logic with a little practical wisdom.” *South Bay United Pentecostal Church v. Newsom*, --- F.3d ---, No. 20-55533, Opn. at \*3 (May 22, 2020).
- The Dissent from the Ninth Circuit found that California’s Reopening Plan was neither neutral nor generally applicable, and that strict scrutiny could not be satisfied. Under the Dissent’s logic, the new Guidelines would also not be neutral or generally applicable because they single out places of worship by name. *South Bay United Pentecostal Church v. Newsom*, --- F.3d ---, No. 20-55533, Dis. at \*11–14 (May 22, 2020). This is also the position of the Department of Justice and all four of California’s U.S. Attorneys, as described in their letter to Governor Newsom. 9th Cir. Dkt. 14 at 21–23.
- The Seventh Circuit agreed with the Ninth Circuit in ruling that a similar executive order was both neutral and generally applicable, and thus strict scrutiny was not triggered. *Elim Romanian Pentecostal Church v. Pritzker*, --- F.3d ---, 2020 WL 2517093, at \*1 (7th Cir. May 16, 2020).

- The Sixth Circuit agreed in part with the Ninth Circuit Dissent, ruling that a similar executive order was neutral, but not generally applicable, thus triggering strict scrutiny. However, by describing the order as neutral, the Sixth Circuit split from the Ninth Circuit Dissent and the Department of Justice. *Roberts v. Neace*, --- F.3d ---, 2020 WL 2316679, at \*3 (6th Cir. May 9, 2020).
- The Fifth Circuit appears to agree with the Sixth Circuit, and not the Ninth Circuit Dissent—but this is not entirely clear. The Fifth Circuit enjoined a similar executive order without explanation, merely stating that the church must abide by “the Governor’s new ‘Safe Worship Guidelines for In-Person Worship Services,’ which appear similarly rigorous to the City’s requirements for reopening businesses.” *First Pentecostal Church of Holly Springs v. City of Holly Springs, Mississippi*, --- Fed.Appx. ---, 2020 WL 2616687, at \*1 (5th Cir. May 22, 2020) (brackets omitted).

Thus, there remains widespread confusion among the district courts and intermediate appellate courts about what exactly is required under *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520 (1993). This confusion is leading to the erosion of fundamental constitutional rights. Moreover, it is causing—and will continue to cause—states to apply inconsistent constitutional standards as the pandemic evolves.

In light of these continued exigencies, it is imperative that states receive consistent and uniform guidance on this matter of utmost importance from Your

Honor or the entire Court. The deepening conflict between and among the various Circuit Courts of Appeal has triggered serious uncertainty as to what legal standard applies when citizens consider whether and under what circumstances they may freely exercise their religious faith by attending services at their church, temple, mosque or other place of worship.

A fundamental question that goes to the very heart of our constitutional legal order is whether and to what extent state and local officials may lawfully enforce categorical restrictions on public worship while honoring the First Amendment's strictures and guarantees that citizens may freely exercise their religious faith. For example, may they set fixed limits on numbers of worship participants— notwithstanding the church's observation of all prescribed contagion protective measures, when no comparable let alone equal limitations are imposed on other activities, such as manufacturing, retail merchandising, or marijuana or liquor dispensaries? At present, different answers must be given to those questions in the states within the Ninth and Seventh Circuits, on the one hand, and in the Sixth and Fifth Circuits, on the other hand—unless and until this Court establishes a clear and uniform national standard.

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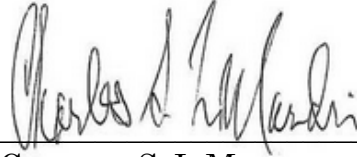
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Respectfully submitted,



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**EXHIBIT A**



# 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.



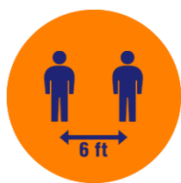
## Cleaning and Disinfecting Protocols

- 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.



**EXHIBIT B**



# Stay home Q&A

Last updated May 25, 2020 at 11:46 AM

## Menu



All individuals living in the State of California are currently ordered to stay home or at their place of residence, except for [permitted work](#), local shopping or other permitted errands, or as otherwise authorized (including in the Questions & Answers below).

On March 19, 2020, an [Executive Order \(PDF\)](#) and [Public Health Order \(PDF\)](#) directed all Californians to stay home except to go to an essential job or to shop for essential needs.

On May 4, 2020, an [Executive Order \(PDF\)](#) informed local health jurisdictions and industry sectors that they may gradually reopen under new modifications and guidance provided by the state per the May 7, 2020 [Public Health Order \(PDF\)](#).

