

# Employee COVID-19 Vaccination, Testing, and Face Covering Policy

## (OSHA-ETS Compliant)

January 10, 2022

### Executive Summary of Key Terms:

The Occupational Safety and Health Administration (OSHA) issued an emergency temporary standard (ETS) related to COVID-19 on November 4, 2021. Immediately below is an executive summary of the key points of the Dale COVID-19 OSHA ETS Policy, with further details following. Compliance with the Dale COVID-19 OSHA ETS Policy is a condition of your continued employment. Please read it carefully.

1. All Dale employees are encouraged to receive a COVID-19 vaccination and show acceptable proof of vaccination to protect themselves and others.
2. Employees are required to report their vaccination status, including if an employee is not vaccinated, on or before January 10, 2022, at the following secured online portal:  
<https://dalesafety.com/vaxstatform/>.
3. All unvaccinated employees are required to wear an approved face covering at all times as set forth herein.
4. All unvaccinated employees shall be required to submit a COVID-19 test beginning February 9, 2022, and each week thereafter, to enter the corporate offices, workplace, or any jobsite as set forth herein, subject to any more stringent requirements of any government requirements, public health guidelines, or Project Owner or Client protocols.

### Background:

On November 4, 2021, OSHA issued an ETS requiring all private employers with 100 or more workers to ensure all employees are either fully vaccinated for COVID-19 or provide a weekly COVID-19 test beginning February 9, 2022. Additionally, under the ETS, any employee not vaccinated by January 10, 2022, will be required to wear a face covering at all times when indoors as set forth below. Dale has an obligation to comply with OSHA standards or face stiff penalties for noncompliance.

The Dale COVID-19 OSHA ETS Policy outlined below is necessary to comply with OSHA's ETS and will help to safeguard the health of our employees and their families, our customers and visitors, and the community at large from COVID-19. Implementing these measures can help us to provide a safe workplace and potentially avoid circumstances that could jeopardize our business operations. This Dale COVID-19 OSHA ETS Policy is designed for use together with, and not as a substitute for, other COVID-19 prevention measures we have effectively implemented to date. To that point, all employees are advised that certain Project Owners, General Contractors, Construction Managers, or other clients may have more stringent requirements than what is set forth in this policy (e.g., mandatory vaccination policy with no option for COVID-19 testing). In that circumstance, the more stringent requirements will govern and control eligibility for employment. Below, please carefully review the details of the Dale COVID-19 OSHA ETS Policy to understand how this effects not only yourself, but each of us.

Please be advised that any employee who knowingly makes any false statement, representation, or certification submitted in accordance with this policy, or otherwise knowingly provides false information

regarding vaccination status or testing, may be subject to criminal penalties. Information on penalties for false statements and records is provided by OSHA and attached to this memo.

Contact Dale Human Resources at [HR@daleco.net](mailto:HR@daleco.net) or by phone at 215-690-0170 with any questions.

**Purpose:**

Vaccination is a vital tool to reduce the presence and severity of COVID-19 cases in the workplace, in communities, and in the nation as a whole. Dale encourages all employees to receive a COVID-19 vaccination to protect themselves and other employees. Under OSHA's ETS, covered employers such as Dale must develop, implement, and enforce a mandatory COVID-19 vaccination policy, with an exception for employers that instead adopt a policy requiring employees to either get vaccinated or elect to undergo regular weekly COVID-19 testing and wear a face covering at work in lieu of vaccination. Dale has elected to adopt a policy set forth below requiring employees to either get vaccinated or elect to undergo regular weekly COVID-19 testing beginning February 9, 2022. All unvaccinated employees must continue to wear a face covering at the workplace or jobsite as set forth herein. OSHA has determined that the unvaccinated employees of these employers face a grave danger of exposure to SARS-CoV-2, including the Delta and Omicron variant, while they are at work which supports and necessitates the implementation of this Dale COVID-19 OSHA ETS Policy. This policy complies with OSHA's Emergency Temporary Standard on Vaccination and Testing (29 CFR 1910.501) and it is effective as of January 10, 2022.

The Occupational Safety and Health Act and Dale, specifically prohibit any form of discipline, reprisal, intimidation, or retaliation against employees for reporting or filing a violation of this policy or any other occupational health and safety complaint or otherwise exercising any rights afforded by the OSH Act. For more information, see the attached OSHA document, [Workers' Rights under the COVID-19 Vaccination and Testing ETS](#).

**Scope:**

This Dale COVID-19 OSHA ETS Policy applies to all Dale employees, except for employees who do not report to a workplace where other individuals (such as coworkers or customers) are present; employees while working from home and who do not report to or come in the office or projects at any time; and employees who work exclusively outdoors.

All employees are encouraged to be fully vaccinated. To be fully vaccinated, 2 full weeks (14 days) must have passed after the employee has received their second dose of the Moderna COVID-19 Vaccine or the Pfizer-BioNTech COVID-19 Vaccine, or 2 full weeks (14 days) passed after the employee has received a single dose of the Johnson and Johnson/Janssen COVID-19 Vaccine. You are considered partially vaccinated if you have received only one dose of a two-dose vaccine series. If you are partially vaccinated, you will be treated as unvaccinated for purposes of this Dale COVID-19 OSHA ETS Policy until two weeks after your second vaccine dose. Dale employees who are not fully vaccinated will continue to be required to wear a face covering at the workplace or jobsite as set forth herein. In addition, employees who are not fully vaccinated on or before February 9, 2022, will be required to provide proof of a COVID-19 test weekly before reporting to the workplace or jobsite. Please review the information below regarding reporting results of COVID-19 tests.

