



February 4, 2021

## OSHA Issues New Guidance on Covid-19 Workplace Health and Safety Protocols

On January 29, 2021, the U.S. Occupational Safety and Health Administration (OSHA) published new guidance on workplace health and safety protocols for COVID-19. The new guidance was expected following President Biden's Executive Order directing the Secretary of Labor to issue revised health and safety guidelines for employers during the COVID-19 pandemic by February 4, 2021. The new guidance provides employers with detailed procedures for establishing a healthy and safe workplace environment during the COVID-19 pandemic, including the development of COVID-19 prevention programs. Despite the increased specificity of the new guidance, it is largely in-line with the guidelines that have been in place for the duration of the pandemic.

### Workplace Guidelines

The guidance recommends that employers implement a **workplace COVID-19 prevention program**, and sets forth recommendations for an effective program. An effective workplace COVID-19 prevention program should:

1. Assign a workplace coordinator who is responsible for the administration of any COVID-related issues.

2. Conduct a hazard assessment to determine when and where workers may be exposed to COVID-19.
3. Identify a combination of measures that will limit the spread of COVID-19 in the workplace such as:
  - a. eliminating the hazard by separating and sending home infected or potentially infected people from the workplace;
  - b. implementing physical distancing in all communal work areas [includes remote work and telework];
  - c. installing barriers where physical distancing cannot be maintained;
  - d. suppressing the spread of the hazard using face coverings;
  - e. improving ventilation;
  - f. using applicable PPE to protect workers from exposure;
  - g. providing the supplies necessary for good hygiene practices; and
  - h. performing routine cleaning and disinfection.
4. Create policies to provide support and protection for workers who are at a higher risk of severe illness.
5. Establish a system of communicating effectively with workers in a language that they understand.
6. Educate and train workers on an employer's COVID-19 policies and procedures.
7. Instruct workers who are infected or potentially infected to stay home and isolate or quarantine.
8. Allow workers to telework when possible.
9. Isolate workers who show symptoms at work.
10. Perform enhanced cleaning and disinfection after people with suspected or confirmed COVID-19 have been in the facility.
11. Implement protections from retaliation and allow for an anonymous process for workers to voice concerns about COVID-19-related hazards.
12. Record and report COVID-19 infections and deaths.
13. Provide the COVID-19 vaccine or vaccination series at no cost to all eligible employees.

14. Incorporate methods to ensure that employees utilize and are provided Personal Protective Equipment (PPE) at no cost.
15. Implementing a policy of nondiscrimination that is not biased against workers who have been vaccinated nor against those who have not been vaccinated.

The new guidance is also clear that it does not create new legal obligations for employers. Employers remain subject to existing mandatory health and safety standards, in particular – Section 5(a)(1) of the Occupational Safety and Health Act or the “General Duty Clause” – which requires employers to maintain a workplace free from **recognized** hazards that can cause serious physical harm or death.

## **Takeaway**

The new guidance demonstrates the continued seriousness of the COVID-19 pandemic and the measures employers must take to ensure workplace safety. While the new guidance states that it does not create new legal responsibilities for employers, it provides additional measures employers should take to fulfill the affirmative duty on employers to prevent employee exposure to **known** hazards. COVID-19 may be considered to be such a hazard. Employers should, therefore, review their existing COVID-19 workplace policies to confirm compliance with the new guidance, to promote employee safety, and to avoid potential liability.

\* \* \*

If you have any questions regarding this alert, please do not hesitate to contact us.

**[PUTNEY, TWOMBLY, HALL & HIRSON LLP](#)**

---

These materials have been prepared by Putney, Twombly, Hall & Hirson LLP for informational purposes only and are not intended as legal advice or advertisement of legal services. Transmission of the information is not confidential and is not intended to create, and receipt does not constitute, an attorney-client privilege. You should not act upon any of the information contained in these materials without seeking the advice of your own professional legal counsel.