

Henderson Brothers Risk Control:

With the Delta variant of COVID-19 spreading throughout the county including areas with high vaccination rates, the Department of Labor through OSHA has updated their guidance for employers and employees in all industries. OSHA's guidance was updated on August 13th and revises the guidance issued a mere two months ago in June. The newly issued OSHA guidance mirrors the existing CDC guidance, as has been OSHA's practice over the course of the pandemic.

The new guidance focuses on at risk individuals and the unvaccinated individuals in the workplace. OSHA's guidance does not consider the general public, state and local health departments may have already issued public health guidance within your operational jurisdictions. The update has 11 key considerations this time around. Despite the recent update, much of the guidance remains extremely similar to past recommendations offered by OSHA. OSHA recommendations now and in some cases once again include:

1. Facilitating employee vaccination including providing, when appropriate paid time away from work for vaccination, or recovery from short term side effects. OSHA is suggesting employers consider requiring vaccination or frequent testing in addition to the use of PPE. When considering vaccine requirements consult with your legal counsel.
2. Prohibiting infected employees, unvaccinated employees who have been in close contact with infected individuals, and workers with symptoms related to COVID-19 from entering the workplace. OSHA expects quarantine and similar programs to be non-punitive and that attendance policies encouraging sick employees to work in a non-remote manner be immediate revised.
3. Social distancing in common areas and workspaces where at risk or unvaccinated employees work or gather should be implemented. When social distancing is not possible shields or barriers should be used.
4. Face covers and/or masks should be used by all employees including those that are vaccinated. OSHA considers COVID-19 related face coverings a form of PPE and advises that employers should provide or pay for these devices.
5. Training and education should be provided to all employees in an appropriate format and language on the hazards of COVID-19 and the practices and polices the employer has implemented for prevention of workplace transmission.
6. Masks for clients, customers, and visitors in areas where substantial or high transmission rates are being recorded. OSHA recommends this practice regardless of other jurisdictional requirements.
7. Ventilation systems, where possible, for indoor work areas should be improved or maintained as a means of filtering breathing air and preventing virus transmission in the workplace. OSHA recommends utilizing the guidance provided by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)

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8. Disinfection of hard and soft surfaces within the work area should occur on a routine basis. Disinfection is considered especially important where an infectious individual may have occupied or accessed a common or work area.
9. Recordkeeping requirements for COVID-19 related workplace infections, hospitalizations, and deaths are still mandatory. Employers should review the workplace conditions that could lead to an infection being considered a workplace illness.
10. Whistleblower protections and anti-retaliation programs should be implemented for all workplaces. This process includes providing a means for employees to anonymously report COVID-19 related health and safety concerns.
11. Adherence to other applicable standards or mandates as they relate to the spread of infectious diseases, training, PPE and workplace safety measures, health and hygiene, and recordkeeping requirements set forth by OSHA. In addition to OSHA regulations employers should be aware of and in compliance with applicable federal and state regulations related to COVID-19 and health information.

As the pandemic landscape continues to evolve employers should continue to monitor the compliance guidance issued by federal, state, and local entities. The team at Henderson Brothers will continue to monitor and update our partners on the news and events surrounding COVID-19 in the workplace. If you have any immediate concerns or questions, please reach out to your contacts at Henderson Brothers for more information.