

Updates

August 16, 2021

OSHA Updates Workplace Guidance on COVID-19 to Align With CDC Guidance

The Occupational Safety and Health Administration (OSHA) updated general industry guidance for COVID-19 that is applicable to all workplaces. OSHA's August 13, 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), and also implements new guidance involving workers who are fully vaccinated but located in areas of substantial or high community transmission of COVID-19. 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 has added additional recommendations that apply to all workers, including fully vaccinated workers, to comply with the Center for Disease Control's (CDC) July 27, 2021, mask and testing recommendations for fully vaccinated people. This is significant because the previous version of the OSHA guidance published on June 10, 2021, allowed fully vaccinated workers to go without face coverings and physical distancing whether indoors or outdoors.

OSHA has adopted recommendations to mirror the CDC's mask and testing recommendations for fully vaccinated people. The CDC and OSHA recommend that fully vaccinated people reduce their risk of becoming infected with the Delta variant of COVID-19 and potentially spreading it to others by:

- Wearing a mask in public indoor settings in areas of substantial or high transmission.
- Choosing to wear a mask regardless of level of transmission, particularly if individuals are at risk or have someone in their household who is at increased risk of severe disease or not fully vaccinated.
- Getting tested three to five days following a known exposure to someone with suspected or confirmed COVID-19 and wearing a mask in public indoor settings for 14 days after exposure or until a negative test result.

OSHA guidance indicates they consider these conditions and statuses to be "at risk": prior organ transplant, prolonged use of corticosteroids or other immunosuppressant 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.

OSHA recommends that employers implement these measures at worksites to protect unvaccinated or otherwise at-risk workers in their workplaces and mitigate the spread of COVID-19:

1. Facilitate employees getting vaccinated.
2. Instruct all workers to stay home from work if they are (1) ill with COVID-19 or have COVID-19 symptoms, or (2) unvaccinated and have had close contact with someone who tested positive for COVID-19.
3. Implement physical distancing for unvaccinated workers and otherwise at-risk workers in communal work areas.
4. Provide workers with face coverings or surgical masks, as appropriate, and 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.
5. Educate and train workers on COVID-19 and company policies.

6. Suggest or require that unvaccinated customers, visitors, and guests wear face coverings. Suggest or require all customers, visitors, or guests wear face coverings in public, indoor settings in areas of substantial or high transmission.
7. Maintain ventilation systems.
8. Perform routine cleaning and disinfection.
9. Record and report work-related COVID-19 illnesses and deaths.
10. Implement protections from retaliation.
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. For assistance applying the OSHA workplace guidance, please contact experienced counsel.

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