



Risk Solution Services

Alert – New COVID-19 rules for private sector workers released by the Biden administration

On November 4, 2021, the Department of Labor's Occupational Safety and Health Administration (OSHA) released new details on an emergency temporary standard (ETS) for covered employers (i.e., employers with 100 or more employees) in the private-sector. Additionally, vaccination requirements were provided for health care workers by the Centers for Medicare & Medicaid Services (CMS).

The lists below summarize the COVID-19 requirements for covered workplaces outlined in the [federal fact sheet](#) but do not include all requirements that employers may be subject to. Please seek professional counsel to ensure your business is in compliance with applicable laws.

New OSHA COVID-19 vaccination and testing emergency temporary standard (ETS) requirements for employers with 100 or more employees

- Ensure employees are either fully vaccinated by January 4, 2022, or produce a negative COVID-19 test at least weekly if they remain unvaccinated.
 - Being fully vaccinated requires either two doses of Pfizer or Moderna or one dose of Johnson & Johnson.
 - Employers must remove any employee who receives a positive COVID-19 test or is diagnosed with COVID-19 from the workplace.
 - Although the ETS does not require employers to provide or pay for tests, other laws or collective bargaining agreements may support the obligation to compensate for testing costs.
- Provide paid time for their employees to get vaccinated
 - Also, provide sick leave to recover from side effects that may keep them from working, if needed.
 - **Employers must be in compliance with this requirement on December 5, 2021**
- Ensure all unvaccinated employees wear a face mask while in the workplace
 - **Employers must be in compliance with this requirement on December 5, 2021**

New Centers for Medicare & Medicaid Services (CMS) vaccination requirements for health care workers

- Workers at health care facilities participating in Medicare or Medicaid must be fully vaccinated **by January 4, 2022**.
 - Being fully vaccinated requires either two doses of Pfizer or Moderna or one dose of Johnson & Johnson.
- The rule covers the majority health care workers in America: approximately 76,000 health care facilities and more than 17 million health care workers.

One common deadline set for different vaccination requirements and other guidelines

- To simplify the implementation of the previously released rules for federal contractors, the deadline for federal contractor vaccinations has been aligned with the ETS and CMS rule to take place **by January 4, 2022**.
- The new ETS does not apply to covered workplaces under the federal contractor requirement or CMS rule, so employers will not have to track multiple vaccination requirements for the same employees.
- According to the White House, the newly-released ETS and CMS rule preempt any inconsistent state or local laws, including those restricting employers' ability to impose vaccination, testing, or masking requirements.

Additional resources for employers

- CMS – Omnibus COVID-19 Health Care Staff Vaccination Interim Final Rule <https://www.cms.gov/files/document/cms-omnibus-staff-vax-requirements-2021.pdf>
- OSHA – COVID-19 Vaccination and Testing Emergency Temporary Standard Homepage <https://www.osha.gov/coronavirus/ets2>
- US Department of Labor – COVID-19 Vaccination and Testing Emergency Temporary Standard Webinar <https://www.youtube.com/watch?v=ixxkn3Y8z6g>

Source

Fact sheet – Biden Administration Announces Details of Two Major Vaccination Policies

<https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/04/fact-sheet-biden-administration-announces-details-of-two-major-vaccination-policies/>

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