



OSHA Private Employer ETS

Policy, Reporting and Notice Requirements

Policy & Notice Requirements - (REVISED DEADLINE JANUARY 10, 2022)

An employer must inform each employee, in a language and at a literacy level the employee understands, about:

- **ETS Policies:** any employer policies implemented to comply with the ETS
- **Vaccine Status:** the process that will be used to determine employee vaccine status
- **Paid Time Off:** the time off they for vaccinations and vaccine side effects
- **Positive COVID Notice to Employer:** the positive COVID test/diagnosis notice procedures
- **Records Request:** the procedures for employees to request their records
- **Safety of the Vaccine:** COVID-19 vaccine efficacy, safety, and the benefits of being vaccinated (provide: "[Key Things to Know About COVID-19 Vaccines](#)")
- **No Discrimination/Retaliation:** policy prohibiting the employer from discriminating, discharging, or retaliating against an employee for reporting work-related injuries or illness, for exercising rights under the ETS, filing an occupational safety or health complaint, reporting a work-related injuries or illness, and/or otherwise exercising any [rights afforded by the OSH Act](#)
- **Criminal Penalties:** the OSH Act, which provides for criminal penalties associated with knowingly supplying false statements or documentation ([fact sheet available in English and Spanish](#)).
- **Unvaccinated Employees:** Employers must provide employer’s policies and procedures for COVID-19 testing and face coverings.



Reporting Requirements

Reporting COVID-19 fatalities and hospitalizations to OSHA: The employer is required to report *work-related* COVID-19 fatalities and in-patient hospitalizations:

1. Each work-related COVID-19 fatality within 8 hours of the employer learning about the fatality.
2. Each work-related COVID-19 in-patient hospitalization within 24 hours of the employer learning about the in-patient hospitalization.

For purposes of this ETS, when evaluating whether a fatality or in-patient hospitalization is the result of a work-related case of COVID-19, employers must follow the criteria in OSHA's record keeping regulation – [see fact sheet](#).

Records and Data **(REVISED TESTING DEADLINE - FEBRUARY 9, 2022)**

Vaccine and/or Test Results Documentation to Employee or Authorized

Representative: An employer must make available, for examination and copying, the individual COVID-19 vaccine documentation and any COVID-19 test results required by the ETS for a particular employee to that employee and to anyone having written authorized consent of that employee by the end of the next business day after a request. Employers must also provide the aggregate data of unvaccinated and vaccinated employees by the end of the next business day.

Policy and Documents to OSHA (Assistant Secretary): Employers must provide copies of their vaccination policy and aggregate numbers within 4 business hours of a request from OSHA. All other ETS required documentation and requested by the assistant secretary must be provided by the end of the next business day.

Confidentiality of Employee Medical Information

Employee medical information is confidential. Only those who “need to know” may know both the identity and the employee medical information (which includes vaccination status). “Need to know” is construed very narrowly.

Employers must protect employees' privacy by: (1) keeping the names of employees who participate in a vaccination program private; and (2) ensuring that the location of the clinic offers a degree of privacy to employees receiving vaccinations. Additionally, the employer must keep the employee's medical information received from or about an employee in a separate confidential medical file.