

What OSHA's new COVID safety guidelines mean for your business

As anticipated, OSHA has released new guidelines for employers around COVID safety and prevention. These new guidelines are, in fact, simply guidelines and do not create new legal obligations. However, that does not mean that employers should ignore them. Under the Occupational Safety and Health Act, employers must “provide their workers with a workplace free from recognized hazards that are causing or likely to cause death or serious physical harm.”

Under the Biden Administration, expect OSHA to more aggressively enforce these health and safety protocols. OSHA may not specifically require businesses to, for example, install physical barriers between employees. However, OSHA could consider not doing so a failure to adhere to existing mandatory safety and health standards.

Additionally, these guidelines could foreshadow more serious official regulations. In this case, it's best to get ahead of the trend while you can instead of scrambling to catch up later. We've taken a look through these guidelines and highlighted some of the key provisions employers should be paying attention to. Additionally, we'll provide a few suggestions on what implementation might look like.



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Assign a workplace coordinator who will be responsible for COVID-19 issues on the employer's behalf

Regardless of OSHA regulations, having a point person is a good practice that ensures things don't slip through the cracks. Additionally, it reduces the risk of confusion amongst employees and ensures they know who to go with questions or concerns. For small businesses, this may be the owner or a manager. However, for a larger business, choose someone from HR, Operations, or another group with the authority to suggest and implement new safety protocols.

Conduct a hazard assessment to identify risks to employees

This is one of OSHA's new COVID guidelines you should take seriously. Not doing so could reflect poorly on your organization under an OSHA investigation. Evaluate the key risks that employees face. If you have public-facing employees, for example, then interaction with the public poses a risk. In other situations, employees may not be able to remain socially distanced at work.

It's best to pull employees from across the organization into this effort. In addition to showing good faith, employees likely have the best knowledge of what exposure risks they face each day. A worker is likely to bring up risks that an executive might miss.

Identify measures to limit the risk of COVID spread at work

You're likely already doing this, but now is the time to double down on safety measures. Look at the hazards you identified in your assessment and develop a strategy for addressing them. While you may not be able to eliminate all risk, focus on the largest risks that you have control over.

Some simple measures like requiring masks, putting up barriers, creating sanitization stations, and isolating sick employees can make a large difference. With that in mind, however, different businesses will have different risk factors. Be sure to consider the unique challenges of your business when determining a plan.

Provide additional protections for workers at higher risk of severe illness

Typically, older employees and those with existing serious health conditions are considered high-risk. However, you may wish to go a step further and let employees living with high-risk individuals take additional precautions.

Make what accommodations you can. Let employees who can work remotely full-time or part-time do so. For those who can't, consider letting them work second shift or during less busy hours to reduce exposure risk. Take any requests seriously as employees may be legally entitled to "reasonable accommodations" under the ADA.

Establish effective communication systems that workers can understand

There should be an established system for getting necessary information to employees. Additionally, employees should understand the process for reporting possible COVID symptoms, exposures, and hazards. If you look through OSHA's new COVID guidelines you'll see a trend, all communications should accommodate employees with disabilities and language barriers. Think carefully about this. Depending on your workforce, consider releasing content in multiple languages, large print, and/or audio formats.

Educate and train workers on your policies and procedures

Employees should understand basic COVID facts as well as what policies your organization has implemented and how to follow them. If specific PPE is required to protect employees, ensure they understand how to use it properly. For example, masks, when worn under the nose, do not provide adequate protection.

Disseminate this information in a way that accommodates disabilities or language barriers among your employees. As a best practice, consider keeping a record of the information you provided to each employee along with the method and date. You may need it in the event that you find yourself in an OSHA investigation.

Quarantine and isolate employees who are infected, had a possible exposure, or who show symptoms

Employees who are infected or may have been infected should isolate at home until they are cleared by a

doctor to return to work. If an employee shows up to work and begins exhibiting symptoms, separate them from others immediately and send them home to seek medical attention.

Ensure that employees are negatively impacted as minimally as possible by these policies. For example, allow employees to use sick time or take paid leave to quarantine. For employees able to, provide them work to do remotely, even if it's not enough work to cover their normal hours. Policies that create significant burdens for employees may encourage them to downplay symptoms and come to work when sick.

Paid leave provided by the Families First Coronavirus Response Act has been extended through March 31st, however, the leave maximums were not changed. This means employees who used all of their FFCRA leave in 2020 may not qualify for additional paid leave now.



Perform enhanced cleaning and disinfection if you suspect a confirmed case in your facility

If you have a confirmed exposure event at your facility, you should close any areas used by the infected individual. Thoroughly clean and disinfect all areas that individual may have used. Ideally, wait for 24 hours until cleaning to ensure the safety of the cleaning crew. Regardless, provide cleaning crews with the PPE needed to protect themselves while working.

For more in-depth information on COVID safety and disinfecting, OSHA suggests referring to the [CDC's guidelines](#). If it has been more than 7 days since the infected person used the facility, additional cleaning and disinfecting is not necessary. Continue normal enhanced cleaning procedures.

Provide guidance to employees on screening and testing strategies

COVID testing is not a substitution for other safety measures like distancing and mask-wearing, as COVID tests may fail to spot infections early on. Additionally, asymptomatic individuals may never feel unwell and not feel the need to be tested.

Still, you should incorporate testing guidelines into your policies. For example, employees should know if you require a negative confirmation test after travel or an exposure risk. If so, how long after the event should they wait to be tested? It's important to have specific policies established. Unequal treatment of employees, even if accidental, could be a discrimination lawsuit liability.

Make the COVID-19 vaccine available to employees at no cost

While no one should be charged for the vaccine itself, that does not guarantee an employee won't get a bill afterward. In some cases, healthcare providers could charge employees for administering the vaccine.

Additionally, if an employee gets a vaccination in conjunction with a doctor's visit, they will likely incur charges.

Consider reaching out to your healthcare provider to ensure that employees won't see any additional charges for getting vaccinated. Explain to employees how to avoid additional charges. If it's unclear, consider promising employees that you'll cover any unexpected costs.

Additional Resource: See more on [how to encourage employees to get vaccinated](#).

Do not lax safety measures for vaccinated employees

It's likely the COVID-19 vaccine reduces one's ability to spread the virus to some degree. However, it is not currently clear whether the vaccine fully prevents the transmission of the virus from person-to-person. This means that it may be possible for a vaccinated employee to carry the virus and infect a non-vaccinated coworker. Until there is more information available, OSHA recommends that employees continue to follow all COVID safety guidelines.