

OSHA's New Emergency Temporary Standard and Updated Guidance for COVID-19 Workplace Precautions

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On June 10, 2021, OSHA released an [emergency temporary standard \(ETS\) for healthcare industries](#) and [updated guidance](#) for *all* employers related to COVID-19 precautions in the workplace.

OSHA ETS for Healthcare Industries

Healthcare industry employers should take steps now to implement the OSHA ETS protocols intended to protect healthcare workers from COVID-19 transmission in the workplace. Once the ETS is published, it will take effect immediately and remain in place until replaced by a new standard. The ETS applies to nearly all settings where healthcare and related support services are provided, such as hospitals, nursing homes, and assisted living facilities; emergency responders; home healthcare workers; and employees in ambulatory care facilities where suspected or confirmed COVID-19 patients are treated. But the ETS does exempt many healthcare settings, such as hospital ambulatory care and home healthcare settings where all employees are vaccinated and all non-employees are screened prior to entry; telehealth services performed outside direct-patient-care settings; and retail pharmacies.

Unless exempted, healthcare industry employers who are covered by the ETS should prepare to implement and maintain several precautions:

- Develop and implement a COVID-19 Plan that satisfies the ETS requirements for the plan's scope and implementation;
- Screen patients and limit access to settings where direct patient care is provided;
- Follow CDC guidelines related to transmission-based precautions and cleaning and disinfecting of surfaces;
- Provide personal protective equipment (PPE) and ensure employee use;
- Enforce indoor physical distancing requirements and install physical barriers at fixed work locations in non-patient care areas;

- Monitor ventilation systems;
- Limit employee exposure to aerosol-generating procedures on a person with suspected or confirmed COVID-19;
- Provide training and notice to employees related to COVID-19 transmission, policies, and procedures;
- Notify employees regarding the prohibition of retaliation for exercising rights available under the ETS;
- Conduct regular health screening of employees and provide certain notices of positive cases of COVID-19;
- Provide reasonable paid leave for vaccination and vaccine side effects;
- Establish a COVID-19 log of all employee instances of COVID-19; and
- Report to OSHA regarding work-related COVID-19 fatalities and hospitalizations.

OSHA Guidance for All Employers

In addition to the healthcare industry ETS, OSHA updated the following non-binding guidance for non-healthcare employers: [Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace](#).

Based on the updated guidance, employers who do not fall under the healthcare ETS no longer need to take steps to protect their fully vaccinated workers who are not otherwise at-risk from COVID-19 exposure (unless otherwise required by federal, state, local, or tribal rules and regulations).

The guidance recommends, however, that ***all employers*** should prepare to either initiate or maintain interventions to protect ***unvaccinated and at-risk workers*** to mitigate the spread of COVID-19 and encourage COVID-19 vaccination. These recommendations are not new legal obligations, but assist employers in providing a safe and healthful workplace. As a part of this effort, employers should consider:

- Granting paid time off for employees to get vaccinated;
- Instructing any infected, symptomatic or unvaccinated workers who have had close contact with someone who tested positive for COVID-19 to stay home from work;
- Implementing physical distancing for unvaccinated and at-risk workers in all communal work areas;
- Providing unvaccinated and at-risk workers with face coverings or surgical masks and suggesting face coverings for unvaccinated customers, visitors or guests;
- Educating and training workers on the employer's COVID-19 policies and procedures;
- Maintaining ventilation systems;
- Performing routine cleaning and disinfection;

- Recording and reporting COVID-19 infections and deaths; *and*
- Implementing protections from retaliation and creating an anonymous process for workers to relay concerns about COVID-19-related hazards.

The requirements under both the OSHA ETS and the updated OSHA Guidance released on June 10th have several exemptions and requirements that vary based on an employer's services and workforce. Please contact any member of the [Health Care](#) or [Employment & Labor](#) teams for further assistance with implementing these emergency requirements.



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