

OSHA Vaccine Mandate – DD Services

The OSHA Healthcare Emergency Temporary Standard issued in June 2021 applies to healthcare providers and includes various COVID-19 precautions required to be utilized in healthcare settings.

Please note that OHCA still has not received a definitive answer from OSHA on how the OSHA healthcare ETS applies to our residential, day and employment waiver services. Some consultants have said that OSHA planned to implement the healthcare ETS broadly, so any setting where services are provided for the purpose of promoting, maintaining, monitoring, or restoring health would be covered.

However, the definition of healthcare services also references services being provided by “professional healthcare practitioners, who generally have either licensure or credentialing requirements.” While DSPs are not licensed, they do have requirements for first aid/CPR certification and medication administration certification, which makes it unclear if they are included or excluded.

If you follow the thinking that the health care ETS should be applied broadly to any services that promote, maintain, monitor or restore health, most, if not all of the DD waiver services would be included in the healthcare ETS and therefore excluded from the OSHA vaccine mandate ETS.

If your agency employs more than 100 people, your employees not covered under the OSHA Healthcare ETS will be subject to the OSHA COVID-19 Vaccine Mandate.

Please keep apprised of the status of extension of the OSHA Healthcare ETS, which is set to expire December 21, 2021. If the OSHA Healthcare ETS expires, with no additional regulation, those settings would then be included in the OSHA vaccine mandate ETS.

Key Dates

- Rule: [OSHA Emergency Temporary Standard for Vaccine Mandates \(FAQs\)](#)
- Effective Date: November 5, 2021
- Phase 1- December 6, 2021
 - Comply with all requirements except for COVID testing Requirements
 - Policies and Procedures established
- Phase 2- January 4, 2022
 - Compliance with testing for unvaccinated staff that do not meet an exemption

Required Policies and Procedures

- [OSHA Mandatory Vaccination Template Policy](#)
- [OSHA Vaccination, Testing and Face Covering Template Policy](#)
- Employer policy on vaccination
 - Permitted exemptions
 - Establishes, implements, and enforces a written policy allowing any employee not subject to a mandatory vaccination policy to choose either to be fully vaccinated against COVID-19 or provide proof of regular testing for COVID-19.
- Determination of employee vaccination status
 - List of acceptable documents or attestation
- Employer support for employee vaccination

- Provide up to 4 hours paid time, including travel time, at the employee's regular rate of pay (employer cost)
- Provide reasonable time and paid sick leave to recover from side effects experienced following any primary vaccination dose to each employee for each dose (approx. 2 days)
- May use employee sick leave, if no accrued sick leave, employer cost
- COVID-19 testing for employees who are not fully vaccinated
 - Must be tested for COVID-19 at least once every 7 days, within 7 days of the test
 - Employees who work less regularly must have a test result within 7 days of entering workplace.
 - Maintain a record of every test
 - Employer not required to pay for testing.
 - Antigen tests that are self-administered cannot also be self-read. Agencies can monitor reading of result through telehealth proctor.
- Employee notification to employer of a positive COVID-19 test and removal
 - Remove employee from workplace until they received a negative test (if antigen positive), meet [CDC return to work criteria](#), or are cleared by a licensed healthcare provider.
- Face coverings
 - Requirements:
 - (A) completely covers the nose and mouth;
 - (B) Is made with two or more layers of a breathable fabric that is tightly woven (i.e., fabrics that do not let light pass through when held up to a light source);
 - (C) Is secured to the head with ties, ear loops, or elastic bands that go behind the head. If gaiters are worn, they should have two layers of fabric or be folded to make two layers;
 - (D) Fits snugly over the nose, mouth, and chin with no large gaps on the outside of the face;
 - E) Is a solid piece of material without slits, exhalation valves, visible holes, punctures, or other openings
 - Must wear indoors or when in a vehicle for work purposes unless eating or drinking, when alone in a room with closed doors and floor to ceiling walls, when wearing a respirator, or when it is a hazard risk for the employee.
- Notices and information provided to employees
 - The requirements of this ETS and associated policies and procedures
 - COVID-19 vaccine efficacy, safety, and the benefits of being vaccinated, by providing the document, "[Key Things to Know About COVID-19 Vaccines](#),"
 - Requirements of 29 CFR 1094.35(b)(1)(iv) prohibiting discrimination for reporting work-related injuries and illness or retaliation ([OSHA Fact Sheet](#))
 - The prohibitions of 18 U.S.C. 1001 and of section 17(g) of the OSH Act, which provide for criminal penalties associated with knowingly supplying false statements or documentation ([OSHA Fact Sheet](#))
- Reporting of COVID-19 fatalities and hospitalizations to OSHA
 - Each work-related COVID-19 fatality within 8 hours of the employer learning about the fatality.
 - Each work-related COVID-19 in-patient hospitalization within 24 hours of the employer learning about the in-patient hospitalization
 - [OSHA Fact Sheet](#)

- Record availability
 - By the end of the next business day after a request, the employer must make available, for examination and copying, the individual COVID-19 vaccine documentation and any COVID-19 test results for a particular employee to that employee and to anyone having written authorized consent of that employee.
 - By the end of the next business day after a request by an employee or an employee representative, the employer must make available to the requester the aggregate number of fully vaccinated employees at a workplace along with the total number of employees at that workplace.
 - The employer must provide to the Assistant Secretary for examination and copying:
 - Within 4 business hours of a request, the employer's written policy and the aggregate numbers of fully vaccinated employees at a workplace along with the total number of employees at that workplace, and
 - By the end of the next business day after a request, all other records and other documents required to be maintained by this ETS .