



Safely Reopening Workplaces

A Decision Tool for Employers

Updated July 15, 2021

As employers begin to reopen physical workplaces that have been closed during the pandemic, they face many important questions about how best to protect workers and customers. This guide is designed to help employers navigate complicated issues related to reopening physical workplaces by offering the latest health, legal and other considerations to guide their planning and decision-making. As businesses weigh these options, they should take a [risk-based approach](#) that prioritizes the health and safety of employees and customers and consider local community vaccination rates and guidance from public health officials.

The information in this guide is based on [public health recommendations](#) from the U.S. Centers for Disease Control and Prevention (CDC), [safety guidance](#) offered by the Occupational Safety and Health Administration (OSHA), [legal considerations](#) established by the Equal Employment Opportunity Commission (EEOC) and [additional recommendations](#) from the Health Action Alliance and National Safety Council. There is no one-size-fits-all approach and there are important workplace exceptions to some of these approaches - notably, in healthcare settings that are governed by OSHA's [Emergency Temporary Standard](#) and transportation settings that are subject to CDC's [face mask order](#).

All employers are encouraged to develop a COVID-19 response plan and continue to evaluate and update that plan as the pandemic and federal, state and local guidance evolve. Now that the more transmissible Delta variant accounts for more than half of all new infections in the United States, public health experts warn of the potential for a surge of COVID-19 in the coming months, especially in areas with lower community vaccination rates. Having a plan in place will help your business respond quickly to future public health crises.

Considerations below are based on the best available information as of mid-July 2021. Employers should consult their legal counsel before making any decisions about workplace policies related to the pandemic.

Should I mandate COVID-19 vaccination for my employees?

What are my options for confirming vaccination status?

Should I require my employees to wear face masks?

Should I require COVID-19 testing for employees?

Should I restrict business travel?

If I don't mandate vaccines, how do I manage a partially vaccinated workforce?

Can I ask customers for proof of vaccination or deny service to customers who aren't vaccinated?

What other public health and safety issues should I consider?

Should I mandate COVID-19 vaccination for my employees?

HEALTH CONSIDERATIONS

[Studies](#) show that COVID-19 vaccines are effective at preventing people from getting COVID-19. Getting a COVID-19 vaccine will also help significantly reduce chances of getting seriously ill, even if someone does get COVID-19.

As of July 2021, [nearly all](#) COVID-related deaths in the U.S. are among the unvaccinated.

CDC's recent [guidance](#) says that fully vaccinated people can resume indoor and outdoor activities without wearing a mask or physically distancing.

[Multiple variants](#) of the virus that causes COVID-19 have been documented in the U.S. and globally during the pandemic. The variants currently circulating in the U.S., including the [Delta](#), seem to be more infectious and possibly more severe than other strains, posing the threat of accelerating the pandemic among the unvaccinated. An increase in the number of cases will put more strain on healthcare resources, lead to more hospitalizations and potentially more deaths.

So far, [studies suggest](#) that the current authorized vaccines for COVID-19 work against the circulating variants.

As virus variants spread, [guidance](#) on mask-wearing may change.

Unvaccinated employees are at a much higher risk of contracting COVID-19 and if infected, could trigger additional health and safety precautions in the workplace.

We are still learning how well vaccines prevent you from spreading the virus that causes COVID-19 to others, even if you do not have symptoms. Early data show that vaccines help keep people with no symptoms from spreading COVID-19.

LEGAL CONSIDERATIONS

According to the [EEOC](#), employers can mandate vaccinations but must comply with [reasonable accommodation obligations](#) under the Americans with Disabilities Act (ADA) and Title VII of the Civil Rights Act of 1964 for employees seeking an exemption.

Employers mandating vaccinations for their workforce may be required to provide reasonable accommodations to some employees, exempting them from the policy either because of a disability or a sincerely held religious belief, unless doing so would pose an undue hardship on the operation of the employer's business or create a direct threat to the health of others.

EEOC suggests that reasonable accommodations could include masking, working at a social distance from coworkers or non-employees, working modified shifts, getting periodic tests for COVID-19, teleworking, or reassigning the employee.

Employers need to keep in mind that because some demographic groups face barriers to vaccines, those employees may be negatively and disproportionately impacted by a mandate.

OTHER CONSIDERATIONS

Around 13% of the American public have [indicated](#) they have no intention of getting the COVID-19 vaccine. A vaccine mandate may have negative consequences for employee morale and retention, and could also cause public relations challenges for your business.

Before implementing a vaccine mandate, it will be important to engage employees in a conversation about vaccines and to educate them on the safety and efficacy of the COVID 19 vaccines and why a fully vaccinated workforce is aligned with your business values and operations.

