**MEMORANDUM**

**To: Skillset Group Clients**

**From: Skillset Group**

**Date: December 28, 2020**

**Re: COVID Cal-OSHA Standards Compliance**

 This memo is to serve as Skillset Group’s policy on how to handle cases dealing with Covid-19. If they qualify, exposed employees will be able to exhaust their Families First Coronavirus Response Act (FFCRA) benefits. For any additional exposures, benefits will be determined by guidance given by the Cal OSHA Emergency Temporary Standard (ETS). All cases must be reported to Skillset Group immediately so that we can make a determination as to whether or not an employee qualifies for leave, and under what guidance will be followed based on any previous exposure. All determinations will be made at Skillset Group’s discretion.

 On March 18th, 2020, the **Families First Coronavirus Response Act (FFCRA or Act)** was signed into law by Donald Trump. It requires certain employers to provide employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19. The Department of Labor’s (Department) Wage and Hour Division (WHD) administers and enforces the new law’s paid leave requirements. These provisions will apply from the effective date through December 31, 2020. On December 27th, 2020, the FFCRA was extended until March 31st 2021.

Generally, the Act provides that employees of covered employers are eligible for:

* *Two weeks (up to 80 hours) of****paid sick leave****at the employee’s regular*rate of pay where the employee is unable to work because the employee is quarantined (pursuant to Federal, State, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or
* *Two weeks (up to 80 hours) of****paid sick leave****at two-thirds the employee’s regular rate of pay* because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to Federal, State, or local government order or advice of a health care provider), or to care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19, and/or the employee is experiencing a substantially similar condition as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of the Treasury and Labor; and
* *Up to an additional 10 weeks of****paid expanded family and medical leave****at two-thirds the employee’s regular rate of pay*where an employee, who has been employed for at least 30 calendar days, is unable to work due to a bona fide need for leave to care for a child whose school or child-care provider is closed or unavailable for reasons related to COVID-19.

Qualifying Reasons for Leave:

 Under the FFCRA, an employee qualifies for paid sick time if the employee is unable to work (or unable to telework) due to a need for leave because the employee:

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. has been advised by a health care provider to self-quarantine related to COVID-19;
3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. is caring for a child whose school or place of care is closed (or child-care provider is unavailable) for reasons related to COVID-19; or
6. is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

On November 30, 2020, Cal-OSHA enacted the COVID-19 Emergency Temporary Standard (“ETS”) which applies to all employers, employees and to all places of employment except 1. Workplaces where there is no contact with other people; 2. Employees who are working from home; or 3. Employees who are covered by the Aerosol Transmissible Diseases regulation.

 The ETS will apply to nearly all of Skillset Group assigned employees and it is therefore important for you to understand your obligations thereunder.

1. **WRITTEN PREVENTION PROGRAM**

 To comply with the ETS, an employer must develop a written COVID-19 Prevention Program or ensure its elements are included in an existing Injury and Illness Prevention Program (“IIPP”) which must include the following:

* Communication to employees about the employer’s COVID-19 prevention procedures
* Identify, evaluate and correct COVID-19 hazards
* Physical distancing of at least six feet unless it is not possible
* Use of face coverings
* Use engineering controls, administrative controls and personal protective equipment as required to reduce transmission risk
* Procedures to investigate and respond to COVID-19 cases in the workplace
* Provide COVID-19 training to employees
* Provide testing to employees who are exposed to a COVID-19 case, and in the case of multiple infections or a major outbreak, implement regular workplace testing for employees in the exposed work areas
* Exclusion of COVID-19 cases and exposed employees from the workplace until they are no longer an infection risk
* Maintain records of COVID-19 cases and report serious illnesses and multiple cases to Cal/OSHA and the local health department, as required.

Skillset Group has developed its own IIPP that complies with the above stated requirements. To the extent you have a separate IIPP, please forward it to Myrah Moreno at mmoreno@skillsetgroup.com.

1. **PHYSICAL DISTANCING, FACE COVERINGS, AND PPE**

The ETS requires physical distancing, face coverings and other controls. Specifically, an employer must ensure that employees maintain at least six feet of distance from other persons unless it is not possible, in which case employees should be as far from others as possible. Momentary contact closer than 6 feet while in movement, such as in a hallway or aisle, would not be considered a violation. An employer must be prepared to demonstrate to Cal/OSHA why physical distancing of at least six feet is not possible.

Methods of physical distancing include: telework or other remote work arrangements; reducing the number of persons in an area at one time, including visitors; visual cues such as signs and floor markings to indicate where employees and others should be located or their direction and path of travel; staggered arrival, departure, work, and break times; and adjusted work processes or procedures, such as reducing production speed, to allow greater distance between employees.

