

COMPLIANCE OVERVIEW

OSHA Issues Mitigation and Prevention Guidance for COVID-19

On Jan. 29, 2021, the Occupational Safety and Health Administration (OSHA) issued [guidance](#) on mitigating and preventing the spread of COVID-19 in the workplace. The guidance applies to employers and employees in settings outside of the health care industry, and is meant to help them determine appropriate COVID-19 control measures for the workplace.

Employers can use this OSHA guidance to plan and evaluate their COVID-19 prevention and mitigation procedures. With this guidance, OSHA strongly recommends that employers implement COVID-19 prevention programs. According to OSHA, the most effective programs engage employees and their union or representatives in the development and planning stages.

LINKS AND RESOURCES

- OSHA's COVID-19 [website](#)
- OSHA's COVID-19 [guidance](#)

Guidance Topics

The OSHA guidance covers:

- Hazard assessments;
- Measures to limit the spread of COVID-19;
- Isolation or separation measures for infected employees;
- Use of personal protective equipment; and
- Improvements in ventilation, hygiene and sanitation measures.

Important Information

- The guidance contains recommendations, but also includes the **mandatory** safety and health standards that have already been established.
- The recommendations are advisory in nature, informational in content and are intended to assist employers in providing a safe and healthy workplace.

Provided to you by **Wallace Welch & Willingham**



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COVID-19 Prevention Program

OSHA asserts that the most effective way to mitigate the spread of COVID-19 at work is for employers to implement a workplace prevention program. For this reason, OSHA recommends that employers appoint a workplace coordinator to manage the employer's COVID-19 response efforts. OSHA's guidance outlines the following key elements for an effective COVID-19 prevention program and should contain the requirements below.

Hazard Assessments

Employers should complete thorough hazard assessments to identify potential COVID-19 workplace hazards. Employee participation in these assessments will increase the efficiency of this process because employees are the most familiar with the conditions they face. Once hazards are identified, employers should follow the principles of the [hierarchy of controls](#) to limit the spread of COVID-19 and implement other safety measures. Acceptable control measures include eliminating the hazard, engineering controls, workplace administrative policies and using personal protective equipment (PPE). Key examples include:

- Separating and sending home infected or suspected infected employees from the workplace
- Practicing physical distancing in all communal work areas
- Installing barriers in areas where physical distancing is not applicable
- Requiring the use of face coverings
- Improving ventilation, hygiene and sanitation

Policies and Practices

OSHA guidance states that employers must ensure that their employees understand their right to a safe and healthy work environment. Employers should consider the following issues as they develop and implement workplace policies, practices and procedures:

- **Protecting employees at higher risk:** Employers should implement protections for employees who are at a higher risk for severe illness from COVID-19. For example, employees with disabilities may be legally entitled to "reasonable accommodations" that protect them from the risk of contracting COVID-19. In addition, employers should consider reasonable job modifications for employees identified as high-risk, including remote work or working in a less densely occupied, better-ventilated facility.
- **Communicating effectively with employees:** Efficient employer-employee communication systems should be able to track which employees have been informed (and when they were informed) of COVID-19 facts and employer policies, procedures and practices. Employer communications to employees should address:
 - Basic COVID-19 facts, including how it is spread and the importance of social distancing, use of face coverings and hand hygiene;
 - A description of workplace policies and procedures implemented to protect employees from COVID-19 hazards; and
 - The procedure employees must follow and the contact information for the person to address questions or concerns about workplace safety and health issues.
- **Facilitating employee reporting:** Employees should be able to report to their employer, without fear of retaliation, any COVID-19 symptoms, possible exposures or hazards in the workplace. Employers must communicate all policies and procedures implemented for responding to sick and exposed employees in the workplace to employees in a language all employees understand. A best practice is to create and test two-way communication

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systems that employees can use to self-report if they are sick or have been exposed and that employers can use to notify employees of exposures and closures.

- **Training managers and supervisors:** Supervisors must be familiar with workplace flexibilities and other human resource policies and procedures.

Isolation or Separation

Employers must instruct employees who have a confirmed case of COVID-19 to stay home, and isolate or quarantine. Similarly, employers should immediately separate employees who appear to have symptoms upon arrival to work or who develop symptoms during their work shift, from other employees, customers and visitors. Employers should also consider sending these employees home and encourage them to seek medical attention.

Employees' isolation should follow the Centers for Disease Control and Prevention (CDC) [isolation](#) and [return-to-work](#) guidelines. Please note that some employees may need to stay home and isolate longer than 10 days as recommended by their health care providers.

To the extent possible, employers should make telework or the ability to work in an area isolated from others, available to these employees. If telework or separation options are not possible, employers should allow these employees to use paid sick leave, if available, or consider implementing paid leave policies to reduce the drive for sick employees to report to work, thus lowering the risk of infection for everyone at the workplace. To assist with this decision, the [Families First Coronavirus Response Act](#) provides certain employers 100% reimbursement through tax credits if they provide employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19 through March 31, 2021.

Sanitation

An area may only be used again once it has been appropriately disinfected. Employers should not allow employees to share objects or tools. However, if sharing is unavoidable, employers should make sure shared equipment, objects and surfaces are cleaned and disinfected between uses. Employers should provide disposable disinfecting supplies so that employees can clean and disinfect commonly used surfaces before each use.

