



NATIONAL COUNCIL FOR OCCUPATIONAL SAFETY AND HEALTH

CONSEJO NACIONAL DE SALUD Y SEGURIDAD OCUPACIONAL



OSHA Vaccination Emergency Standard

A Question-and-Answer Action Guide for Workers, Unions, and COSH/Worker Centers

Workers in companies with 100 or more employees will be required to get the COVID vaccine or test and mask, under new rules issued by the Occupational Safety and Health Administration ("OSHA").

Why would OSHA issue a vaccination standard?

Covid-19 is the worst global disease outbreak in a hundred years. Though vaccines are effective and safe, as of November 9 only 58.5% of the US population is fully vaccinated -- not enough to stop the spread of the disease. Unvaccinated people risk their own lives and the lives of those around them.

Mandatory vaccinations are nothing new. George Washington required his soldiers to be inoculated against smallpox. School districts have required vaccinations against diseases like measles for decades. And vaccinations against diseases like yellow fever and cholera are required for travel to some countries.

What does OSHA's standard require?

Every covered employer must develop, implement and enforce a COVID-19 vaccination policy. An employer can choose to allow unvaccinated workers to wear face coverings in the workplace and get tested at least weekly, so long as those workers have the option to be vaccinated instead.

OSHA's summary of the standard is [here](#); the text of the standard is [here](#).

This is an "emergency temporary" standard (ETS). It only lasts six months, at which time OSHA can decide whether or not to make it permanent.

Who does the standard apply to?

It applies to employers in OSHA's jurisdiction with 100 or more employees unless they are covered by another regulation. Federal OSHA rules do not apply to state or local public employers or miners. OSHA-approved state plans are required to adopt standards "at least as effective" as the federal standard. Many federal contractors and healthcare workers are covered under other standards.

Who pays for the vaccines, testing, and masks?

Employers must pay for the vaccinations, give employees up to four hours of paid time off to get vaccinated with each dose, and provide "reasonable time off" and paid sick leave to recover from any side effects.

The standard does not require employers to pay for testing or masks. Other laws in your state or city may require free testing or provide masks. If you have a union contract at your job, it may include language

spelling out your employer's responsibility for testing, masks, and other personal protective equipment (PPE).

What if I test positive or come down with COVID-19?

Your employer must remove you from work until you test negative or meet other "return to work" criteria. Unfortunately, the standard does not require your employer to pay you while you are off or even provide sick leave, although paid sick leave may be required by other laws or a union contract. This is a serious defect in the standard, and one the labor movement will challenge during OSHA's hearings on whether the standard should be made permanent.

What are the standard's deadlines?

The deadline for most of the standards is December 5, 2021. Testing for employees who are not fully vaccinated must begin by January 4, 2022. But like every other OSHA standard, this one has been challenged in court. The court may delay the dates, or throw the standard out altogether.

My employer isn't covered by the OSHA standard. Can they require me to get vaccinated?

The short answer is yes – with some exceptions. The federal Equal Employment Opportunity Commission (EEOC) has ruled that mandatory vaccination is not illegal discrimination and does not violate equal opportunity laws. However, as with the standard, employers cannot force the vaccine on those who should not receive it for medical or religious reasons.

It is not a violation of HIPAA or the Americans with Disabilities Act for an employer to inquire about your vaccination status. Employers cannot, however, ask about other medical conditions that are not related to your ability to do your job.

What should I do?

- **Get vaccinated** - it's safe and very protective.
- **Get together with coworkers** to talk about your concerns about being exposed to COVID and steps your employer can take to protect you.
- **As a group, ask that your employer involve workers** in developing the new COVID vaccination plan. Urge your employer to address your concerns and take steps to protect you beyond just vaccination.

What questions should I ask about my employer's vaccination plan?

- Will the employer offer the vaccines on-site, or will employees have to get vaccinated on their own? If on-site, which vaccine will be administered? Who will administer the vaccines? What is their medical training?
- Will employees get paid time off to get vaccinated? (Required by law where the new OSHA standard applies.)
- Some people experience side effects such as a day or two of flu-like illnesses. Will employees get paid time off to recover from any side effects? (The OSHA standard, where it applies, requires sick leave.)
- A very few people suffer an immediate allergic reaction to the vaccine. If vaccinations are on site, what precautions will be taken to deal with allergic reactions?
- No vaccine is 100% effective. What other measures will be taken to prevent the spread of COVID-19?

What role can a union play?

If you have a union at your workplace, you and your co-workers can negotiate about the implementation of the OSHA standard, and also for safety protections that are greater than those included

in the standard (for example, improve ventilation. . Your union can also ask for other things, including incentives for voluntary vaccination, such as a cash payment or a vacation day. Many unions have used their bargaining power to gain fair treatment and effective measures against COVID-19 for their members

What can non-union workers do?

Every worker, regardless of union status, has a right to a safe workplace free from recognized hazards. Non-union workers can ask for measures like paid leave to get vaccinated and to recover from side effects. [COSH groups](#) and worker centers can help.