

# What to Know: OSHA's COVID-19 ETS



## SCOPE OF EMERGENCY TEMPORARY STANDARD (ETS)

*The ETS applies to companies with 100 or more employees at any time while ETS is in effect.*

### **Exempted employers include:**

- Federal contractors
- Healthcare providers covered under OSHA's previous ETS

### **Exempted employees include employees who:**

- Work from home
- Exclusively work outside

## MANDATORY VACCINATION POLICY

### **Defined as a policy that requires vaccination of all employees other than employees for whom:**

- A vaccine is medically contradicted
- Medical necessity requires delay in vaccination; or
- Eligible for sincerely held religious belief or disability accommodation

## MANDATORY TESTING POLICY

- In lieu of mandatory vaccination policy, employers can implement a policy for unvaccinated employees that requires weekly testing and masking

## DETERMINING VACCINATION STATUS

### **Employers must determine vaccination status of each employee by requesting proof in the form of:**

- Immunization record from health care provider
- Copy of CDC COVID-19 Vaccination Record Card
- Immunization record from governmental agency
- Signed self-attestation

An employee who does not provide sufficient proof of vaccination must be treated as an unvaccinated employee

Employer must maintain a record of their employees vaccination status while ETS is in effect

## EMPLOYER SUPPORT FOR EMPLOYEE VACCINATION

- Employers must provide up to 4 hours of paid time off when an employee receives vaccine doses
- Employers must provide paid sick leave for employees recovering from a vaccine dose

## TESTING FOR EMPLOYEES NOT FULLY VACCINATED

- Unvaccinated employees must be tested at least once every 7 days and provide documentation of a negative test, or they are unable to enter the workplace
- Employers must maintain records of test results while the ETS is in effect
- Employers are not required to pay for testing unless required by collective bargaining agreement or other law

## PROCEDURE FOR WHEN POSITIVE COVID-19 TEST

Upon receiving a positive test, employees must notify their employer and immediately remove themselves from the workplace

**An employee is unable to return to the workplace until the employee:**

- Tests negative with a NAAT or antigen test
- Meets CDC's return to work criteria; or
- A health care provider recommends the employee returns to work

Employers are not required to offer paid time off as a result of an employee's positive COVID-19 test

## FACE COVERINGS

Unvaccinated employees must mask when indoors or in a vehicle with co-workers

**Exceptions:**

- Employee is alone in a room with a closed door
- Employee is eating or drinking
- Employee is wearing respirator
- Employee is unable to wear a face mask because it is infeasible or creates a hazard

## INFORMATION PROVIDED TO EMPLOYEES

**Employers must inform employees about:**

- ETS requirements
- COVID-19 vaccine efficacy
- Employee remedies for employer retaliation
- Criminal penalties for employees providing false information

## REPORTING COVID-19 FATALITIES AND HOSPITALIZATIONS

- Employers must report to OSHA each work-related COVID-19 fatality and hospitalization

## AVAILABILITY OF RECORDS

- Employers must make available to OSHA within 1 business day vaccination and testing documentation for any employee
- Employers must make available to OSHA within 4 hours their written mandatory vaccination or testing policy
- Employers must make available to union representatives or an employee the aggregate number of vaccinated employees at workplace

## EFFECTIVE DATE

- Employers must establish written vaccination or testing policy within 30 days
- Employers must begin testing unvaccinated workers within 60 days

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