Some employees may be required to be fully vaccinated against COVID-19 as a term and condition of employment. Employees subject to mandatory vaccination requirements without an option for weekly testing, such as those policies of Project Owners, General Contractors, Construction Managers, or other clients with a mandatory vaccination program, are and will be required to follow all relevant vaccination requirements in those policies and therefore will not be given the option to choose testing and face covering use in lieu of vaccination.

All employees are required to report their vaccination status, including if an employee is not vaccinated, by January 10, 2022, at the following secured online portal: <https://dalesafety.com/vaxstatform/>.

You may also access the secured online portal by use of the QR Code below.



**DO NOT provide any medical or genetic information except your COVID-19 Vaccination Record Card or your response that you are not fully vaccinated.** Employees must provide truthful and accurate information about their COVID-19 vaccination status, and, if not fully vaccinated, their weekly COVID-19 testing results as outlined below. Employees not in compliance with this policy will be subject to discipline and possible termination. Employees who do not report their vaccination status shall be deemed unvaccinated for the purpose of this Dale COVID-19 OSHA ETS Policy.

Employees may request an exception from vaccination requirements (if applicable) if the vaccine is medically contraindicated for them or medical necessity requires a delay in vaccination. Employees also may be legally entitled to a reasonable accommodation if they cannot be vaccinated and/or wear a face covering (as otherwise required by this policy) because of a disability, or if the provisions in this policy for vaccination, and/or testing for COVID-19, and/or wearing a face covering conflict with a sincerely held religious belief, practice, or observance. Requests for exceptions and reasonable accommodations must be initiated by the employee. If an employee wishes to seek an accommodation or exception regarding this policy, the employee is responsible for requesting a reasonable accommodation from the Human Resources Department by email at [HR@daleco.net](mailto:HR@daleco.net) or by phone at 215-690-0170. All such requests will be evaluated on a case-by-case basis considering various factors and based on an individualized assessment in each situation in accordance with and as required by applicable laws and regulations. Dale will engage in an interactive dialogue with you to determine the precise limitations of your ability to comply with this Dale COVID-19 OSHA ETS Policy and explore potential reasonable accommodations that could overcome those limitations. Dale encourages employees to suggest specific reasonable accommodations. However, Dale is not required to make the specific accommodation requested and may provide an alternative effective accommodation, to the extent any reasonable accommodation can be made without imposing an undue hardship on Dale or posing a direct threat to you or others in the workplace.

## Procedures:

### *Overview and General Information*

#### Vaccination

To be deemed exempt from the mandatory COVID-19 weekly testing and face covering rule for unvaccinated employees, Dale employees must be fully vaccinated. As of February 9, 2022, all unvaccinated employees must submit COVID-19 test results and wear an approved face covering whenever at the workplace or jobsite in accordance with the provisions set forth in this policy.

Employees who are not fully vaccinated by February 9, 2022, remain encouraged to do so. Once fully vaccinated, the employee shall no longer be required submit a COVID-19 test weekly or universally be required to wear an approved face covering.

### *Vaccination Status and Acceptable Forms of Proof of Vaccination*

#### All Employees

All employees, both vaccinated and unvaccinated, must inform Dale of their vaccination status by January 10, 2022, or as soon as possible thereafter, at the following secured online portal: <https://dalesafety.com/vaxstatform/>. You may also access the secured online portal by use of the QR Code.



#### Vaccinated Employees

All fully vaccinated employees are required to provide proof of COVID-19 vaccination, regardless of where they received vaccination.

Acceptable proof of vaccination status is:

1. The record of immunization from a health care provider or pharmacy;
2. A copy of the COVID-19 Vaccination Record Card;
3. A copy of medical records documenting the vaccination;
4. A copy of immunization records from a public health, state, or tribal immunization information system; or
5. A copy of any other official documentation that contains the type of vaccine administered, date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine(s).

Proof of vaccination generally should include the employee's name, the type of vaccine administered, the date(s) of administration, and the name of the health care professional(s) or clinic site(s) that administered the vaccine. In some cases, state immunization records may not include one or more of these data fields, such as clinic site; in those circumstances Dale will still accept the state immunization record as acceptable proof of vaccination. DO NOT provide any medical or genetic information except your COVID-19 Vaccination Record Card.

An employee's proof of vaccine status will be confidentially maintained. However, an employee's proof of vaccine status is subject to any disclosure requirements necessary for Dale to be compliant with OSHA's ETS, any Owner or GC/CM programs or protocols relating to COVID-19, and for other reasonable business purpose and needs.

If you have any issues or problems with the confidential upload, please contact Dale Human Resources at [HR@daleco.net](mailto:HR@daleco.net) or by phone at 215-690-0170.

### *COVID-19 Testing*

Under the Dale COVID-19 OSHA ETS Policy, employees who are not fully vaccinated by February 9, 2022, will be required to provide proof of a negative COVID-19 test weekly in order to enter or visit the workplace or jobsite, or come into physical contact with company employees, workers or customers. This rule applies no matter how short the duration (e.g., one day or even just a few minutes). The approved testing method under this policy is a formal remote COVID-19 test administered by a third-party vendor associated with a lab. At-home “**Tests**” are **NOT** Approved: Where samples are collected at home and you perform the test yourself, these are not considered compliant with this Dale COVID-19 OSHA ETS Policy and will not satisfy the testing option regardless of whether the sample is submitted to a third-party vendor associated with a lab. Employees are responsible both for scheduling and obtaining COVID-19 testing in such a way as to not interfere with the responsibilities and duties of their employment. The testing shall be performed at a location and manner determined by the employee, provided that the form of testing complies with the requirements of this policy. All costs for weekly testing are the responsibility of the employee.

