



Summer of '21: Updated COVID-19 Guidance for Non-Healthcare Employers

On Aug. 13, 2021, the Occupational Safety and Health Administration (OSHA) issued updated guidance on mitigating and preventing the spread of COVID-19 in the workplace. The guidance echoes and parallels the Centers for Disease Control and Prevention's (CDC's) report on July 28, 2021, recommending that fully vaccinated people wear a mask in public indoor spaces of substantial or high transmission and that schools adopt universal indoor masking policies regardless of individual vaccination status. OSHA's guidance also comes on the heels of the Equal Employment Opportunity Commission's (EEOC's) May 28, 2021, guidance, which permitted employers to require employees physically entering the workplace to be vaccinated, as long as reasonable accommodations are provided as needed, and require confirmation of vaccinations, as long as the information is kept confidential and stored like all medical information.

Incorporating guidance from its sister agencies, OSHA's most recent guidance encourages employers to implement "multi-layered interventions to protect unvaccinated and otherwise at-risk workers and mitigate the spread of COVID-19." Those measures include:

1. Offering paid time off for employees to obtain a vaccine and recover from any side effects
2. Working with local public health authorities to provide vaccinations in the workplace for unvaccinated workers
3. Requiring workers to become vaccinated or to undergo regular COVID-19 testing — in addition to mask wearing and physical distancing — if they remain unvaccinated
4. Instructing 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
5. Implement physical distancing in all communal work areas for unvaccinated and otherwise at-risk workers
6. Provide face coverings, masks or other personal protective equipment (PPE) to workers who request them at no cost
7. Provide reasonable accommodation for any workers who are unable to wear, or have difficulty wearing certain types of face coverings, due to disability or religious belief
8. Educate and train workers on COVID-19 policies and procedures
9. Suggest or require that unvaccinated customers, visitors or guests wear face coverings in public-facing workplaces, such as retail establishments, and all customers, visitors or guests wear face coverings in public, indoor settings in areas of substantial or high transmission
10. Maintain ventilation systems and perform routine cleaning and disinfection
11. Record work-related cases of COVID-19 on OSHA's Form 300 logs
12. Implement protections from retaliation and set up an anonymous process for workers to voice concerns about COVID-19-related hazards

Should you need assistance updating your COVID-19 policies and procedures in accordance with this guidance please contact a Swift, Currie, McGhee & Hiers attorney at 404.874.8800 or via our website, swiftcurrie.com.

The foregoing is not intended to be a comprehensive analysis of the full effect of these changes. Nothing in this notice should be construed as legal advice. This document is intended only to notify our clients and other interested parties about important recent developments. Every effort has been made to ascertain the accuracy of the information contained within this notice.

