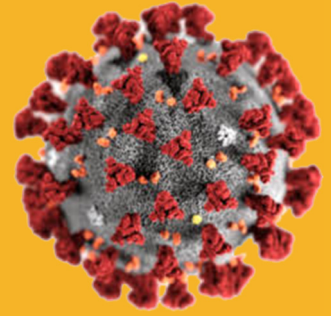




# TEAMSTERS SAFETY & HEALTH COVID-19 Fact Sheet



## OSHA Emergency Temporary Standard Fact Sheet

### Coronavirus (COVID-19, SARS-CoV-2)

November 17, 2021

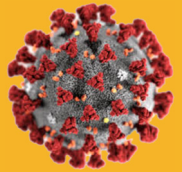
#### BACKGROUND<sup>1</sup>

The U.S. Occupational Safety and Health Administration (OSHA) issued an emergency temporary standard (ETS) on November 4<sup>th</sup>, 2021 which became effective November 5<sup>th</sup>, 2021. Employers must **comply with most provisions by December 6, 2021**, and all aspects of the regulation **by January 4, 2022**. The ETS establishes requirements to protect all employees at large companies with one hundred (100) or more workers from the risks of contracting COVID-19 in the workplace. This standard requires that covered employers **develop, implement, and enforce** a mandatory COVID-19 vaccination policy requiring employees to choose to be vaccinated or undergo regular COVID-19 testing and wear a face covering at work. This standard only sets minimum requirements for employers and does not prevent the implementation of additional safety measures which are subject to collective bargaining agreements.

#### WHICH EMPLOYERS ARE COVERED BY THE ETS?

- Private employers with 100 or more full-time or part-time employees firm- or corporate-wide, including temporary or seasonal workers employed directly by the employer while the ETS is in effect.
- In states **with OSHA-approved State Plans**, state, and local government employers, as well as private employers, with 100 or more employees will be covered by state occupational safety and health requirements.

<sup>1</sup> <https://www.osha.gov/news/newsreleases/national/11042021>



## WHAT INDUSTRIES DOES THE OSHA ETS APPLY TO (FOUND IN SUBSECTION 1910.501 OF THE STANDARD)?

- The standard applies to:
  - General Industry
  - Shipyard Employment
  - Marine Terminals
  - Longshoring
  - Construction
  - Agriculture

## WHAT INDUSTRIES OR WORKPLACES DOES THE OSHA ETS NOT APPLY TO (FOUND IN SUBSECTION 1910.501 OF THE STANDARD)?

- Any workplaces covered under Safer Federal Workforce Task Force COVID-19 Workplace Safety: Guidance for Federal contractors and Subcontractors.
- Workplaces that provide healthcare services or healthcare support services, when subject to the requirements of the Healthcare ETS (29 CFR 1910.502).

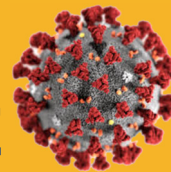
### **Employees that are not covered under this standard include:**

- Any worker that is not reporting to a workplace where coworkers or customers are present.
- Employees that work at home (teleworkers).
- Employees that only work outdoors and do not routinely occupy vehicles with other employees as part of work duties and have minimal use of indoor spaces where others are present.

## WHAT DOES THE EMERGENCY TEMPORARY STANDARD (ETS) REQUIRE?<sup>2</sup>

- Employers must determine the vaccination status of each employee by obtaining acceptable proof of vaccination status from vaccinated employees.
- Employers must maintain records received from vaccinated workers and create a roster of each employee's vaccination status.
- Employees must provide a prompt notice if they test positive for COVID-19 or if they have been diagnosed with COVID-19.
- After an employee tested positive for COVID-19, employers must remove the worker from the workplace regardless of vaccination status.
- Employees that are not vaccinated for COVID-19 must be tested at least weekly or within 7 days before returning to work if they are away for a week or longer.
- Employers should ensure that employees who are not fully vaccinated **wear a face covering while indoors** or occupying a vehicle with another worker or person for work purposes.

<sup>2</sup> <https://www.osha.gov/news/newsreleases/national/11042021>



### WHAT SHOULD EMPLOYER VACCINATION POLICIES REQUIRE?<sup>3</sup>

- This policy must be in writing.
- It **must establish, implement, and enforce** a mandatory vaccination policy.
- The policy must require all existing and new employees to be fully vaccinated except for individuals with medical conditions that may preclude vaccination or require a delay in vaccination, or those who are legally entitled to reasonable accommodation (by disability or sincerely held religious belief).
- Exemptions to mandatory vaccination policies can be put in place if the employer has a written policy permitting workers to choose between vaccination or submitting to regular COVID-19 testing and wearing a face covering.

### WHAT IS CONSIDERED ACCEPTABLE PROOF OF FULL OR PARTIAL VACCINATION?<sup>4</sup>

- A record of immunization from a health care provider or pharmacy.
- Proving a copy of the COVID-19 vaccination record card.
- Providing a copy of the employees' medical records documenting the vaccination.
- Providing a copy of the employees' immunization records from a public health, state, or tribal immunization information system.
- Providing a copy of any other official documents containing the type of vaccine, the date(s) of administration, and the name of the health care professional or clinic administering the vaccine.
- A copy of a signed and dated attestation may be provided **ONLY** if a worker has lost or is otherwise unable to provide other acceptable proof.

### WHAT TYPE OF SUPPORT MUST AN EMPLOYER PROVIDE TO EMPLOYEES WHO WANT VACCINATION?<sup>5</sup>

- Employers must provide up to **four (4) hours of paid time** for each COVID-19 primary vaccination series dose including total travel time.
- Employers must also provide paid sick leave to workers to allow a worker to recover from any side effects experienced from each COVID-19 primary vaccination series dose.