### *Unvaccinated Employees*

**All employees who are not fully vaccinated will be required to comply with this policy for testing.** If an employee who is not fully vaccinated does not provide documentation of a COVID-19 test result as required by this policy, that employee will be removed from the workplace or jobsite until they provide a negative test result. Any employees found to have provided false documentation will be subject to termination of employment.

Employees who report to the workplace or jobsite at least once every seven days:

- (A) must be tested for COVID-19 at least once every seven days; and
- (B) must provide documentation of the most recent COVID-19 test result, to a unique online portal provided to the employee, no later than the seventh day following the date on which the employee last provided a test result.

Any employee who does not report to the workplace or jobsite during a period of seven or more days (e.g., if they were teleworking for two weeks prior to reporting to the workplace):

- (A) must be tested for COVID-19 within seven days prior to returning to the workplace or jobsite; and
- (B) must provide documentation of a negative COVID-19 test result, to a unique online portal provided to the employee, before returning to the workplace or jobsite.

If an employee does not provide documentation of a COVID-19 test result as required by this Dale COVID-19 OSHA ETS Policy, they will be removed from the workplace or jobsite until they provide a test result.

The link to provide documentation of COVID-19 test results will be provided directly to those employees that remain unvaccinated.

### *All Employees*

Employees who have received a positive COVID-19 test or have been diagnosed with COVID-19 by a licensed healthcare provider are not required to undergo COVID-19 testing for 90 days following the date of their positive test or diagnosis. Any employee who receives a positive COVID-19 test result or

have been diagnosed with COVID-19 by a licensed healthcare provider will immediately be removed from the jobsite or workplace. Additionally, if an employee becomes sick or experiences symptoms while at work, the employee is required to immediately leave the jobsite or workplace and promptly notify their supervisor and the Dale Corporate Safety Officer, [Andys@daleco.net](mailto:Andys@daleco.net) or 215-416-4796.

### *Face Coverings*

All employees who are not fully vaccinated are required to wear a face covering as set forth herein or any more stringent requirements of any government, public health guidelines, or Project Owner or Client protocols.

Face coverings must: (i) completely cover the nose and mouth; (ii) be made with two or more layers of a breathable fabric that is tightly woven (i.e., fabrics that do not let light pass through when held up to a light source); (iii) be secured to the head with ties, ear loops, or elastic bands that go behind the head. Unless Project prohibits the use of gaiters, if gaiters are worn, they should have two layers of fabric or be folded to make two layers; (iv) fit snugly over the nose, mouth, and chin with no large gaps on the outside of the face; and (v) be a solid piece of material without slits, exhalation valves, visible holes, punctures, or other openings. Acceptable face coverings include clear face coverings or cloth face coverings with a clear plastic panel that, despite the non-cloth material allowing light to pass through, otherwise meet these criteria and which may be used to facilitate communication with people who are deaf or hard-of-hearing or others who need to see a speaker's mouth or facial expressions to understand speech or sign language respectively.

Dale employees who are not fully vaccinated must wear face coverings over their nose and mouth when indoors, including at project sites, trailers and offices, and/or when occupying a vehicle with another person for work purposes. Policies and procedures for face coverings have been implemented, along with the other provisions required by OSHA's COVID-19 Vaccination and Testing ETS, as part of a multi-layered infection control approach for unvaccinated workers. Employees who are fully vaccinated are encouraged to use their discretion and evaluate their comfort level as it pertains to wearing face coverings at the workplace or jobsite.

Face coverings are the responsibility of the employee to obtain. Find which mask works best for you that meets the requirements above.

The following are exceptions to Dale's requirements for face coverings:

1. When an employee is alone in a room with floor to ceiling walls and a closed door, provided that the face covering must be put back on the moment they exit the room, or another individual enters the room.
2. For a limited time while an employee is actively eating or drinking at the workplace. Wherever possible employees must completely isolate from other persons or employees while eating or drinking.
3. For identification purposes in compliance with safety and security requirements.
4. When an employee is wearing a respirator or facemask.
5. Where Dale has determined that the use of face coverings is infeasible or creates a greater hazard (e.g., when it is important to see the employee's mouth for reasons related to their job duties, when the work requires the use of the employee's uncovered mouth, or when the use of a face covering presents a risk of serious injury or death to the employee).

***Supporting COVID-19 Vaccination***

An employee may take up to four hours of duty time per dose to travel to the vaccination site, receive a vaccination, and return to work. This would mean a maximum of eight hours of duty time for employees receiving two doses.

The following procedures apply for requesting and granting duty time to obtain the COVID-19 vaccine or sick leave to recover from side effects: Upon specific request to each employee's supervisor or to Dale Human Resources at [HR@daleco.net](mailto:HR@daleco.net) or by phone at 215-690-0170, Dale will cover 4 hours of paid time to receive each vaccination dose, 8 hours total. Dale will also cover 8 hours of paid time for any side effects as result of each vaccination dose, 16 hours total.