According to a [May 2021 employer survey](#), a large majority of employers (83%) do not plan to mandate vaccination.

According to a [June 2021 public opinion survey](#), about half of adults (51%) say employers should require their workers to get vaccinated. However, most workers do not want their own employer to require vaccination, including the vast majority of unvaccinated workers (92%) as well as four in ten workers who are already vaccinated (42%).

Employers that mandate vaccines make it as easy as possible for employees to get vaccinated.

If working remotely remains an option for your entire workforce, a vaccine mandate may not be necessary. But if your workplace requires in-person employees, a mandate may be the best option to ensure worker safety.

It is important to note that some employees may have strongly held beliefs about COVID-19 and vaccines that derive from misinformation or the politicization of the pandemic. Navigating misinformation and strongly held beliefs that aren't based in fact requires respectful, open conversation and careful communication.

Employers are encouraged to communicate a vaccine mandate policy in the context of company values and public health recommendations that are intended to protect worker health and safety.

What are my options for confirming vaccination status?

HEALTH CONSIDERATIONS

[Studies](#) show that COVID-19 vaccines are effective at preventing people from getting COVID-19. Getting a COVID-19 vaccine will also help significantly reduce the chances of getting seriously ill, even if someone does get COVID-19.

According to [OSHA guidance](#), [fully vaccinated](#) employees do not need to wear a mask or social distance, except where required by federal, state, local, tribal, or territorial laws, rules and regulations. Unvaccinated or otherwise at-risk (e.g., because of a prior transplant or other medical condition) employees should continue to wear a mask and take other precautions, especially in [higher-risk settings](#).

Unvaccinated employees are at a much higher risk of contracting COVID-19 and, if infected, could trigger additional health and safety precautions in the workplace.

LEGAL CONSIDERATIONS

Employers are [legally allowed](#) to request proof of vaccination, such as by requiring their employees to provide a copy of the completed CDC-issued vaccine card or a vaccination status printout from the health care provider that provided a vaccine. Such a request, on its own, is unlikely to reveal information about a disability and is therefore not a prohibited disability-related inquiry.

However, employers are encouraged to limit their inquiries about vaccine status. Asking follow-up questions about health status related to vaccination choice [may](#) violate other laws, including ADA.

Some states are [requiring](#) verification of vaccine status before reducing COVID-19 safety protocols.

The honor system - relying on the word of your employees - may be an approach to consider, but some lawyers [argue](#) that an honor system without verification may run afoul of federal or state requirements.

Employers [can](#) require employees to follow masking and other safety protocols until an employee verifies vaccination status. Employees who refuse to mask-up without proof of vaccination may still be subject to disciplinary action absent an accommodation.

According to the [EEOC](#), the ADA requires an employer to maintain the confidentiality of employee medical information, such as documentation or other confirmation of COVID-19 vaccination. This ADA confidentiality requirement applies regardless of where the employee gets the vaccination.

Under the [ADA](#), confidential medical information related to an employee, whether requested by the employer or voluntarily disclosed by the employee, must be maintained separately from a general employment file and should only be accessed by individuals allowed by law to do so. Although not all medical information falls within the scope of the ADA's privacy protections, erring on the side of privacy is a best practice.

OTHER CONSIDERATIONS

While developing and implementing policies, employers should continue to engage employees in conversations about why changes are being made and how this could impact employees.

Employers requiring proof of vaccination from employees should develop a written policy for collecting the information and maintaining confidentiality by limiting access to the data to individuals who have a legitimate business need to know such information.

There is a growing movement in some states to protect vaccine status as confidential private information. Employers should consider making this a moving target and be mindful of any new rules and legislation in the jurisdictions where they operate.

Many HR technology vendors have [launched](#) vaccine monitoring solutions for employers. If your company chooses to use one of these platforms, make sure to verify that security and access levels comply with ADA requirements.

Should I require my employees to wear face masks?

HEALTH CONSIDERATIONS

COVID-19 spreads through respiratory droplets that are released into the air, as far as 6 feet, when an infected person coughs, sneezes, or talks.

Facial coverings prevent respiratory droplets from traveling into an individual's surroundings, protecting others from getting the virus if the individual is infected but asymptomatic. A cloth mask may also protect the mask wearer from breathing in the virus.

Unless otherwise required by federal, state, local, tribal, or territorial laws, rules, and regulations, OSHA has [established](#) that most employers no longer need to take steps to protect their fully vaccinated workers who are not otherwise at risk from COVID-19 exposure.

