



PHILLIPS LYTLE LLP CLIENT ALERT

LABOR & EMPLOYMENT

AUGUST 2021



OSHA Issues Updated COVID-19 Workplace Guidance

The Occupational Safety and Health Administration (OSHA) recently issued **updated COVID-19 guidance** for industries other than those covered by its previously issued **Healthcare Emergency Temporary Standard**. Although it is non-binding on employers, the updated guidance is designed to help employers protect workers who are unvaccinated (including people who are not fully vaccinated) or otherwise at-risk, including if they are immunocompromised, and also implement new guidance involving workers who are fully vaccinated but located in areas of substantial or high community transmission. In providing this updated guidance, OSHA has essentially adopted the CDC's analogous recommendations.

The updated guidance recommends that employers do the following:

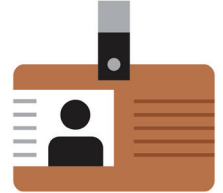
- (1) Facilitate employees getting vaccinated, including providing paid time off for employees to get vaccinated and recover from any side effects;
- (2) Instruct any workers who are infected, unvaccinated workers who have had close contact with someone who tested positive for COVID-19, and all workers with COVID-19 symptoms to stay home from work;
- (3) Implement physical distancing in all communal work areas for unvaccinated and otherwise at-risk workers, including limiting the number of unvaccinated or otherwise at-risk workers in one space at a time, where possible (e.g., teleworking, staggering shifts, flexible meeting and travel options);
- (4) Provide all workers, including those who are fully vaccinated, with face coverings or surgical masks at no cost, as appropriate, unless their work task requires a respirator or other personal protective equipment (PPE);
- (5) Educate and train workers (including employees, contractors and any other individuals on site, as appropriate) on the workplace's COVID-19 policies and procedures using accessible formats and in languages that workers understand;
- (6) Suggest or require that unvaccinated customers, visitors or guests wear face coverings in public-facing workplaces such as retail establishments, and that all customers, visitors or guests wear face coverings in public indoor settings located in areas of substantial or high transmission;
- (7) Maintain ventilation systems by ensuring heating, ventilation and air conditioning (HVAC) systems are operating properly; conducting regularly scheduled inspections; maximizing natural ventilation in buildings without HVAC systems by opening windows and doors where possible; and considering the use of portable air cleaners in spaces with high occupancy or limited ventilation;
- (8) Perform routine cleaning and disinfection, including following CDC cleaning and disinfection recommendations when someone suspected of having, or confirmed to have, COVID-19 has been in the workplace facility within 24 hours;
- (9) Record and report COVID-19 infections and deaths when required under OSHA's reporting requirements; and
- (10) Continue to protect employees from retaliation for reporting COVID-19-related concerns.



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While compliance with the updated guidance is voluntary, employers should remember that OSHA's general duty clause requires employers to provide a workplace that is free from recognized hazards that are causing or are likely to cause death or serious physical harm. As the updated guidance contains OSHA's most up-to-date recommendations for protecting employees from COVID-19 in the workplace, an employer that complies with the updated guidance would

likely be considered as meeting its obligations under the general duty clause. Therefore, employers may nonetheless wish to consider following the updated guidance.

Additional Assistance

For further assistance, please contact any of the attorneys on our [Labor & Employment Practice Team](#) or the [Phillips Lytle attorney](#) with whom you have a relationship. ■



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