***Employee Notification of COVID-19 and Removal from the Workplace******Employee Notification of COVID-19***

Dale will continue to require employees to promptly notify their supervisor and the Dale Corporate Pandemic Safety Officer, [Andys@daleco.net](mailto:Andys@daleco.net) or 215-416-4796, when they have tested positive for COVID-19 or have been diagnosed with COVID-19 by a licensed healthcare provider. If an employee is sick or experiences symptoms while away from work, the employee is required to promptly notify their supervisor and the Dale Corporate Safety Officer, [Andys@daleco.net](mailto:Andys@daleco.net) or 215-416-4796.

**Remember, if you are sick, stay home!**

***Medical Removal from the Workplace***

Dale has also implemented a policy for keeping COVID-19 positive employees away from the workplace or removing such employees in certain circumstances. Dale will immediately remove an employee from the workplace if they have received a positive COVID-19 test or have been diagnosed with COVID-19 by a licensed healthcare provider (i.e., immediately send them home or to seek medical care, as appropriate). Additionally, if an employee becomes sick or experiences symptoms while at work, the employee is required to immediately leave the jobsite or place of work and promptly notify their supervisor and the Dale Corporate Safety Officer, [Andys@daleco.net](mailto:Andys@daleco.net) or 215-416-4796.

***Return to Work Criteria***

For any employee removed because they are COVID-19 positive, Dale will keep them removed from the workplace until the employee meets the return-to-work criteria. Please review the CDC's "[Isolation Guidance](#)," and contact the Dale Corporate Safety Officer, [Andys@daleco.net](mailto:Andys@daleco.net) or 215-416-4796.

If an employee has severe COVID-19 or an immune disease, Dale will follow the guidance of a licensed healthcare provider regarding return to work.

***New Hires:***

All new employees are required to comply with the Dale COVID-19 OSHA ETS Policy as a condition of employment. Potential candidates for employment will be notified of the requirements of this Dale COVID-19 OSHA ETS Policy prior to the start of employment.

***Confidentiality and Privacy:***

All medical information collected from individuals, including vaccination information, test results, and any other information obtained as a result of testing, will be treated in accordance with applicable laws and policies on confidentiality and privacy.



**Policy Modification:**

Government and public health guidelines and restrictions and business and industry best practices regarding COVID-19 and COVID-19 vaccines are changing rapidly as new information becomes available and further research is conducted. **Dale reserves the right to modify this Dale COVID-19 OSHA ETS Policy at any time in its sole discretion to adapt to changing circumstances and business needs, consistent with its commitment to maintaining a safe and healthy workplace.**

**Employees Covered Under a Collective Bargaining Agreement:**

The employment terms set out in this Dale COVID-19 OSHA ETS Policy work in conjunction with, and do not replace, amend, or supplement any terms or conditions of employment stated in any collective bargaining agreement that a union has with Dale. Employees should consult the terms of their collective bargaining agreement. Wherever employment terms in this policy differ from the terms expressed in the applicable collective bargaining agreement with Dale, employees should refer to the specific terms of the collective bargaining agreement, which will control.

**Additional Information:**

This Dale COVID-19 OSHA ETS Policy also includes the information contained at the following resources, which are incorporated by reference. It is each employee's obligation to review the information. Hard copies will be available upon request:

1. <https://www.osha.gov/sites/default/files/publications/OSHA4161.pdf>
2. <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/keythingstoknow.html>
3. <https://www.osha.gov/sites/default/files/publications/OSHA4159.pdf>
4. <https://www.osha.gov/sites/default/files/publications/OSHA4157.pdf>
5. <https://www.osha.gov/sites/default/files/publications/OSHA4162.pdf>
6. [https://www.osha.gov/sites/default/files/CDC%27s\\_Isolation\\_Guidance.pdf](https://www.osha.gov/sites/default/files/CDC%27s_Isolation_Guidance.pdf)

**Questions:**

Please direct any questions regarding this policy to the Corporate Pandemic Safety Officer [Andys@daleco.net](mailto:Andys@daleco.net) 215-416-4796 or [HR@daleco.net](mailto:HR@daleco.net) or by phone at 215-690-0170.



## FACT SHEET

# Information for Employees on Penalties for False Statements and Records



The COVID-19 Emergency Temporary Standard (ETS) on Vaccination and Testing (29 CFR 1910.501) requires employers to inform each employee of the prohibitions of 18 U.S.C. § 1001 and of Section 17(g) of the Occupational Safety and Health (OSH) Act, which provide for criminal penalties associated with knowingly supplying false statements or documentation (29 CFR 1910.501(j)(4)). Employers may use this fact sheet to provide the required information to employees, with translations as necessary to ensure the information is provided in a language or languages the employees understand.

OSHA standards are promulgated under the authority granted by the OSH Act. The OSH Act recognizes that OSHA's ability to protect workers' safety and health hinges on truthful reporting. For that reason, Section 17(g) of the OSH Act, 29 U.S.C. § 666(g), provides:

**Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than six months, or by both.**

Section 1001 in Title 18 of the United States Code (*Crimes and Criminal Procedure*) also provides for criminal penalties associated with knowingly supplying false statements or documentation. The provision at 18 U.S.C. § 1001(a) states in relevant part:

**Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully**

- 1. falsifies, conceals, or covers up by any trick, scheme, or device a material fact;**
- 2. makes any materially false, fictitious, or fraudulent statement or representation; or**
- 3. makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;**

**shall be fined under this title or imprisoned not more than 5 years.**

False statements or documents made or submitted for purposes of complying with policies required by OSHA's Vaccination and Testing ETS could fall under either or both of these statutory provisions.