The ETS requires employers to provide employees with face coverings (or reimburse employees for the cost) and ensure they are worn over the nose and mouth when indoors, and when outdoors and within 6 feet of another. Exceptions include: when an employee is alone in a room, when eating or drinking, when using a respirator or other respiratory protection, when an employee cannot use a face covering due to a medical or mental condition; if hearing impaired or communicating with a hearing impaired person; or when specific work tasks cannot be performed with a face covering. Other measures to protect against COVID-19 infection must be implemented when face coverings cannot be used.

What engineering controls, administrative controls and personal protective equipment must an employer implement?

Requirements include:

* Engineering controls
	+ Install cleanable solid partitions that reduce the risk of aerosol transmission between fixed work locations where it is not possible to physically distance (such as Plexiglas barriers)
	+ Maximize the amount of outside air to the extent feasible, unless there is poor outside air quality (an AQI of 100 or higher for any pollutant) or some other hazard to employees such as excessive heat or cold
* Administrative controls
	+ Implement effective cleaning procedures of commonly touched surfaces, such as doorknobs, elevator buttons, equipment, tools, handrails, handles, controls, bathroom surfaces, and steering wheels
	+ Inform employees and employees’ authorized representatives of cleaning and disinfection protocols and planned frequency and scope of cleaning
	+ Minimize to the extent feasible the sharing of tools, equipment and vehicles
	+ If tools, equipment and vehicles must be shared, disinfect between users
	+ Clean areas where a COVID-19 case has been during the “high risk period”, as defined in these FAQs
	+ Provide for, encourage and allow time for frequent hand washing, and provide hand sanitizer
* Personal protective equipment (PPE)
	+ Evaluate the need for PPE, including but not limited to gloves, eye protection and respiratory protection as required by Cal/OSHA standards
	+ Provide eye and respiratory protection for employees exposed to procedures that aerosolize saliva or other potentially infectious materials, such as some dental procedures
	+ Prohibit the sharing of PPE

Please ensure that your facility complies with the above stated requirements. In addition, please provide regular supervision of Skillset Group assigned employees to ensure they are complying with all social distancing and other safety related guidelines.

1. **TRAINING**

Employers must provide training to each employee on the following:

* Employer policies and procedures to protect employees from COVID-19 hazards
* COVID-19 related benefit information, from either the employer or from federal, state or local government, that may be available to employees impacted by COVID-19. Information on COVID-19 benefits such as paid sick leave and workers’ compensation benefits is posted on the [Department of Industrial Relations’ Coronavirus Resources](https://www.dir.ca.gov/covid19/) webpage
* The fact that COVID-19 is an infectious disease that can be spread through the air when an infectious person talks or vocalizes, sneezes, coughs, or exhales; that COVID-19 may be transmitted when a person touches a contaminated object and then touches their eyes, nose, or mouth, although that is less common; and that an infectious person may show no symptoms
* The importance of physical distancing and wearing face coverings
* The fact that particles containing the virus can travel more than six feet, especially indoors, so physical distancing must be combined with other controls, including face coverings and hand hygiene, to be effective
* The importance of frequent hand washing for at least 20 seconds and use of hand sanitizer when handwashing facilities are not available
* Proper use of face coverings, and the fact that they are not respiratory protection
* The symptoms of COVID-19 and the importance of not coming to work and getting tested if an employee has symptoms

Skillset Group has provided this information to all its assigned employees. Once working at your facility, please continue to remind them of these guidelines and if they are not complying with them, report the situation immediately to Myrah Moreno.

1. **ADDRESSING A COVID-19 EXPOSURE IN THE WORKPLACE**

In the event there is a COVID-19 case in the workplace, an employer must do the following:

* Determine when the COVID-19 case was last in the workplace, and if possible the date of testing and onset of symptoms
* Determine which employees may have been exposed to COVID-19
* Notify employees of any potential exposures within one business day (and notifying any other employer who has potentially exposed employees in the workplace)
* Offer testing to potentially exposed employees at no cost and during working hours
* Investigate the exposure, whether workplace conditions could have contributed to the risk of exposure, and what corrections would reduce exposure

If there is a COVID-19 exposure in the workplace involving a Skillset Group assigned employee, please contact Myrah Moreno immediately and, be prepared to provide the above stated information related to the exposure.

1. **TESTING REQUIREMENTS**

If there is a COVID-19 exposure in the workplace, the employer is required to provide notice to any employee who was exposed within one business day and provide testing to the exposed employees. In the event of an exposure, you are required to contact Myrah Moreno immediately so that Skillset Group can respond accordingly.

All testing and leave eligibility decisions for Skillset assigned employees are the sole decision of Skillset Group. If you want to provide additional benefits beyond the requirements provided for under the FFCRA, ETS and/or CDC, those costs will be born solely by you.