

OSHA Updates COVID Guidance for Employers

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There is now updated federal guidance on COVID-19 issues in the workplace to reflect new medical recommendations.

The U.S. Department of Labor's Occupational Safety and Health Administration recently updated its guidance, "[Mitigating and Preventing the Spread of COVID-19 in the Workplace](#)," to align with current Centers for Disease Control and Prevention recommendations. It also expands information for higher-risk workplaces with unvaccinated workers, suggesting many of the distancing protocols emphasized at the earlier height of the pandemic. Specifically, OSHA addressed industries including: manufacturing; meat, seafood and poultry processing; high volume retail and grocery; and agricultural processing. Some of the highlights from the updated OSHA guidance:

Mask and Testing Recommendations for Fully Vaccinated People

- Wear a mask in public indoor settings in areas of substantial or high transmission.
- Consider wearing a mask regardless of level of transmission, especially at-risk individuals or individuals who regularly come into close contact with someone at risk or not fully vaccinated, such as a member of one's household.
- After a known exposure to someone with suspected or confirmed COVID-19, be tested for COVID-19 within three-to-five days. Without a negative test, or for 14 days, wear a mask in public indoor settings.

Heightened Risk Workplaces with Unvaccinated and/or At-Risk Workers

- Stagger break times or provide temporary break areas and restrooms to discourage groups forming during breaks. Maintain six-foot distance on breaks.
- Stagger arrival and departure times to avoid congestions.
- Utilize signs and markers to remind workers to maintain physical distancing.
- Require unvaccinated and/or at-risk workers to wear masks at all times, as well as vaccinated workers who are in areas of substantial or high community transmission.
- Implement strategies to improve workplace ventilation.

Manufacturing; Meat, Seafood and Poultry Processing; Agricultural Processing

- Move work outdoors if possible or ensure adequate ventilation.

- Space workers at least six feet apart, and not directly across from one another. Barriers do not replace the need for workers utilizing face coverings and physical distancing.
- Barriers utilized should be made of a solid, impermeable, easily cleaned and/or replaced material like plastic, and should block face-to-face pathways. Barriers should not move or open while in use.

High-Volume Retail Workplaces

- Encourage and request customers and other visitors to wear masks.
- Consider methods to promote physical distancing between unvaccinated and/or at-risk people, and/or limit occupancy if possible in accordance with CDC guidance.
- Move card readers or electronic payment terminals farther away from unvaccinated and/or at-risk workers, increasing distance between workers and customers, if possible.
- Adjust stocking activities to limit contact between unvaccinated and/or at-risk workers and customers.

OSHA "emphasizes that vaccination is the most effective way to protect against severe illness or death from COVID-19" and recommends that employers consider policies requiring employees to get vaccinated or undergo regular COVID-19 testing.

OSHA's updated guidance is largely advisory only, rather than a mandatory OSHA standard. Its recommendations, however, are designed to assist employers in complying with OSHA's "general duty clause," which requires a safe workplace "free of recognized hazards." Employers should evaluate the guidance with this obligation in mind.

The [Barley Snyder Employment Practice Group](#) can assist employers who may want to create or evaluate their COVID-19 protocols or consulting on specific cases. If you have any questions or concerns, please contact [Jennifer Craighead Carey](#), [Josh Schwartz](#), [Eric Ondo](#) or anyone in the group.

DISCLAIMER: The information in this alert should not be construed as legal advice to be relied upon nor to create an attorney/client relationship. Please note that the reader's or an industry's specific situation or circumstances will vary and, thus, for example, an approach that is advisable in one industry may not be appropriate in another industry. If you have questions about your situation or about how to apply information contained in this alert to your situation or industry, you should reach out to an attorney.

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