

Blog Post

OSHA Encourages Employers to Mandate Vaccines or Regular Testing

August 18, 2021

1:00 AM UTC

The Occupational Safety and Health Administration (OSHA) has recommended employers either require vaccination or regular COVID testing, in addition to mask wearing and physical distancing in updated guidance issued on August 13, 2021. With the Equal Employment Opportunity Commission affirming that employers can mandate vaccines subject to certain exceptions, and the Department of Justice chiming in that such mandates are not prohibited simply because a vaccine only has Emergency Use Authorization, employers have additional support for vaccine mandates. This latest guidance for non-healthcare employers aligns with the information published by the Centers for Disease Control and Prevention (CDC) on July 27.

In the new guidance, OSHA “suggests that employers consider adopting policies that require workers to get vaccinated or to undergo regular COVID-19 testing — in addition to mask wearing and physical distancing — if they remain unvaccinated.” OSHA also recommends that employers facilitate their workers in getting vaccinated, including by providing vaccinations in the workplace and by providing paid time off for employees to get vaccinated and recover from any side effects of the injection.

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The guidance further states that all workers, even those who are fully vaccinated, should wear masks in public indoor areas of substantial or high community transmission. Additionally, all guests, customers, visitors, or clients are recommended to wear face coverings in these types of settings. This is directly in line with the CDC's July 2021 guidance, which recommended that everyone, including fully vaccinated individuals, wear masks in all indoor areas experiencing "substantial or high transmission" of COVID-19. The same CDC guidance went further and recommended that fully vaccinated individuals test for COVID-19 and mask after having close contact with an individual suspected or confirmed to have COVID-19.

This new OSHA guidance for non-healthcare employers follows on the heels of OSHA issuing a 916-page COVID-19 Healthcare Emergency Temporary Standard (ETS) setting forth a myriad of requirements for covered healthcare entities, which we blogged about [here](#). The ETS applies to all settings where an employee provides healthcare services, and sets forth a myriad of requirements for covered healthcare entities, including implementation of comprehensive COVID-19 plans, including hazard assessments, patient screening and management protocols, transmission-based protocols, record-keeping requirements, and more.

Employers issuing vaccine mandates should also keep in mind that they should explore reasonable accommodations for employees who have a medical condition or sincerely held religious belief that would preclude vaccination. EEOC guidance on vaccines recommends that managers and supervisors be trained in recognizing requests for exemptions as requests for accommodations, and in directing such requests to the right person for full consideration. The standard for whether an accommodation is reasonable for persons seeking an exemption based on a disability is different from the standard for those seeking an exemption for a sincerely held religious belief. [See Sections K.5 and](#)

K.12 of the EEOC Technical Assistance Q and As on COVID-19.

For assistance on vaccination policies and other COVID-19 issues affecting the workplace, please contact your Akerman attorney for assistance.

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