The effectiveness of the protections afforded by OSHA's Vaccination and Testing ETS relies on employees providing truthful and accurate information, including, where applicable, proof of vaccination status and COVID-19 test results, to their employers, and on their employers maintaining accurate records of vaccination status and testing results. If OSHA discovers that false statements or documents have been made or submitted, it will consider referrals to the US Department of Justice for criminal prosecution in appropriate cases.

This Fact Sheet is intended to provide information about the COVID-19 Emergency Temporary Standard. The Occupational Safety and Health Act requires employers to comply with safety and health standards promulgated by OSHA or by a state with an OSHA-approved state plan. However, this Fact Sheet is not itself a standard or regulation, and it creates no new legal obligations.

## HOJA INFORMATIVA

# Información para los empleados sobre las sanciones por declaraciones y registros falsos



La Norma Temporal de Emergencia (ETS, por sus siglas en inglés) sobre Vacunación y Pruebas (29 CFR 1910.501) exige a los empleadores que informen a cada empleado de las prohibiciones de 18 U.S.C. § 1001 y de la Sección 17(g) de la Ley de Seguridad y Salud Ocupacional (OSH, por sus siglas en inglés), que prevén sanciones penales asociadas al suministro deliberado de declaraciones o documentación falsas (29 CFR 1910.501 (j)(4)). Los empleadores pueden utilizar esta hoja informativa para proporcionar la información requerida a los empleados, con las traducciones necesarias para garantizar que la información se proporciona en un idioma o idiomas que los empleados entienden.

Las normas de OSHA se promulgan en virtud de la autoridad otorgada por la Ley OSH. La Ley OSH reconoce que la capacidad de la OSHA para proteger la seguridad y la salud de los trabajadores depende de la veracidad de las denuncias. Por ese motivo, el artículo 17(g) de la Ley OSH, 29 U.S.C. § 666(g), establece:

**Quien, conscientemente, haga cualquier declaración, representación o certificación falsa en cualquier solicitud, registro, informe, plan u otro documento presentado o que deba mantenerse de conformidad con este capítulo, será sancionado, tras su condena, con una multa de no más de 10.000 dólares, o con una pena de prisión de no más de seis meses, o con ambas.**

El artículo 1001 del Título 18 del Código de los Estados Unidos (*Crímenes y Procedimientos Penales*) también prevé sanciones penales asociadas al suministro deliberado de declaraciones o documentación falsa. La disposición del 18 U.S.C. § 1001(a) establece en su parte pertinente:

**Salvo que se disponga lo contrario en esta sección, cualquier persona que, en cualquier asunto dentro de la jurisdicción del poder ejecutivo, legislativo o judicial del Gobierno de los Estados Unidos, consciente y voluntariamente**

- 1. falsifica, oculta o encubre mediante cualquier truco, esquema o dispositivo un hecho material;**
- 2. hace cualquier declaración o representación materialmente falsa, ficticia o fraudulenta; o**
- 3. hace o utiliza cualquier escrito o documento falso a sabiendas de que contiene cualquier declaración o anotación materialmente falsa, ficticia o fraudulenta;**

**será multado en virtud de este título o encarcelado por un máximo de 5 años.**

Las declaraciones o documentos falsos realizados o presentados con el fin de cumplir con las políticas exigidas por la ETS de Vacunación y Pruebas de OSHA podrían caer bajo cualquiera de estas disposiciones legales o ambas.

La efectividad de las protecciones ofrecidas por la ETS de Vacunación y Pruebas de OSHA depende de que los empleados proporcionen información veraz y precisa, incluyendo, en su caso, la prueba del estado de vacunación y los resultados de la prueba COVID-19, a sus empleadores, y de que éstos mantengan registros precisos del estado de vacunación y de los resultados de las pruebas. Si OSHA descubre que se han hecho o presentado declaraciones o documentos falsos, considerará la posibilidad de remitirlos al Departamento de Justicia de los Estados Unidos para que se inicie un proceso penal en los casos apropiados.

Esta hoja informativa tiene como objetivo brindar información sobre el Estatuto Temporal de Emergencia COVID-19. La Ley de Seguridad y Salud Ocupacional requiere que los empleadores cumplan con las normas de seguridad y salud promulgadas por OSHA o un estado con un plan estatal aprobado por OSHA. Sin embargo, esta hoja informativa no es una norma o reglamento por sí mismo, y no crea obligaciones jurídicas adicionales.

## FACT SHEET

# Workers' Rights under the COVID-19 Vaccination and Testing ETS



OSHA's COVID-19 Vaccination and Testing Emergency Temporary Standard (ETS) covers employers with 100 or more employees and requires them to take steps to minimize the risk of COVID-19 transmission in the workplace. The Occupational Safety and Health Act protects workers from retaliation for exercising their rights under the ETS.

### Workplace Protections: Vaccination, Testing, and Face Coverings

Employees of employers covered by the ETS have a right to the protections afforded by the standard's requirements. Key requirements employers must follow to protect these employees include:

**Employer Policy on Vaccination.** The ETS requires covered employers to establish, implement, and enforce a written mandatory COVID-19 vaccination policy with an exception for employers that instead establish, implement, and enforce a written policy that requires unvaccinated employees to undergo weekly COVID-19 testing and wear a face covering at the workplace instead of vaccination.

### Determination of employee vaccination status.

The ETS requires covered employers to determine the vaccination status of each employee, obtain acceptable proof of vaccination status, and maintain records and a roster of each employee's vaccination status.

