



New OSHA Guidelines:

A Roadmap and a Warning to Employers By D. Zachary Wiseman



On January 29, 2021 the Occupational Safety and Health Administration issued new guidelines for COVID-19 safety in the workplace. The guidelines were issued only nine days after President Biden gave the agency two weeks to develop "revised guidance to employers on workplace safety during the COVID-19 pandemic." While OSHA was careful to designate the guidelines only as "recommendations" and further stated that they are "not a standard or regulation, and [they] create no new legal obligations," the guidelines do offer an important road map for where OSHA will likely be heading in the coming months and a warning about the standards that may be applied when determining whether an employer failed to provide a work environment free from recognized hazards (like COVID-19) as is required by OSHA's General Duty Clause.

The new guidelines enumerate sixteen elements that, per OSHA, are typically included in the most effective COVID-19 prevention programs. These elements include:

1. Designation of a COVID-19 safety workplace coordinator.
2. Identification of where and how workers might be exposed to COVID-19 at work.
3. Identification of a combination of measures that will limit the spread of COVID-19 in your workplace.
4. Consideration of protections for workers at higher risk for severe illness through supportive policies and practices.
5. Establishment of a system for communicating effectively with workers and in a language they understand.



6. Education and training of workers on your COVID-19 policies and procedures using accessible formats and in a language they understand.
7. Instruction of workers who are infected or potentially infected to stay home and isolate or quarantine to prevent or reduce the risk of transmission.
8. Minimize the negative impact of quarantine and isolation on workers.
9. Isolating workers who show symptoms at work.
10. Performing enhanced cleaning and disinfection after people with suspected or confirmed COVID-19 have been in the facility.
11. Providing guidance on screening and testing: Follow state or local guidance and priorities for screening and viral testing in workplaces.
12. Recording and reporting COVID-19 infections and deaths.
13. Implementing protections from retaliation and setting up an anonymous process for workers to voice concerns about COVID-19-related hazards.
14. Making a COVID-19 vaccine or vaccination series available at no cost to all eligible employees.
15. Not distinguishing between workers who are vaccinated and those who are not.
16. Complying with other, existing OSHA Standards.

Employers should take a moment to review the new guidelines, found at <https://www.osha.gov/coronavirus/safework>, and consider the degree to which current policies and practices comply and make changes as necessary. If you have questions, you should consult with your safety officer and/or your employment attorney.



D. Zachary Wiseman is an experienced labor and employment attorney and is monitoring related legal updates for the COVID-19 pandemic. His practice includes labor relations, employment litigation, representation of clients before administrative agencies and commercial litigation. He assists both private and public employers as well as Service Contract Act employers with a wide range of labor and employment issues.