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**VIA E-MAIL ONLY**  
Paul.Starkey@calhr.ca.gov

February 11, 2022

Paul Starkey  
Deputy Director of Labor Relations  
California Department of Human Resources  
1515 S Street, North Building, Suite 500  
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RICHARD  
LOUIS BROWN  
President

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ANICA WALLS  
Vice President for  
Organizing/Representation

IRENE GREEN  
Vice President for Bargaining

**Re: CDPH Masking Guidance – Dills Act Protections**

Dear Mr. Starkey,

On February 10, 2022, SEIU Local 1000 (the "Union") received your email announcing California Department of Public Health's ("CDPH") recently released guidance for the use of face masks, which goes into effect February 16, 2022. This new order reportedly affects Union-represented employees in all work settings. Also attached hereto, is an announcement from the Department of Human Resources ("CalHR") Director, Eraina Ortega, which outlines the obvious impacts on state workers, stating in part:

State employees who do not provide verification of vaccination shall be required to wear a mask in indoor settings or in vehicles.

...

In making any changes to employee working conditions to respond to state or local health directives, please coordinate with your labor relations office to ensure appropriate, timely notice is given to labor organizations and adhere to labor contract agreements.

Please take notice that the Union objects to the imposition of changes in masking mandates on its workers without proper notice and the opportunity to meet and confer. Although CalHR's letter puts departments on alert that timely notice to unions must be given, our experience throughout the pandemic has shown that departments ignore and disregard these notice requirements. This disregard has left the Union to file repeated unfair labor practice charges to enforce our Dills Act rights.

The danger of the proposed change in masking is that it imperils our rights under a recent settlement agreement reached in Unfair Practice Charge, PERB No. SA-CE-2205-S, which ensures that no employee would be subject to discipline regarding his/her/their vaccination status. Now, to distinguish employees visually by their

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masking decision is tantamount to a disclosure of their vaccination status. Moreover, the employer's ability to enforce this requirement at the worksite will inevitably call into question each employee's vaccination status and whether it correctly matches his/her/their masking choices. These interactions have the real potential to lead to discipline in violation of the previously negotiated settlement.

Please take notice that the Union will not stand by while its settlement rights in PERB No. SA-CE-2205-S are disregarded. After the State and the Union endeavored to resolve that matter in a mutual settlement, the parties agreed to the following term:

6. The parties mutually agree and acknowledge that it is voluntary for any state employee represented by SEIU to disclose their vaccination status to their employer. Accordingly, Respondent agrees that no state employee represented by SEIU and covered by this settlement agreement shall be disciplined or threatened with discipline for declining to disclose their vaccination status. Respondent agrees that if discipline has been issued contrary to this provision, such action is inconsistent with this settlement agreement and state departments shall take all necessary administrative steps to revoke the disciplinary action or charges therein that are contrary to this Agreement. Respondent further agrees that no state employee represented by SEIU shall be retaliated or discriminated against for declining to disclose their vaccination status. However, all state employees represented by SEIU will be subject to Respondent's COVID-19 testing protocol unless they meet one or more of the conditions identified in paragraph three herein.

The Union will not allow this provision to be impaired by any departmental action regarding masking requirements. This letter demands that CalHR take immediate action to ensure that departments respect this provision and make adjustments to masking guidance, which conform to the Union's rights under this settlement agreement and the Dills Act. Our represented workers demand to be treated equally, to not be forced to disclose their vaccination status and to not be forced to wear masks in conditions that are tantamount to vaccination status disclosure.

Sincerely,



ANNE M. GIESE  
Chief Counsel  
SEIU Local 1000

AMG:mw

cc: Richard Louis Brown, President, SEIU Local 1000

**ATTACHMENT**

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**From:** Exclusive Representatives <EXCLUSIVEREPRESENTATIVES@MAILLIST.CALHR.CA.GOV> **On Behalf Of** LRinfo  
**Sent:** Thursday, February 10, 2022 9:44 AM  
**To:** EXCLUSIVEREPRESENTATIVES@MAILLIST.CALHR.CA.GOV  
**Subject:** Guidance on the Use of Face Masks

February 10, 2022

Re: Guidance on the Use of Face Masks

Dear Labor Leaders,

Below, for information, is a communication to departments today concerning protocols for facial coverings.

For questions, please [contact the assigned CalHR Labor Relations Officer](#).

We will continue to work with you for a safe and healthy workplace.

Thank you.

**Paul**

**Paul M. Starkey**  
Deputy Director of Labor Relations  
[California Department of Human Resources](#)  
(916) 215-8579 (Cell)

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**From:** Ortega, Eraina@CalHR  
**Sent:** Thursday, February 10, 2022 9:27 AM  
**Subject:** Guidance on the Use of Face Masks

Dear Colleagues,

The California Department of Public Health (CDPH) recently released [guidance](#) for the use of face masks that will take effect **February 16, 2022**. Please review the guidance in detail. Generally, masks are required for:

- All unvaccinated individuals in indoor public settings and businesses.
- All individuals, regardless of vaccination status, in certain indoor settings (public transit; K-12 schools; childcare; emergency shelters and cooling and heating centers; healthcare settings; correctional facilities and detention centers; homeless shelters; and long term care settings and adult and senior care facilities.)

In workplaces, employers are subject to the Cal/OSHA COVID-19 [Emergency Temporary Standards \(ETS\)](#) or in some workplaces the [Cal/OSHA Aerosol Transmissible Diseases \(ATD\)](#) (PDF) Standard and should consult those regulations for additional applicable requirements.

The ETS requires employers to provide face coverings to all employees who are not fully vaccinated and to ensure they are worn when indoors or in vehicles. The ETS provides limited exceptions to wearing a face covering, including when employees are alone in a room or vehicle, when employees have a medical or mental health condition or disability that prevents wearing a mask, or employees who are hearing-impaired or communicating with a hearing-impaired person.

State employees who do not provide verification of vaccination shall be required to wear a mask in indoor settings or in vehicles.

Employees working in a county where the local health jurisdiction issues a stricter public health ordinance tailored for the situation in their communities should continue to follow the local public health ordinance related to masks. Please continue to monitor local public health announcements in counties where you have offices and employees.

In making any changes to employee working conditions to respond to state or local health directives, please coordinate with your labor relations office to ensure appropriate, timely notice is given to labor organizations and adhere to labor contract agreements.

Thank you.

Eraina Ortega, Director  
California Department of Human Resources (CalHR) | Executive Office  
email: [eraina.ortega@calhr.ca.gov](mailto:eraina.ortega@calhr.ca.gov)  
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