

Updates

June 15, 2021

OSHA Updates Workplace Guidance on COVID-19

The Occupational Safety and Health Administration (OSHA) updated general industry guidance for COVID-19 that is applicable to all workplaces. OSHA's June 10, 2021, general industry guidance, which is advisory and creates no binding legal requirements, focuses on unvaccinated workers and others who are "at risk" (i.e., immunocompromised individuals). OSHA specifically states, "[u]nless otherwise required by federal, state, local, tribal, or territorial laws, rules, and regulations, most employers no longer need to take steps to protect their fully vaccinated workers who are not otherwise at-risk from COVID-19 exposure." Many employers are already implementing the actions and best practices recommended by OSHA for unvaccinated workers and at-risk workers in its [updated general industry guidance](#).

The OSHA guidance focuses on unvaccinated and at-risk workers. OSHA included no recommendations that specifically apply to fully vaccinated workers (i.e., they can go without face coverings and physical distancing whether indoors or outdoors). OSHA guidance allows unvaccinated employees to go without face coverings if physically distanced.

OSHA guidance indicates they consider these conditions and statuses to be "at risk": prior organ transplant, prolonged use of corticosteroids or other immune-weakening medications, and workers with disabilities who may require reasonable accommodations that protect them from the risk of contracting COVID-19 if, for example, they cannot be protected through vaccination, cannot get vaccinated, or cannot use face coverings. Employers should take steps to protect these at-risk workers as they would unvaccinated workers, regardless of their vaccination status. For unvaccinated employees with disabilities, religious beliefs, or other protected status, personal protective equipment (PPE) may be required as a reasonable accommodation.

Recommendations

OSHA recommends that employers implement these measures at worksites to protect **unvaccinated or otherwise at-risk workers** in their workplaces:

1. Grant paid time off for employees to get vaccinated.
2. Instruct unvaccinated workers who (1) are ill with COVID-19 or have COVID-19 symptoms, and (2) have had close contact with someone who tested positive for COVID-19, to stay home from work.
3. Educate and train workers on COVID-19 and company policies.
4. Implement physical distancing for unvaccinated workers and otherwise at-risk workers in communal work areas.
5. Perform routine cleaning and disinfection.
6. Record and report work-related COVID-19 illnesses and deaths.
7. Implement protections from retaliation.
8. Provide unvaccinated and at-risk workers with face coverings or surgical masks, at no cost to employees, unless a respirator or other PPE is required. Unless otherwise provided by federal, state, or local requirements, unvaccinated workers outdoors may opt not to wear face coverings unless they are at-risk.
9. Suggest that unvaccinated customers, visitors, and guests wear face coverings.
10. Encourage and support voluntary use of PPE. Note: Voluntary use of PPE may trigger certain mandatory OSHA requirements.
11. Follow mandatory OSHA standards: requirements for PPE (29 CFR 1910, Subpart I (e.g., 1910.132 and 133)); respiratory protection (29 CFR 1910.134); sanitation (29 CFR 1910.141); protection from

bloodborne pathogens (29 CFR 1910.1030); and OSHA's requirements for employee access to medical and exposure records (29 CFR 1910.1020).

More specific information is available for various workplace situations in the updated guidance. If you need assistance applying the OSHA guidance to your workplace, please do not hesitate to reach out to Perkins Coie attorneys.

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