### Employer support for employee vaccination.

The ETS requires covered employers to support vaccination by providing employees reasonable time, including up to four hours of paid time at the employee's regular rate of pay, to receive

each vaccination dose, and reasonable time and paid sick leave to recover from any side effects experienced following each dose.

**COVID-19 testing for employees who are not fully vaccinated.** The ETS requires covered employers to ensure that each employee who is not fully vaccinated is tested for COVID-19 at least weekly (if in the workplace at least once a week) or within 7 days before returning to work (if away from the workplace for a week or longer). *The ETS does not require employers to pay for any costs associated with testing.*

However, employer payment for testing may be required by other laws, regulations, or collective bargaining agreements or other collectively negotiated agreements. In addition, nothing prohibits employers from voluntarily assuming the costs associated with testing.

### Employee notification to employer of a positive COVID-19 test and removal.

Under the ETS, covered employers must: (1) require employees to promptly provide notice when they receive a positive COVID-19 test or are diagnosed with COVID-19; (2) immediately remove any employee from the workplace, regardless of vaccination status, who receives a positive COVID-19 test or is diagnosed with COVID-19; and (3) keep removed employees out of the workplace until they [meet the requirements for returning to work](#).

**Face coverings.** The ETS requires covered employers to ensure that each employee who is not fully vaccinated wears a face covering when indoors or when occupying a vehicle with another person for work purposes, except in certain limited circumstances. Employers must not prevent any employee, regardless of vaccination status, from voluntarily wearing a face covering unless it creates a serious workplace hazard (e.g., interfering with the safe operation of equipment).

**Information provided to employees.** The ETS requires covered employers to provide employees with the following in a language and at a literacy level the employees understand: (1) information about the requirements of the ETS and workplace policies and procedures established to implement the ETS; (2) the CDC document “[Key Things to Know About COVID-19 Vaccines](#)”; (3) information about protections against retaliation and discrimination; and (4) information about laws that provide for criminal penalties for knowingly supplying false statements or documentation.

**Reporting COVID-19 fatalities and hospitalizations to OSHA.** The ETS requires covered employers to report work-related COVID-19 fatalities to OSHA within 8 hours and work-related COVID-19 in-patient hospitalizations within 24 hours of the employer learning about the incident.

**Availability of records.** The ETS requires covered employers to make available for examination and copying an individual’s COVID-19 vaccine documentation and any COVID-19 test results to that employee and to anyone having written authorized consent of that employee. Covered employers are also required to make available to an employee, or an employee representative, the aggregate

number of fully vaccinated employees at a workplace along with the total number of employees at that workplace.

## Protection from Retaliation

The Occupational Safety and Health Act (OSH Act) prohibits retaliation against employees for exercising their rights guaranteed under the Act, including filing an occupational safety or health complaint, reporting a work-related injury or illness, or otherwise exercising any rights afforded by the OSH Act.

## Who Is Protected by the OSH Act?

The OSH Act’s prohibition on retaliation (Section 11(c)) protects private sector workers, it does not cover employees of the U.S. government or State or local government employees.<sup>1</sup> However, it does cover U.S. Postal Service employees.

## What Activities Are Protected under the OSH Act?

A person may not discharge or in any manner retaliate against an employee because the employee exercised any right under the OSH Act. Here are some examples of COVID-19-related activities that are protected:

- Requesting paid time for a COVID-19 vaccination or paid time off for vaccine side effects, when paid time off is required by the ETS.
- Requesting personal protective equipment which the employee reasonably believes is required by an OSHA standard.
- Wearing personal protective equipment required or permitted by an OSHA standard.
- Reporting a COVID-19 infection or exposure to COVID-19 to an employer or OSHA.
- Reporting an unsafe condition to an employer or OSHA.

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<sup>1</sup> Federal employees are protected from retaliation for occupational safety or health activity under procedures established by their agencies pursuant to Executive Order 12196. See 29 CFR 1960.46-47. They are also protected from retaliation for whistleblowing under the Whistleblower Protection Act. For more information visit [www.osc.gov](http://www.osc.gov). Similar protections are provided by State laws in States operating OSHA-approved State Plans. For more information about OSHA State Plans, see [www.osha.gov/stateplans](http://www.osha.gov/stateplans).

- Requesting guidance on workplace safety from an employer, OSHA, or other government entity.
- Refusing to perform a work task if the employee has a reasonable apprehension of death or serious injury, refuses in good faith to perform the task, has no reasonable alternative, and there is insufficient time to eliminate the condition through regular enforcement channels and, where possible, the employee has asked their employer to correct the hazard and it was not corrected. For more information: [www.osha.gov/workers](http://www.osha.gov/workers).

A worker cannot be fired or discriminated against for filing a complaint with OSHA. If you experience retaliation, file a complaint at [www.whistleblowers.gov](http://www.whistleblowers.gov).

### Permissible Disciplinary Action

The OSH Act does not prevent employers from taking disciplinary action against employees for engaging in activities that are not protected. For example, where an employee does not comply with their employer's policy on vaccination, that action would generally not be protected under the OSH Act. The following

examples are actions that would generally not be covered by OSHA's anti-retaliation or discrimination protections:

- Employee failure to provide acceptable documentation of vaccination status;
- Employee failure to provide acceptable weekly COVID-19 test results, when required;
- Falsifying required vaccination documentation or test results; and
- Employee failure to properly wear required face coverings.

