

OSHA Strengthens Federal Guidance on COVID-19 Workplace Safety.

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On January 21, 2021, President Biden signed the Executive Order on Protecting Worker Health and Safety, directing the Secretary of Labor, acting through the Occupational Safety and Health Administration (“OSHA”), to issue “revised guidance to employers on workplace safety during the COVID-19 pandemic,” and to release, if deemed necessary, “emergency temporary standards on COVID-19” by March 15, 2021.

On January 29, 2021, OSHA published updated guidance, entitled “Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace.” Though the Guidance specifically notes that it is “not a standard or regulation,” and that “it creates no new legal obligations,” it summarizes what precautionary measures employers should take in their provision of safe working environments. The Guidance’s detail also hints at what employers should expect to be included in any emergency temporary standards later effectuated.

Of note, the Guidance recommends that employers implement a “workplace COVID-19 prevention program,” including the following components:

- Identify a workplace coordinator responsible for administration of the program;
- Explain how COVID-19 spreads, the manner in which employees may be exposed at work, and the precautionary measures instituted;
- Screen for and remove from the worksite infected or potentially infected employees;
- “[C]onsider implementing paid leave policies” to encourage workers to disclose their COVID-19 symptoms and/or close contacts and “to reduce risk for everyone at the workplace”;
- Enact anti-retaliation protections for employees who report COVID-19 symptoms/diagnoses, close contacts, and violations of the program;
- Provide all workers with face coverings appropriate for the work conducted, and mandate their use;
- Install physical barriers to facilitate social distancing;
- Improve ventilation wherever possible;
- Make COVID-19 vaccines available to employees “at no cost to all eligible employees”; and
- Ensure no distinction between workers who are vaccinated and those who are not, meaning, even upon vaccination, all employees must continue to comply with the program (e.g., mask use, social distancing).

This OSHA Guidance is consistent with the Emergency Rules promulgated by the Michigan Occupational Safety and Health Administration (“MIOSHA”) in October 2020. Thorough Preparedness and Response Plans will satisfy both.

Bodman’s Workplace Law Group is awaiting the issuance of the emergency temporary standards by the March 15 deadline and will provide a supplemental update if and when OSHA deems such standards necessary.

Thus far, Michigan employers have predominantly looked to state-level guidance and orders to craft their COVID-19 responses. With increased emphasis on workplace standards from the federal government, employers must monitor the requirements delineated by OSHA and MIOSHA. Employers should contact any member of **Bodman’s Workplace Law Group** to discuss the effectiveness and compliance of their COVID-19 policies and procedures. Bodman cannot respond to your questions or receive information from you without first clearing potential conflicts with other clients. Thank you for your patience and understanding.

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