### WHAT ARE THE TESTING REQUIREMENTS FOR EMPLOYEES WHO ARE NOT FULLY VACCINATED?<sup>6</sup>

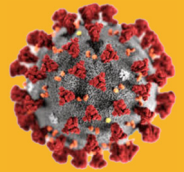
- Any employee who is not fully vaccinated and reports to a workplace at least once every 7 days, must:

<sup>3</sup> <https://www.govinfo.gov/content/pkg/FR-2021-11-05/pdf/2021-23643.pdf>

<sup>4</sup> <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.501>

<sup>5</sup> <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.501>

<sup>6</sup> <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.501>



- Be tested at least once every 7 days and provide test result documentation.
- Be removed from the workplace for not providing test results documentation per the regulation.
- Be allowed to return to the workplace upon providing test result documentation.
- Employees that do not report to the workplace during a 7day or more period must:
  - Be tested within 7 days before returning to the workplace, and
  - Provide documentation of the test result upon return to the workplace.

### **IF AN EMPLOYEE TESTS POSITIVE FOR COVID-19, HOW SHOULD THE EMPLOYEE NOTIFY THEIR EMPLOYER OF THE RESULTS? <sup>7</sup>**

- The employee should promptly notify their workplace of the positive COVID-19 test result
- The employer must immediately restrict the employee from the workplace until:
  - The worker receives a negative result on a confirmatory COVID-19 test following a positive result on a COVID-19 antigen test, or
  - When recommended by a licensed health care provider that it is safe to return to work.

### **DO EMPLOYERS HAVE TO COVER A WORKERS COVID-19 TESTING FEE?**

- Employers are not restricted from paying fees associated with COVID-19 testing, however, employers are not required to pay for any costs associated with testing.

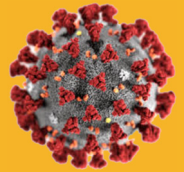
NOTE: Employers and Employees may engage in collective bargaining regarding compensation for COVID testing requirements.

### **WHAT ARE THE MANDATORY FACE-COVERING REQUIREMENTS FOR WORKERS IN THE WORKPLACE?<sup>8</sup>**

- The employer must ensure that workers who are not fully vaccinated wear a face covering when:
  - Indoors, except when alone in an enclosed room.
  - When occupying a vehicle with another worker or person for work purposes.
- The employer must also ensure that each unvaccinated worker uses a face-covering properly:
  - Fully covers the nose and mouth.
  - Is replaced once it becomes wet, soiled, or damaged.
- Employers must also permit any employee to:
  - Voluntarily wear face coverings regardless of vaccination status unless doing so would create a serious workplace hazard, injury, or death.
  - Wear a respirator instead of a face covering whether required or not.

<sup>7</sup> <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.501>

<sup>8</sup> <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.501>



- Employers may provide respirators to employees.
  - If a respirator (N95 or better) is provided, the employer must also comply with 1910.504 (the mini respiratory protection program).

### **WHAT TYPE OF INFORMATION SHOULD BE GIVEN TO EMPLOYEES ABOUT THE OSHA EMERGENCY TEMPORARY STANDARD?<sup>9</sup>**

- Workers should be given information directly from the OSHA standard 29 CFR 1910.501.
- A copy of the employers' written policies and procedures relative to the OSHA ETS including, vaccination policy, testing, and face-covering policy, notification policy, reporting policy, how to request records, prohibition on discrimination or retaliation for reporting illness or injury, and any other implemented policy for COVID-19 prevention in the workplace.

### **HOW MUST EMPLOYERS REPORT COVID-19 FATALITIES AND HOSPITALIZATIONS TO OSHA?<sup>10</sup>**

- The employer is required to report all work-related fatalities to OSHA within 8 hours of learning of the fatality.
- The employer is required to report all work-related hospitalizations within 24 hours of learning of the inpatient hospitalization.
- OSHA instructs employers to follow the recordkeeping standard except for 39 (a)(1), (a)(2), and (b)(6).

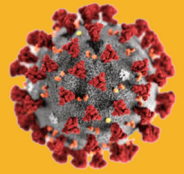
### **WHAT ARE THE RECORD-KEEPING REQUIREMENTS THAT EMPLOYERS MUST FOLLOW UNDER THE OSHA COVID-19 ETS?<sup>11</sup>**

- An employer must follow recordkeeping requirements defined under the OSHA recordkeeping standard (29CFR 1910.1020) when collecting workers' COVID-19 test result information and vaccination status.
- OSHA requires employee vaccination status and COVID-19 testing result records to be made available to the employee or anyone having written consent, by the end of the next business day after the request.
- Request for records of the number of fully vaccinated employees and the total number of employees at the workplace must be available to any employee or employee representative by the end of the next business day after the request was made, and to the OSHA Assistant Secretary within four (4) business hours of the request.
- The Employer's written vaccination policy should be made available to the OSHA Assistant Secretary within four (4) business hours of the request.

<sup>9</sup> OSHA standard [1910.501\(j\)-\(j\)\(4\)](https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.501)

<sup>10</sup> <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.501>

<sup>11</sup> <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.501>



- Any other records or supporting documents must be made available to the OSHA Assistant Secretary by the end of the next business day after request.

**For concerns, questions, and information, contact the IBT Safety and Health Department at (202) 624-6960 or visit: <https://teamster.org/COVID-19>**