



News & Types: Employment, Labor & Benefits Update

Masuda Funai Employment Newsflash - OSHA Announces Vaccination Requirements for Employers With 100 or More Employees

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Practices: Employment, Labor & Benefits

Today, OSHA announced its long-awaited COVID-19 Vaccination and Testing Emergency Temporary Standard (ETS). The ETS requires employers with 100 or more employees to:

- **Get Employees Vaccinated by January 4th and Require Unvaccinated Employees to Produce a Negative Test on at Least a Weekly Basis:** By January 4, 2022, employers with 100 or more employees must ensure that their employees have received the necessary shots to be fully vaccinated – either two doses of Pfizer or Moderna, or one dose of Johnson & Johnson. After that, covered employers must ensure that any employees who have not received the necessary shots begin producing a verified negative test to their employer on at least a weekly basis, and they must remove from the workplace any employee who receives a positive COVID-19 test or is diagnosed with COVID-19 by a licensed health care provider. The ETS does not require employers to provide or pay for tests. That said, employers may be required to pay for testing because of state laws or collective bargaining agreements.
- **Pay Employees for the Time it Takes to Get Vaccinated:** Covered employers will be required to provide paid time off for their employees to get vaccinated and, if needed, sick leave to recover from side effects experienced that keep them from working.
- **Ensure All Unvaccinated Employees are Masked:** Covered employers must ensure that unvaccinated employees wear a face mask while in the workplace.
- **Compliance Dates:** While the testing requirement for unvaccinated workers begins January 4, 2022, covered employers must begin following all other requirements, such as providing paid time off for employees to get vaccinated and masking for unvaccinated workers, on December 5, 2021.
- **Next Steps:** The ETS is 490 pages and will likely face immediate legal challenges. Nevertheless, employers should begin evaluating their compliance posture and prepare for full implementation. Masuda Funai will review the details and implications of the ETS and provide further guidance.