

# OSHA Issues Revised COVID-19 Guidance for Workplaces

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**PRACTICES** Labor and Employment, Litigation, OSHA, Employment Litigation

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On January 21, 2021, President Joe Biden directed OSHA to issue revised guidance to employers on workplace safety during the COVID-19 pandemic. Following this directive, on January 29, 2021, OSHA issued [revised guidance](#) for workplace settings outside of healthcare for mitigating and preventing the spread of COVID-19 in the workplace. The guidance focuses on an effective COVID-19 prevention program in the workplace, and includes new safety recommendations and additional guidance on earlier recommendations:

## A. New Recommendations

- Assign a workplace coordinator who is responsible for COVID-19 issues on the employer's behalf.
- Include workers (and their representatives) in conducting a thorough hazard assessment that identifies where and how workers might be exposed to COVID-19 at work.
- Suppress the spread of COVID-19 by providing and requiring all workers (subject to reasonable accommodation) to wear face coverings (unless their task requires respirators), which should be made of at least two layers of a tightly woven breathable fabric, such as cotton, and should not have exhalation valves or vents. Employers should provide face coverings to the workers at no cost, including daily and more frequent replacements as needed. In workplaces with workers who are deaf or have hearing deficits, employers should consider acquiring masks with clear coverings over the mouth for all workers to facilitate lip-reading. Additionally, employers should require any other individuals at the workplace (e.g., visitors, customers, non-employees) to wear a face covering unless they are under the age of 2 or are actively consuming food or beverages on site.
- Communicate COVID-19 safety workplace policies clearly, frequently, in plain language that workers understand (including non-English languages, and American Sign Language or other accessible communication methods, if applicable), in a manner accessible to individuals with disabilities, and via multiple methods to workers, contractors, and any other individuals on site, as appropriate. Such communications should include basic facts about how COVID-19 is spread, the importance of physical distancing, use of face coverings, and hand hygiene, the employer's COVID-19 prevention program, and a means of tracking which workers have been informed and when. Additionally, employers should ensure that workers understand their right to a safe workplace, who to contact with questions or concerns, and their right to raise concerns without fear of retaliation.
- Ask workers to report to the employer, without fear of reprisal, COVID-19 symptoms, possible COVID-19 exposures, and possible COVID-19 hazards at the workplace. Communicate to workers, in a language they can understand and in a manner accessible to individuals with disabilities, all policies and procedures implemented for responding to sick

and exposed workers in the workplace. As a best practice, create and test two-way communication systems that workers can use to self-report if they are sick or have been exposed, and that employers can use to notify workers of exposures and closures.

- Make a COVID-19 vaccine or vaccination series available at no cost to all eligible workers and provide information and training on the benefits and safety of vaccinations.
- Because at this time there is no evidence that COVID-19 vaccines prevent transmission from person-to-person, continue to follow protective measures in the workplace even if workers are vaccinated.

## **B. Additional Guidance on Earlier Recommendations**

- Identify a combination of measures (i.e., eliminating the hazard, engineering controls, workplace policies, and PPE) that will limit the spread of COVID-19 in the workplace including: separating and sending home infected or potentially infected workers following existing CDC guidelines; implementing physical distancing in all communal areas and installing barriers where distancing cannot be maintained; providing all workers with face coverings at no cost; improving ventilation with increased outside air or improving central air filtration to the MERV-13 or the highest compatible grade; providing PPE, if necessary; providing supplies for good hygiene practices; and conducting routine cleaning and disinfection practices.
- Where feasible, consider reasonable modifications for workers identified as high-risk who can do some or all of their work at home (part or full-time), or in less densely-occupied, better-ventilated alternate facilities or offices.
- Instruct workers who are infected or potentially infected to stay home and isolate or quarantine. Workplace absence policies should be non-punitive.
- Allow workers to telework or work in an isolated area. If those are not possible, allow workers to use paid sick leave, if available, or consider implementing paid leave policies to reduce risk for everyone at the workplace.
- Immediately separate workers who appear to have symptoms upon arrival at work or who develop symptoms during their work shift from other workers, customers, and visitors, and send them home and encourage them to seek medical attention.
- Per CDC guidelines, perform enhanced cleaning and disinfection of immediate work areas and equipment if workers with suspected or confirmed COVID-19 have been in the facility. Among other things, this includes using appropriate EPA-registered disinfectants, and vacuuming with a high-efficiency particulate air filter, if available. If it is more than 7 days since the infected person visited or used the facility, additional cleaning and disinfection is not necessary, but routine cleaning and disinfection should be continued.
- Provide guidance on screening and testing, following state or local guidance for screening and testing in the workplace. Employers should inform workers of employer testing requirements, if any, and availability of testing options.
- Record and report COVID-19 infections and deaths, in accordance with the recording requirements under 29 CFR 1904. Employers should report outbreaks to health departments as required and support their contact tracing efforts.

