

OSHA Finally Issues ETS for COVID-19

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In the wake of the COVID-19 pandemic, the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) has released a [final emergency temporary standard](#) (ETS) for employers providing healthcare services or healthcare support services. The standard also added additional guidance for non-healthcare institutions.

The ETS follows President Joe Biden's executive order in January directing the agency to create the standard, and OSHA has solicited comment to determine whether the standard should become permanent.

The ETS requires all covered entities not subject to an exemption to develop a COVID-19 plan for each workplace - in written form if the employer has more than 10 employees. The plan must be developed with input and involvement of non-managerial employees and their representative, include a workplace-specific hazard assessment, and include the designation of a COVID-19 safety coordinator. That coordinator must be knowledgeable in infection control principles and practices who will implement and monitor the plan.

The ETS describes several specific, required plan provisions for locations where direct patient care is provided. These include limitations on points of entry, social distancing and masking protocols, screening procedures for employees and non-employees, and use of respirators or other required personal protective equipment when exposing employees to people with suspected or confirmed COVID-19. Employers must also ensure that their HVAC system is up-to-date and adequately maintained.

The ETS requires healthcare employers to pay employees for time they miss due to medical removal for COVID-19 exposure, subject to certain limitations. Employers must also provide paid time off for employees to be vaccinated or for any side effects of vaccination.

Though the ETS applies widely to all healthcare settings, OSHA included several exemptions, including:

- Nonhospital ambulatory care settings where all nonemployees are screened prior to entry and people with suspected or confirmed COVID-19 are not permitted to enter
- Well-defined hospital ambulatory care settings or home healthcare settings where the same screening/prevention takes place and where all employees are vaccinated, subject to exceptions for medical or religious reasons

OSHA clarified that employers seeking to use the latter exemption must maintain protocols to verify employee vaccine status.

In addition to the ETS, OSHA issued voluntary guidance for non-healthcare employers, including

recommendations that they encourage COVID-19 vaccination and focus protection on unvaccinated and other at-risk workers.

The ETS becomes effective whenever it is published in the federal register, though that date remains unknown. Covered employers who still do not have a written, comprehensive COVID-19 prevention plan or series of protocols must create one at this time. The Barley Snyder Employment Practice Group can assist you in creating or evaluating COVID-19 protocols or consulting on specific cases. If you have any questions or concerns, please [contact me](#) or anyone in the [Employment Practice Group](#).

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