Employers should follow the CDC's [cleaning and disinfection recommendations](#) if someone has been in the facility and is suspected or confirmed to have COVID-19. When cleaning and disinfecting the workplace, employers should consider opening outside doors and windows, as well as blocking off and sanitizing all potentially infected and immediate work areas and equipment. Additional cleaning and disinfection is not necessary if seven or more days have passed since an infected person visited or used the facility. Employees without close contact with a potentially infected person can return to the area immediately after disinfection.

Screening and Testing

Employers should follow state or local guidance and priorities for screening and vital testing at the workplace. Testing in the workplace may be arranged through a company's occupational health provider or in consultation with the local or state health department.

Employers must inform employees of employer testing requirements and the availability of testing options (if any). The CDC has published [strategies](#) for consideration when incorporating viral COVID-19 testing into workplace preparedness, response and control plans.

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Please note that screening and performing health checks is not a replacement for other protective measures, such as requiring face coverings and enforcing physical distancing. Asymptomatic individuals or individuals with mild non-specific symptoms may not realize they are infected, and some infections may not be detected during screenings.

Physical Distancing

Employers must implement physical distancing measures in all communal work areas. Physical distancing prevents workers from breathing in airborne particles produced by infected individuals when they stay at least 6 feet away. Employers can strengthen physical distancing measures by reducing the number of people or the density of employees at the workplace. To reduce workplace employee density, employers can implement flexible worksites, work hours, meetings and travel times, or allow employees to work remotely when possible.

In places where physical distancing cannot be practiced, employers should install transparent shields or other solid barriers to separate employees from others. Barriers must block face-to-face pathways between individuals in order to prevent direct transmission of respiratory droplets. When barrier openings are necessary, they should be as small as possible.

Face Coverings

Employers must provide all employees with face coverings. Face coverings must be made of at least two layers of tightly woven breathable fabric, such as cotton, and should not have exhalation valves or vents. However, when an employee's job tasks require a respirator, employers must follow OSHA's [requirements](#) for respiratory protection.

All individuals must be required to wear a face covering, except for:

- Individuals under the age of 2; or
- Individuals actively consuming food or beverages on-site.

Hygiene Practices

Employers must promote personal health monitoring and good personal hygiene, including hand-washing and respiratory etiquette. To accomplish this, employers should provide employees with time to wash their hands often or to use hand sanitizer. Posters should be prominently displayed in workplace areas to encourage good hand hygiene and physical distancing.

In addition, employers should ensure that employees, customers and visitors have adequate supplies to frequently clean their hands and cover their coughs and sneezes. Necessary supplies may include, but are not limited to:

- Tissues and no-touch trash cans
- Soap and warm water at fixed worksites and, if not available, alcohol-based hand sanitizer that's at least 60% ethanol or 70% isopropanol
- Touchless hand sanitizer stations in multiple locations

Ventilation

The CDC has released [guidance](#) on ways to improve ventilation and reduce the spread of COVID-19 in buildings. Some of the CDC's recommendations are based on the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) [Guidance for Building Operations During the COVID-19 Pandemic](#). Some of these recommendations include:

- Increasing ventilation rates when possible;
- Increasing fresh outdoor air by opening windows and doors;

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- Using fans to increase effectiveness of open windows;
- Checking filters to ensure they are within service life and appropriately installed; and
- Considering the use of ultraviolet germicidal irradiation as a supplement to help inactivate SARS-CoV-2, especially if options for increasing room ventilation are limited.

Personal Protective Equipment

When the measures above cannot be implemented or do not protect employees fully, OSHA standards require employers to provide PPE to supplement other engineering or administrative controls.

Employers must determine what PPE is necessary (e.g., respirator, face shield, protective gowns and gloves). When PPE is required, employers must:

- Provide necessary PPE at no cost to their employees
- Make sure that all PPE is used and provided in accordance with applicable OSHA standards and other industry-specific guidance.

There are times when PPE is not required under OSHA standards or other industry-specific guidance. However, some employees may still have a legal right to PPE as a “reasonable accommodation” under the Americans with Disabilities Act (ADA). In addition, some employees may also want to use PPE if they are concerned about their personal safety.

Recording and Reporting COVID-19

Employers are responsible for recording work-related cases of COVID-19 illness on their [OSHA 300 log](#) if the case:

- Is a confirmed case of COVID-19;
- Is [work-related](#); and
- Involves one or more relevant [recording criteria](#).

Employers must report a fatality to OSHA if the fatality occurs within 30 days of the work-related incident. For COVID-19 cases, an incident means an exposure to COVID-19 in the workplace. In order for a case of COVID-19 to be reportable, a fatality due to COVID-19 must occur within 30 days of a work-related exposure. The employer must report the fatality **within eight hours** of knowing both that the employee has died and that the cause of death was a work-related case of COVID-19.

Employers must also report inpatient hospitalizations to OSHA if the hospitalization occurs within 24 hours of the work-related incident. For COVID-19 cases, an incident means an exposure to COVID-19 in the workplace. An inpatient hospitalization due to COVID-19 must occur within 24 hours of a work-related exposure. The employer must report such hospitalization **within 24 hours** of knowing both that the employee has been hospitalized within 24 hours of a work-related incident and that the cause of the inpatient hospitalization was a work-related case of COVID-19.