

OSHA Issues First New General Workplace Guidance since June 2020

Alert

02.01.2021

By Brittany Barrientos, Greta Bauer Reyes and Alisa Nickel Ehrlich

As mandated in President Biden's [Executive Order on Protecting Worker Health and Safety](#), on January 29, OSHA issued a new guidance document, [Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace](#). This guidance was OSHA's first comprehensive general workplace guidance since the two guidance documents it issued early in the pandemic: the March 2020 [Guidance on Preparing Workplaces for COVID-19](#), which set forth general considerations to identify risk levels in workplaces and implement appropriate safety measures regarding COVID-19, and the June 2020 [Guidance on Returning to Work](#).

As employers nationwide know, a lot has changed since June 2020, and while vaccine rollout is underway, it is becoming clear that OSHA's hierarchy of controls are here to stay. While the new guidance remains largely consistent with the prior guidance documents and focuses on face coverings, social distancing and development and implementation workplace safety plans, the guidance provides more details around these points. It also provides a framework and a reminder to employers that policies should be implemented and considered living documents that are updated as new or changed information becomes available.

In light of the Biden Administration's other executive order mandate to review enforcement protocols, it is a good time for employers to check their policies for the health and safety components spelled out in the new guidance, and to confirm developed policies are being implemented.

First, the guidance lists specific items that COVID-19 prevention programs should include (changes we have identified as not previously included are in bold):

OSHA Issues First New General Workplace Guidance since June 2020

- Assignment of a workplace coordinator responsible for COVID-19 issues
- Identification of where and how workers might be exposed to COVID-19 at work (hazard assessment)
- Identification of measure that will limit the spread of COVID-19 consistent with the hierarchy of controls (eliminate hazard, engineering controls, administrative controls, PPE)
- Consideration of protections for workers at higher risk for severe illness through supportive policies and practices (high-risk individuals are described as those with serious underlying medical conditions and older adults)
- Establishment of a system for communicating effectively with workers and in a language they understand, and allowing reporting of COVID-19 or workplace health and safety issues without fear of retaliation
- Educate and train workers on COVID-19 policies and procedures in accessible formats and languages they understand
- Instruct workers who are infected or potentially infected to stay home when sick
- Minimize the negative impact of quarantine and isolation on workers by allowing telework, when possible, and provide leave consistent with the FFCRA
- Isolate workers who show symptoms at work—send them home immediately
- Perform enhanced cleaning and disinfection after people with suspected or confirmed COVID-19 are in the facility (OSHA lists specific cleaning recommendations)
- Provide guidance on screening and testing
- Record and report COVID-19 infections, in-patient hospitalizations and death
- Implement protections from retaliation and set up an anonymous process for workers to voice concerns about COVID-19-related hazards
- Make a COVID-19 vaccine or vaccination series available at no cost to all eligible employees
- Do not distinguish between workers who are vaccinated and those who are not (all workers should continue to follow protective measures)
- Follow OSHA-specific standards for PPE, respiratory protection, sanitation, bloodborne pathogens, medical and exposure records, and the OSHA General Duty Clause

The guidance provides summaries of existing guidance on specific items such as the quarantine times, and measures to implement distancing in the workplace. While these are primarily consistent with prior guidance, the guidance contains new and additional information, bolded below.

Who should quarantine: The guidance states workers should quarantine if:

OSHA Issues First New General Workplace Guidance since June 2020

- They were within six feet of someone who has COVID-19 for a total of 15 minutes or more within a 24-hour period, starting from two days before illness onset (or, for asymptomatic patients, two days prior to test specimen collection) until the time the patient is isolated
- They provided care at home to someone who is sick with COVID-19
- They had direct physical contact with a person who has COVID-19 (hugged or kissed them)
- They shared eating or drinking utensils with a person who has COVID-19
- Someone who has COVID-19 sneezed, coughed or somehow got respiratory droplets on them

Face Coverings: Face coverings have been a priority item for some time. The guidance provides updated recommendations as described below:

- All individuals at the workplace (employees, visitors, customers, non-employees) wear face coverings unless they are under two years old or are actively consuming food or beverages on-site. The guidance states employers should provide face coverings at no cost.
- When deaf employees are present, employers should consider acquiring masks with clear coverings over the mouth to facilitate lip reading.
- Face coverings should be at least two layers and should not have exhalation valves or vents. In operations where face coverings can become wet or soiled, employers should provide workers with replacements daily or more frequently.
- Face shields may be provided to keep face coverings from getting wet or soiled, but do not provide protection by themselves.

Ventilation: The guidance reiterates [CDC guidance](#) regarding ventilation improvements and provides a list of recommendations. Facilities personnel should check this list to confirm buildings are implementing ventilation strategies.

Applicability: The new guidance is not applicable to healthcare or emergency response; there are separate guidance documents for [healthcare workplaces](#) and [emergency response](#).

Enforcement: While the guidance does not discuss enforcement, it is the elephant in the room as the Biden administration has mandated OSHA review its COVID-19 enforcement procedures and launch a national program that focuses OSHA enforcement efforts on COVID-19 violations that put the largest number of workers at serious risk. As of the date of this alert, federal OSHA has received more than 13,000 complaints and has conducted approximately 1,600 inspections. State plans have received more than 43,000 complaints and conducted more than 5,000 inspections. OSHA has announced more than 300 inspections resulting from citations and proposed penalties of nearly \$4 million.

OSHA Issues First New General Workplace Guidance since June 2020

We are monitoring implementation of President Biden's executive orders related to worker health and safety. [Keep up to date with our tracker.](#)

CONTACTS

Brittany Barrientos

Alisa Nickel Ehrlich

Greta Bauer Reyes

RELATED CAPABILITIES

Business Litigation

Employee Benefits

Environmental & Natural Resources

Labor, Employment & Benefits

STINSON

STINSON LLP \ STINSON.COM