See [essential jobs](#) and [open sectors](#)

## Questions and answers

### What is the relationship between the order and these questions and answers?

The Governor has ordered Californians to obey the directives of the State Public Health Officer. Those directives take many forms; they include specific materials linked on this page, as well as these questions and answers. These questions and answers are directives from the State Public Health Officer, and have the same force and effect as other State Public Health Officer directives.

### When does the stay home order go into effect and how long will we stay home? What areas of the state are covered?



The order went into effect on Thursday, March 19, 2020. The order is in place until further notice. It covers the whole state of California.

As of May 8, the stay home order was modified. We are now in the first phase of **Stage 2**. This means in addition to essential activity, retail is allowed, along with the infrastructure to support it. As of May 12, offices, limited services, and outdoor museums are also permitted to open.

Six key health and scientific [indicators](#) will be considered before modifying the state's stay home order to allow additional Stage 2 activity.

**What's open?**



**What's closed?**



**Is it safe to shop at these businesses?**



**Can the Order be changed?**



Yes. The State Public Health Officer may issue new orders as the public health situation changes.

**How does this order interact with local orders to shelter in place? Does it supersede them?**



**If I am not an Essential Critical Infrastructure Worker, can I still leave the house?**



[Protected activities](#)

## Protected activities

## Can I engage in political protest? —

Yes, as explained below, although in-person protests present special public health concerns.

Even with adherence to physical distancing, bringing members of different households together to engage in in-person protest carries a higher risk of widespread transmission of COVID-19. Such gatherings may result in increased rates of infection, hospitalization, and death, especially among more vulnerable populations. In particular, activities like chanting, shouting, singing, and group recitation negate the risk-reduction achieved through six feet of physical distancing. For this reason, people engaging in these activities should wear face coverings at all times.

Therefore, it is strongly recommended that those exercising their right to engage in political expression (including, for example, their right to petition the government) should utilize alternative channels, such as the many online and broadcasting platforms available in the digital age, in place of in-person gatherings.

However, state public health directives do not prohibit in-person protests as long as (1) attendance is limited to 25% of the relevant area's maximum occupancy, as defined by the relevant local permitting authority or other relevant authority, or a maximum of 100 attendees, whichever is lower, and (2) physical distancing of six feet between persons or groups of persons from different households is maintained at all times. Failure to maintain adequate physical distancing may result in an order to disperse or other enforcement action. Face coverings are strongly recommended.

Participants must maintain a physical distance of six feet from any uniformed peace officers and other public safety personnel present, unless otherwise directed, and follow all other requirements and directives imposed by local health officers and law enforcement, or other applicable authorities.

This limitation on attendance will be reviewed at least once every 21 days, beginning May 25, 2020. This review will assess the impacts of these imposed limits on public health and provide further direction as part of a phased-in restoration of gatherings that implicate the First Amendment.

## How do I vote? +

## Can I practice my religious faith? -

Yes. Practicing your faith is a constitutionally-protected activity and may manifest in many different forms.

Although in-person religious gatherings—like other in-person gatherings—have been restricted to prevent the transmission of COVID-19, on May 25, 2020, the State Public Health Officer began to ease restrictions on in-person religious gatherings. In particular, the State Public Health Officer now authorizes County Departments of Public Health to allow collective activities at places of worship, subject to conditions to support a safe, clean environment for employees, interns and trainees, volunteers, scholars, and all other types of workers as well as congregants, worshippers, and visitors.

## What conditions must be met to resume religious services at places of worship? -

Full information on conditions imposed by the state can be found at [guidance for places of worship](#). Additionally conditions may be imposed by local public health officials. This guidance does not obligate places of worship to resume in-person activity and it is strongly recommended that places of worship continue to facilitate remote services and other alternatives to in-person religious practice for those who are vulnerable to COVID19.

Even with adherence to physical distancing, convening in a congregational setting of multiple different households to practice a personal faith carries a higher risk of widespread transmission of COVID-19, and may result in increased rates of infection, hospitalization, and death, especially among more vulnerable populations. In particular, activities like singing and group recitation dramatically increase the risk of COVID-19 transmission. For this reason,

congregants engaging in singing, particularly in the choir, and group recitation should wear face coverings at all times.

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.

## **Can children attend group activities (like Sunday school or Hebrew school) at places of worship?**

At this time, no. Children should remain in the care of those in their household unit and not interact with children of other parties at all times while visiting facilities. Additionally, places of worship must discontinue activities and services for children (including, for example, shared play areas) where physical distancing of at least six feet cannot be maintained.

## **When will these conditions change for places of worship?**

Every 21 days, the California Department of Public Health, in consultation with county Departments of Public Health, will review and assess the impacts of these imposed limits on public health and provide further direction as part of a phased-in restoration of activities in places of worship. This is because COVID-19 has an incubation period of 14 days; the 21-day interval accounts for this incubation period and provides for an additional seven days for thorough review, analysis, and preparation of modifications.