

OSHA Publishes Vaccine Mandate

(As excerpted from the Michigan Chamber of Commerce’s News & Updates)

The Biden Administration has just published its vaccine mandate for businesses with 100 or more employees, setting Dec. 5 and Jan. 4 deadlines for various provisions.

Today the Occupational Health and Safety Administration (OSHA), in the form of an Emergency Temporary Standard (ETS), published the administration’s vaccine mandate. This mandate and the rules apply to all employers with a total of at least 100 employees firm- or corporate-wide at any time the ETS is in effect. However, the ETS does not apply to the following:

- Employees who do not report to a workplace where other individuals such as coworkers or customers are present;
- Employees while they are working from home; and
- Employees who work exclusively outdoors.

As expected, businesses may choose to require unvaccinated employees provide a negative COVID-19 test at least on a weekly basis as an alternative, but the rules also stipulate that unvaccinated employees must also wear a mask when indoors or when occupying a vehicle with another person for work purposes.

The ETS mandates employers provide paid time off to workers to get vaccinated and paid leave for employees to recover from any side effects from the vaccine that keep employees from being able to work.

Employers must also determine the vaccination status of each employee, obtain acceptable proof of vaccination, and maintain records, including a roster of each employee’s vaccination status.

OSHA plans to have programmed or planned inspections, where agents enter workplaces to check compliance. For what OSHA refers to as willful penalties, a company can be fined \$136,532. Otherwise, the standard penalty is set at \$13,653 for a single violation; that number would increase if there are multiple violations in a workplace.

The ETS establishes two sets of effective dates for the various provisions:

| Requirement | Dec. 5, 2021 | Jan. 4, 2022 |
|--|---------------------|---------------------|
| Establish policy on vaccination | X | |
| Determine vaccination status of each employee, obtain acceptable proof of vaccination, maintain records and roster of vaccination status | X | |
| Provide support for employee vaccination | | X |

| Requirement | Dec. 5, 2021 | Jan. 4, 2022 |
|---|-------------------------|-------------------------|
| Ensure employees who are not fully vaccinated are 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) | | X |
| Require employees to promptly provide notice of positive COVID-19 test or COVID-19 diagnosis | X | |
| Remove any employee who received positive COVID-19 test or COVID-19 diagnosis | X | |
| Ensure employees who are not fully vaccinated wear face coverings when indoors or when occupying a vehicle with another person for work purposes | X | |
| Provide each employee information about the ETS; workplace policies and procedures; vaccination efficacy, safety and benefits; protections against retaliation and discrimination; and laws that provide for criminal penalties for knowingly supplying false documentation | X | |
| Report work-related COVID-19 fatalities to OSHA within 8 hours and work-related COVID-19 in-patient hospitalizations within 24 hours | X | |
| Make certain records available | X | |

The ETS, as well as fact sheets and sample policies, can be found [here on the OSHA website](#).