- Implement protections from retaliation and consider using a hotline or other anonymous process for workers to raise concerns. In addition to notifying workers of their rights to a safe and healthful work environment, employers should ensure that workers know who to contact with questions or concerns about workplace safety and health, and that there are prohibitions against retaliation for raising workplace safety and health concerns or engaging in other protected occupational safety and health activities.
- Continue compliance with other applicable OSHA standards for protecting workers from infection including: 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 worker access to medical and exposure records (29 CFR 1910.1020), and the General Duty Clause (Section 5(a)(1) of the OSH Act).

In conclusion, the revised guidance provides new safety recommendations as well as further guidance on several previously provided recommendations for mitigating and preventing the spread of COVID-19 in the workplace. While the revised guidance does not legally obligate the employers to implement the various recommendations contained therein, it would be prudent for employers to revisit the current COVID-19 safety controls in their workplace and ensure reasonable compliance with this guidance.

#### Related Alerts:

- [OSHA Reminds Employers to Continue Assessing Employee Safety Regarding COVID-19 Hazards, While Also Not Neglecting Common Workplace Hazards](#) – 6/17/2020
- [COVID-19 and OSHA: Why Employers May See More Inspection Activity and More Injuries and Illnesses Being Recorded as Work-Related](#) – 05/21/2020
- [Checklist Part II: OSHA and Safety Issues Regarding COVID-19 When Returning to Work](#) – 05/09/2020
- [Protecting Your Company from Coronavirus-related Premises Liability Claims](#) – 04/27/2020
- [Checklist for Return to Work \(or Reinstatement\) for Employees Impacted by COVID-19](#) – 04/21/2020
- [Federal OSHA's New COVID-19 Enforcement Guidance](#) – 04/15/2020
- [OSHA Relaxes Requirement for Work-related Assessment for COVID-19 Recordkeeping for Certain Employers](#) – 04/13/2020
- [CARES Act Relief Checklist: Considerations in Deciding What Relief is Right for Your Business](#) – 04/06/2020
- [Employers Providing Face Masks Should Review Their Health and Safety Obligations](#) – 04/06/2020
- [Relief for Employers and Workers under the CARES Act](#) – 03/29/2020
- [COVID-19 OSHA Guidance: Hazard Assessments at Workplaces Considered Essential Businesses Under Shelter in Place Orders](#) – 03/25/2020; Last Updated – 03/29/2020
- [COVID-19 Restructuring and the WARN Act](#) – 03/25/2020
- [FFCRA - Temporary Non-Enforcement - Employer Payroll Tax Credit](#) – 03/23/2020
- [Employment Issues under the Families First Coronavirus Act of 2020](#) – 03/19/2020
- [New York Enacts COVID-19 Sick Leave Act](#) – 03/19/2020
- [Employer Checklist for Responding to a Positive COVID-19 Test](#) – 03/18/2020
- [COVID-19 and Discrimination Issues](#) – 03/18/2020
- [COVID-19 and the American With Disabilities Act](#) – 03/18/2020
- [COVID-19 and OSHA](#) – 03/18/2020