### How to File a Complaint

If an employee believes they have been retaliated against, in violation of Section 11(c), they, or their representative, may file a complaint with OSHA. Complaints may be filed verbally or in writing. To file a complaint verbally: Visit a local area office or call OSHA at 1-800-321-OSHA (6742). Information on local area offices is available at [www.osha.gov/contactus/bystate](http://www.osha.gov/contactus/bystate) or can be obtained by calling OSHA at the above phone number.

This Fact Sheet is intended to provide information about the COVID-19 Emergency Temporary Standard. The Occupational Safety and Health Act requires employers to comply with safety and health standards promulgated by OSHA or by a state with an OSHA-approved state plan. However, this Fact Sheet is not itself a standard or regulation, and it creates no new legal obligations.



## HOJA INFORMATIVA

# Derechos de los trabajadores bajo la Norma Temporal de Emergencia para vacunación y pruebas de COVID-19



La Norma Temporal de Emergencia para Vacunación y Pruebas COVID-19 (ETS, por sus siglas en inglés) de OSHA abarca a los empleadores que tienen 100 empleados o más, y les exige que tomen medidas para minimizar el riesgo de transmisión de COVID-19 en el lugar de trabajo. La Ley de Seguridad y Salud Ocupacional protege a los trabajadores de represalias por ejercer sus derechos bajo la ETS.

### Protecciones en el lugar de trabajo: vacunación, pruebas y cubiertas faciales

Los empleados que trabajan para los empleadores a cuáles aplica la ETS tienen derecho a las protecciones otorgadas por los requisitos de la norma. Los requisitos clave que los empleadores deben seguir para proteger a estos empleados incluyen:

**Política del empleador sobre la vacunación.** La ETS requiere que los empleadores cubiertos establezcan, implementen y hagan cumplir normas escritas obligatorias de vacunación contra el COVID-19, con una excepción para los empleadores que, en cambio, establecen, implementan y hacen cumplir una norma escrita que requiere que los empleados no vacunados se sometan a pruebas semanales de COVID-19 y usen una cubierta facial en lugar de la vacunación.

**Determinación del estado de vacunación de los empleados.** La ETS requiere a los empleadores abarcados bajo la norma determinar el estado de vacunación de cada empleado, obtener comprobantes aceptables del estado de vacunación y mantener registros y una lista del estado de vacunación de cada empleado.

**Apoyo del empleador para la vacunación de los empleados.** La ETS requiere a los empleadores abarcados bajo la norma apoyar la vacunación proporcionándoles a los empleados tiempo razonable, incluyendo hasta cuatro horas de tiempo pagado a la tasa regular de pago del empleado, para recibir cada dosis de vacunación, y tiempo razonable y licencia por enfermedad pagada para recuperarse de cualquier efecto secundario después de cada dosis.

**Pruebas de COVID-19 para empleados que no están completamente vacunados.** La ETS requiere a los empleadores abarcados bajo la norma garantizar que cada empleado que no esté completamente vacunado se haga la prueba de COVID-19 al menos semanalmente (si está en el lugar de trabajo al menos una vez a la semana) o dentro de los 7 días antes de regresar al trabajo (si está fuera del lugar de trabajo durante una semana o más). **La ETS no requiere que los empleadores paguen por ningún costo asociado con las pruebas.** Sin embargo, es posible que otras leyes, reglamentos o acuerdos de negociación colectiva u otros acuerdos negociados colectivamente le requieran al empleador pagar por las pruebas. Además, nada les prohíbe a los empleadores asumir voluntariamente los costos asociados con las pruebas.

**Requisitos para los empleados de informar al empleador de pruebas positivas de COVID-19 y remoción del lugar de trabajo.** De acuerdo a la ETS, los empleadores abarcados bajo la norma deben: (1) exigir a los empleados informar de inmediato al recibir un resultado positivo de COVID-19 o un diagnóstico de COVID-19; (2) retirar inmediatamente del lugar de trabajo a cualquier empleado, independientemente de su estado de vacunación, que tenga una prueba positiva de COVID-19 un diagnóstico de COVID-19; y (3) Mantener a los empleados removidos fuera del lugar de trabajo hasta que [cumplan con los requisitos para regresar al trabajo](#).

**Cubiertas faciales.** La ETS requiere a los empleadores abarcados bajo la norma asegurarse de que cada empleado que no esté completamente vacunado use una cubierta facial cuando esté

adentro o cuando ocupe un vehículo con otra persona con fines laborales, excepto en ciertas circunstancias limitadas. Los empleadores no deben impedir que ningún empleado, independientemente de su estado de vacunación, use voluntariamente una cubierta facial a menos que cree un peligro grave en el lugar de trabajo (por ejemplo, interfiera con el funcionamiento seguro de algún equipo).

**Información proporcionada a los empleados.** La ETS requiere que los empleadores abarcados bajo la norma proporcionen a los empleados lo siguiente en un idioma y a un nivel de alfabetización que los empleados entiendan: (1) información sobre los requisitos de la ETS y las políticas y procedimientos establecidos para implementar la ETS en el lugar de trabajo; (2) el documento de los CDC "[Cosas clave que debe saber sobre las vacunas contra el COVID-19](#)"; (3) información sobre protecciones contra represalias y discriminación; y (4) información sobre leyes que prevén sanciones penales por proporcionar a sabiendas declaraciones o documentación falsas.

**Reportar muertes y hospitalizaciones por COVID-19 a OSHA.** La ETS requiere que los empleadores abarcados bajo la norma informen a OSHA dentro de 8 horas de cualquier muerte relacionada al COVID-19 y de hospitalizaciones por COVID-19 relacionadas con el trabajo dentro de las 24 horas posteriores a que el empleador se entere del incidente.

