



Safety Alert

5 November 2021

OSHA Releases COVID-19 Mandate for Large Employers

The Occupational Safety and Health Administration has released an [Emergency Temporary Standard](#) (ETS) to protect workers of employers with 100 or more employees from the risk of contracting COVID-19 by strongly encouraging vaccination.

Under the ETS, covered employers are given two options:

1. They must develop, implement, and enforce a mandatory COVID-19 vaccination policy; or
2. They must adopt a policy requiring employees to either get vaccinated or elect to undergo regular COVID-19 testing and wear a face covering at work in lieu of vaccination.

The ETS will be published in the Federal Register in the next several days.

According to a [White House statement](#), the OSHA ETS requires covered employers to:

- ***Get Their Employees Vaccinated by January 4, 2022 and Require Unvaccinated Employees to Produce a Negative Test on at Least a Weekly Basis:*** All covered employers must ensure that their employees have received the necessary shots to be fully vaccinated – either two doses of Pfizer or Moderna, or one dose of Johnson & Johnson – by January 4, 2022. After that, all covered employers must ensure that any employees who have not received the necessary shots begin producing a verified negative test to their employer on at least a weekly basis, and they must remove from the workplace any employee who receives a positive COVID-19 test or is diagnosed with COVID-19 by a licensed health care provider. The ETS lays out the wide variety of tests that comply with the standard. The ETS does not require employers to provide or pay for tests. Employers may be required to pay for testing because of other laws or collective bargaining agreements.
- ***Pay Employees for the Time it Takes to Get Vaccinated:*** All covered employers are required to provide paid-time for their employees to get

- vaccinated and, if needed, sick leave to recover from side effects experienced that keep them from working.
- ***Ensure All Unvaccinated Employees are Masked***: All covered employers must ensure that unvaccinated employees wear a face mask while in the workplace.
 - ***Other Requirements and Compliance Date***: Employers are subject to requirements for reporting and recordkeeping that are spelled out in the detailed OSHA materials available here. While the testing requirement for unvaccinated workers will begin after January 4, 2022, employers must be in compliance with all other requirements – such as providing paid-time for employees to get vaccinated and masking for unvaccinated workers – on December 5, 2021. The Biden Administration is calling on all employers to step up and make these changes as quickly as possible.

The ETS also provides that OSHA is seeking comments on whether and how to apply the vaccine/testing mandate to employers with fewer than 100 employees; whether to make the ETS a final rule (which would transform it into a permanent regulation); and whether to permit or require an exception for employees who have previously been infected with and recovered from COVID-19.

[Click here to view OSHA's FAQs on the ETS.](#)

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