

C.A.R. Open House/Broker Tour Q&A

Revised: June 22, 2021

Q1. Will there be any restrictions on open houses or showings?

A1. The only legal restriction will be for wearing masks, otherwise there will be no restrictions. No physical distancing will be required for attendees, guests and customers. No cleaning. No posted rules of entry. And no PEADs or any other type of sign in. No one will have to agree to an office prevention plan. No one will have to attest to their current health status.

Q2. What will the rule be for wearing masks?

A2. The rule is: People must wear a mask indoors unless they are **fully vaccinated**. This follows the **CDPH Guidance for Face Coverings** (last updated on June 9, 2021). For fully vaccinated persons, it will make no difference that other unvaccinated persons are present indoors. As long as a person is fully vaccinated, that person need not wear a mask.

Q3. Are there any exceptions from the mask wearing requirements?

A3: Yes. The following individuals are exempt from wearing masks:

- Two-year-old children or younger.
- Persons with a medical condition, mental health condition, or disability that prevents wearing a mask, or are otherwise unable to remove a mask without assistance. For example, a person for whom wearing a mask could obstruct breathing.
- Hearing impaired persons who need to see the whole face for communication or be understood.
- Persons whose work exempts them by law.

Q4. Who made the announcement to return the California economy to normal operations?

A4. The California Department of Public Health made **the announcement on May 21, 2021**. See also the CDPH's information sheet called "**Beyond the Blueprint Questions and Answers**."

Q5. Are there capacity limitations for an open house?

A5. No. Only for "mega events." Unless you're planning on holding an open house with more than 5,000 people, you don't need to concern yourself with any capacity limitations.

Q6. What about the color-coded county tiers? What if my county is in red or purple?

A6. As of June 15, the system of color-coded county tiers will no longer be in effect.

Q7. What about cities and counties? Can they continue to enforce more stringent local rules?

A7. It's unclear if the re-opening announcement was intended to preempt local rules. But it appears that most cities and counties are aligning their rules with the state guidelines regardless. If a locality does continue to enforce more restrictive rules, then it will be prudent to follow them.

Q8. My seller wants to require that everyone entering the property wear a mask or be vaccinated. Can the seller require this?

A8. Yes. The seller can set their own rules as to who will be admitted to the property.

The seller can:

- Require all visitors to wear a mask.
- Require all visitors to be vaccinated or show a negative COVID test.
- Implement a vaccine verification to determine whether individuals are required to wear a mask.
- Provide information to all visitors regarding vaccination requirements and allow vaccinated individual to self-attest that they are in compliance prior to entry.

If your seller would like these rules implemented, you will need the seller's consent. Your office may require that the listing be formally amended. You may add optional language such as, "with the exception of _____." or "The following showing requirements shall be followed: _____."

On a separate note, if the Listing Agreement Coronavirus Addendum or Amendment (C.A.R. Form RLA-CAA) has already been signed, you may want to now add a Modification of Terms by writing the following into the *Other* paragraph: "The RLA-CAA, dated _____, is terminated."

Q9. Does adopting policies that require masks conflict with the exceptions to the mask wearing requirements as stated in question 3? Does inquiring into the vaccination status of a visitor to the property violate HIPAA?

A9. No. Adopting a policy of requiring a mask is perfectly legal. You will simply allow exceptions to it. You may also offer a reasonable accommodation to a person who cannot wear a mask. See question 12 through 15 below.

Nor does inquiring into a person's vaccination status violate The Health Insurance Portability and Accountability Act (HIPAA). This law applies to the sharing of information between covered entities such as health plans, health care clearinghouses, and certain other health care providers. It has no bearing on who can ask or answer questions about health status outside of a health care setting.

Q10. What is the practical advice for a seller and/or a broker regarding mask wearing requirements?

A10. The practical advice is to adopt a policy that requires everyone to wear a mask. It's true that a fully vaccinated person after June 14 need not wear a mask, but then that puts the agent in the position of having to ask everyone about their vaccination status. Rather than do that, wouldn't it be simpler and easier just to adopt a blanket rule

that everyone visiting a property wear a mask? Discuss your approach with the seller to obtain the seller's agreement.

Q11. You stated previously that the Posted Rules of Entry will no longer be required. What if my seller demands that these rules are to be posted and adhered to by all entrants?

A11. The seller has the right to require that all entrants adhere to a set of protocols and/or attest to their current health status. However, C.A.R.'s Posted Rules of Entry form will be withdrawn along with all of the PEAD forms. So any such posted rules or declaration forms will have to be obtained outside of C.A.R.

Q12. Should an agent consult with their broker regarding how to handle situations where visitors claim an exemption from mask wearing and vaccinations based on disability status or sincerely held religious belief?

A12. Absolutely. However, the following three questions can be of guidance to brokers and agents.

Q13. What if a visitor shows up at an open house and refuses to wear a mask as is required and is requesting an exemption based on a disability?

A13. That person may be reasonably accommodated by giving them the option of wearing a face shield. According to the CDC persons exempted from wearing a face covering due to a medical condition may wear a non-restrictive alternative, such as a face shield with a drape on the bottom edge, as long as their condition permits it.

Q14. What if a seller requires that all persons entering the property be vaccinated, but a visitor either at an open house or a showing is requesting an exemption based upon a sincerely held religious belief or disability?

A14. Normally an agent should not question the sincerity of a person's religious beliefs. But in lieu of a vaccination, the agent can require that the visitor produce evidence of a negative COVID test. This would be a reasonable accommodation of the visitor's religious belief or disability.

Q15. What if a visitor in the above scenarios will not accept the offered reasonable accommodation?

A15. Do not dismiss their concerns out of hand. Discuss it with them and consider other alternatives such as a private or virtual tour.

Q16. What about rules pertaining to door knocking and handing out flyers?

A16. Those rules will no longer be in effect.

Q17. What about office re-openings?

A17. As of now employers are subject to the **Revised Cal/OSHA COVID-19 Prevention Emergency Temporary Standards (ETS)**, if applicable to them. Please see our Q&A on **[Office Re-openings](#)**.

<https://www.car.org/riskmanagement/qa/advertising-folder/June15Reopening>