

## OSHA's Emergency Temporary Standard

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Federal OSHA has published the [COVID-19 Emergency Temporary Standard](#) effective November 5, 2021 which requires employers with 100 or more eligible employees to adopt written policies that require employees to provide proof of being fully vaccinated or submit to weekly testing and continued wear of face coverings in the workplace. Employers are expected to comply no later than January 4, 2022. The new requirements are consistent with IRMA's prior recommendations to members, including encouraging vaccinations, requiring testing of unvaccinated employees, and maintaining records of the information. At this time, the Federal Standard does not apply to IRMA members. However, once Illinois OSHA adopts the federal standard, IRMA members with 100 employees or more will be required to comply. The ETS adopted by Illinois OSHA will be required to be "at least as effective" as those adopted by Federal OSHA and could impose stricter requirements than the federal standard. We will provide additional guidance once Illinois OSHA issues information.

Illinois OSHA is charged with ensuring the protection of Illinois employees and employers under its jurisdiction in the public sector from occupational safety and health hazards. Illinois OSHA must notify to Federal OSHA within 15 days of the effective date of the Federal standard effective date the action they will take, and 30 days to adopt its own State Emergency Temporary Standard. The ETS requirements must be met by employers at a minimum and will supersede all other State and local COVID-19 protocols, however, the State may exceed the minimum requirements such as requiring face coverings as in the current [Executive Order](#) which should be continue to be followed.

At a minimum employers can ensure ETS compliance by:

- Determining if at least 100 employees are employed at any time the ETS is in effect including:
  - Full time, part time, and seasonal workers (not volunteers)
  - In-person and remote workers
  - Elected officials who receive compensation and are issued W-2's (not appointed officials)
  - Employees covered under the [Healthcare Emergency Temporary Standard](#)
- Establishing a written policy that requires all employees to:
  - Submit an approved proof of their vaccination status, or
  - Submit to an approved weekly COVID-19 test and continue to wear face coverings in the workplace
- Maintaining the following records of every employee for the duration of the ETS:
  - Approved vaccination records
  - Weekly testing records from every unvaccinated employee every 7 days or when returning to work after being away for a week or longer
- Supporting vaccinations by
  - Allowing employees reasonable time (up to 4 hours) of paid time to receive each vaccine dose, and
  - Providing reasonable recovery time (up to 2 days) after each vaccine dose

- Establishing whether unvaccinated employees will be provided paid time or reimbursement for their own weekly testing
- Enforcing face coverings be worn by all unvaccinated workers

Below is a list of resources to assist employers with implementation of the new ETS. The resources include a detailed webinar, FAQ and required COVID-19 Vaccination Policy language. Employers can use these resources to help train and notify employees of new workplace protocols while the ETS is in place.

- [ETS Summary](#)
- [E-learning Webinar](#)
- [ETS FAQ](#)
- [OSHA ETS Landing Page](#)
- [Vaccination Policy Sample](#)
- [Vaccination and Testing Policy Sample](#)

Previous notices by IRMA pertaining to vaccination mandates are also available:

- [Consideration and Guidance for COVID Vaccines](#)
- [Governor Imposes Vaccine Mandate](#)
- [Governors New Executive Order](#)

IRMA's Risk Management team will continue to monitor Illinois OSHA for adoption of a State plan. In the interim, any member with 100 or more eligible employees should start the process of compliance with the ETS as soon as possible. We will provide updated information as it becomes available. Please refer to IRMA's COVID-19 webpage for reliable and current information regarding COVID-19 and the new ETS. Our team is also available to answer questions or review policies if needed.