

OSHA Issues Stronger Workplace COVID-19 Safety Guidance

On Jan. 29, 2021, the Occupational Safety and Health Administration (OSHA) released updated guidance to assist most employers and workers with implementing a coronavirus prevention program and mitigating the risk of the spread of coronavirus. The guidance titled, "[Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace](#)" (Guidance) was prepared to comply with President Biden's [Executive Order](#) issued on Jan. 21, 2021, directing the federal government to take "swift action to reduce the risk that workers may contract COVID-19 in the workplace."

The Guidance is advisory in nature and creates no new legal obligations in the form of an OSHA standard or regulation. Notably, the guidance does not apply to healthcare or emergency response settings who have separate guidance prescribed by the Centers for Disease Control (CDC).

Many of the elements of the Guidance are familiar to most employers and may have already been implemented. Employers should take note of the recommendations, which include the following:

- *Implement a workplace COVID-19 prevention program that includes:*
 - Assignment of a workplace coordinator responsible for COVID-19 issues on the employer's behalf.
 - Minimizing the negative impact of quarantine and isolation on workers, by allowing telework, establishing work areas isolated from others or providing paid sick leave. Absence policies must be non-punitive. (Note that [The Families First Coronavirus Response Act](#) provides certain employers 100% reimbursement through tax credits to provide employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19 through March 31, 2021).
 - Providing supportive policies and practices for workers at higher risk for severe illness from COVID-19, such as older adults and individuals with underlying medical conditions.
 - Educating and training employees on COVID-19 policies using accessible formats and in plain language that workers understand. This includes non-English languages and American Sign Language, as needed.
- *COVID-19 Vaccines*
 - Provide a COVID-19 vaccine (when available) at no cost to all eligible employees.
 - Provide information and training on the benefits and safety of vaccinations.
 - Not distinguish between workers who are vaccinated and those who are not. Workers who are vaccinated must continue to follow protective measures such as wearing a face mask and remaining physically distant.
- *Face Coverings*
 - Provide all workers with face coverings (e.g.: cloth face coverings, surgical masks) unless their work task requires a respirator.
 - Face coverings should be provided to the worker at no cost.
- *Improve ventilation in buildings to prevent the spread of COVID-19.*
- *Implement protections from retaliation and set up an anonymous process for workers to voice concerns about COVID-19 related hazards.*

OSHA's COVID-19 related guidance is subject to change. Notably, the Jan. 21, 2021, Biden Executive Order directed the Secretary of Labor to release, if deemed necessary, "emergency temporary standards on COVID-19" by March 15, 2021. The elements in this Guidance provide some indication of what employers should expect to be included in COVID-19 related OSHA emergency temporary standards that could be implemented at a later date. If effectuated, employers will be required to comply with these emergency temporary standards to ensure a safe and healthful workplace.

If you have any questions about the information presented in this memo, please contact [Nihla Sikkander](#), or any [attorney](#) in Bond's [Labor and Employment practice](#).



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