**Disponibilidad de registros.** La ETS requiere que los empleadores abarcados bajo la norma tengan disponible para revisar y copiar la documentación de la vacunación contra el COVID-19 de cada persona y cualquier resultado de la prueba de COVID-19 para ese empleado y cualquier persona que tenga el consentimiento autorizado por escrito de ese empleado. Los empleadores abarcados bajo la norma también deben poner a disposición de los empleados, o representantes de los empleados, el número total de empleados completamente vacunados en un lugar de trabajo junto con el número total de empleados en ese lugar de trabajo.

## Protección contra represalias

La Ley de Seguridad y Salud Ocupacional (Ley OSH, por sus siglas en inglés) prohíbe las represalias contra los empleados por ejercer sus derechos garantizados por

la Ley, incluida la presentación de una queja de seguridad o salud ocupacional, la denuncia de una lesión o enfermedad relacionada con el trabajo o el ejercicio de cualquier derecho otorgado por la Ley OSH.

## ¿Quién está protegido bajo la Ley OSH?

La prohibición de represalias de la Ley OSH (Sección 11 (c)) protege a los trabajadores del sector privado, no cubre a los empleados del gobierno de los Estados Unidos ni a los empleados del gobierno estatal o local. Sin embargo, cubre a los empleados del Servicio Postal de los Estados Unidos.<sup>1</sup>

## ¿Qué actividades están protegidas por la Ley OSH?

No se puede despedir o tomar represalias de ninguna manera contra un empleado por haber ejercido cualquier derecho en virtud de la Ley OSH. Estos son algunos ejemplos de actividades relacionadas con el COVID-19 que están protegidas:

- Solicitar tiempo pagado para una vacuna COVID-19 o tiempo libre pagado por efectos secundarios de la vacuna, cuando la ETS requiera tiempo libre pagado.
- Solicitar equipo de protección personal que el empleado piensa razonablemente que es requerido por una norma de OSHA.
- Usar equipo de protección personal requerido o permitido por una norma de OSHA.
- Informar al empleador o a OSHA de haber sido infectado o expuesto al COVID-19.
- Reportar una condición insegura a un empleador o a OSHA.
- Solicitar al empleador, a OSHA o a otra entidad gubernamental orientación sobre la seguridad en el lugar de trabajo.
- Negarse a realizar una tarea de trabajo si el empleado tiene una aprehensión razonable de muerte o lesiones graves, se niega de buena fe a realizar la tarea, no tiene una alternativa razonable y no hay tiempo suficiente para eliminar la condición a través de los canales de cumplimiento regulares y, cuando sea posible, el empleado ha pedido a su empleador que corrija el peligro y no se corrigió. Para más información consulte: [www.osha.gov/workers](http://www.osha.gov/workers).

<sup>1</sup> Los empleados federales están protegidos de represalias por actividades de seguridad o salud ocupacional bajo los procedimientos establecidos por sus agencias de conformidad con la Orden Ejecutiva 12196. Véase 29 CFR 1960.46-47. También están protegidos contra represalias por denuncia de irregularidades en virtud de la Ley de Protección de Denunciantes. Para obtener más información, visite [www.osc.gov](http://www.osc.gov). Las leyes estatales proporcionan protecciones similares en los estados que operan planes estatales aprobados por OSHA. Para obtener más información acerca de los planes estatales de OSHA, consulte [www.osha.gov/stateplans](http://www.osha.gov/stateplans).



No se puede despedir o discriminar contra un empleado por presentar una queja ante OSHA. Si usted sufre represalias, presente una queja en [www.whistleblowers.gov](http://www.whistleblowers.gov).

## Medidas disciplinarias permisibles

La Ley OSH no impide que los empleadores tomen medidas disciplinarias contra los empleados por participar en actividades que no están protegidas. Por ejemplo, cuando un empleado no cumple con las normas de vacunación de su empleador, esa acción generalmente no estaría protegida por la Ley OSH. Los siguientes ejemplos son acciones que generalmente no estarían cubiertas por las protecciones contra represalias o discriminación de OSHA:

- No entregar documentación aceptable del estado de vacunación;
- No entregar resultados semanales aceptables de la prueba de COVID-19 cuando se requiera;

- Falsificar la documentación de vacunación requerida o los resultados de las pruebas; y
- No utilizar de manera adecuada las cubiertas faciales requeridas.

## Cómo presentar una queja

Cualquier empleado que cree que ha sido sujeto a represalias, en contravención de la Sección 11 (c), o un representante de tal empleado, puede presentar una queja ante OSHA. Las quejas pueden presentarse verbalmente o por escrito. Para presentar una queja verbalmente: Visite una oficina local del área o llame a OSHA al 1-800-321-OSHA (6742). La información sobre las oficinas locales del área está disponible en [www.osha.gov/contactus/bystate](http://www.osha.gov/contactus/bystate) o se puede obtener llamando a OSHA al número de teléfono anterior.

Esta hoja informativa tiene como objetivo brindar información sobre el Estatuto Temporal de Emergencia COVID-19. La Ley de Seguridad y Salud Ocupacional requiere que los empleadores cumplan con las normas de seguridad y salud promulgadas por OSHA o un estado con un plan estatal aprobado por OSHA. Sin embargo, esta hoja informativa no es una norma o reglamento por sí mismo, y no crea obligaciones jurídicas adicionales.