CDC [recommends](#) that unvaccinated individuals continue wearing masks and maintaining physical distance in order to protect themselves and others.

From a public health perspective, it's safest to require masking for all employees who are unvaccinated or whose vaccination status is unknown.

LEGAL CONSIDERATIONS

Under [Section 5](#) of the OSH Act, employers are responsible for providing a safe and healthy workplace free from recognized hazards likely to cause death or serious physical harm.

[OSHA's latest guidance](#) outlines that employers should take steps to protect unvaccinated or otherwise at-risk workers in workplaces.

Employers may [consider](#) a mask mandate in the case of a partially vaccinated workplace to protect unvaccinated or otherwise at-risk workers and mitigate COVID-19 transmission.

Many states are lifting mask [mandates](#) for fully vaccinated individuals. However, it is important for employers to emphasize that there is nothing stopping employees from continuing to wear a mask if they prefer.

Employers should also emphasize that employees should not question, make assumptions about, or harass their coworkers for wearing (or not wearing) a mask.

In implementing a mask mandate, employers should remain mindful of [ADA standards](#) and offer reasonable accommodations for employees who have disabilities that interfere with their ability to wear a mask.

OTHER CONSIDERATIONS

The loosening of restrictions for fully vaccinated employees may create morale issues in a hybrid environment, where only some of your employees are masked.

Requiring masks of all employees, regardless of vaccination status, is also likely to create morale issues, especially among workers who are fully vaccinated.

Whichever option you choose, it's important to have conversations with key employee stakeholders within the company. Make sure you have perspectives from multiple teams and employee communities.

It is important to note that some employees may have strongly held beliefs about COVID-19 and masks that derive from misinformation or the politicization of the pandemic. Navigating misinformation and strongly held beliefs that aren't based in fact requires respectful, open conversation and careful communication.

Employers are encouraged to communicate COVID-19 prevention policies in the context of company values and public health recommendations that are intended to protect worker health and safety.

Communicate changes to masking policies using the same methods used to convey general workplace guidance.

A fully vaccinated workplace is the most foolproof way to prevent the spread of COVID-19 and keep everyone safe. Employers should continue to share facts about the safety and efficacy of vaccines and the risks of remaining unvaccinated.

Employers should also consider ways to make it easier for employees to get vaccinated by offering paid time off, hosting an on-site vaccination clinic, or offering modest incentives.



Should I require COVID-19 testing for employees?

HEALTH CONSIDERATIONS

There are two different types of COVID-19 testing that can be administered. **Antibody testing** determines whether an individual has had COVID-19 in the past, while **viral testing** identifies an active case of COVID-19.

The latest [CDC guidance](#) outlines that individuals who are fully vaccinated do not need to be tested for COVID-19, even if exposed to someone infected, unless they start experiencing symptoms. Viral testing is recommended for unvaccinated individuals who have known or suspected exposure to the virus.

CDC [recommends](#) that employers should not require COVID-19 testing from sick employees to qualify for sick leave, or to return to work. This is to avoid exhausting healthcare provider offices and medical facilities who may be managing heavy workloads during this time.

[Screen testing](#) of non-vaccinated asymptomatic workers who have no known or suspected exposure to COVID-19 can be considered in higher-risk workplace settings (i.e., where physical distancing is difficult).

Arizona State University's College of Health Solutions has a [COVID-19 Testing Commons](#) that offers detailed descriptions of the variety of tests available.

LEGAL CONSIDERATIONS

Under the [ADA](#), any medical test required from employees has to be "job-related and consistent with business necessity."

By this standard, employers may ask for viral COVID-19 testing from employees initially entering the workplace or periodically if deemed necessary (i.e., in the case of contact tracing). See [CDC recommendations](#) for when screening is appropriate. This may not be necessary for vaccinated workers.

Antibody testing is defined by the ADA as a medical examination. Requiring antibody testing from employees to re-enter the workplace is not permissible under the ADA.

The ADA requires that employers maintain confidentiality of employee medical information, including COVID-19 test results and any reports of symptoms and temperature from daily health checks.

OTHER CONSIDERATIONS

Employers may consider asking employees to report COVID-19 symptoms through daily check-ins. Symptoms include fever, chills, cough, shortness of breath, loss of taste and smell, or sore throat.

Flexible sick leave policies may help employees feel supported and reduce transmission in the workplace.

Although a negative viral test result may be used to shorten quarantine for unvaccinated employees who have known or suspected exposure to the virus, [CDC recommends](#) a full 14-day quarantine.

Employers need to consider who would cover the cost for testing and how tests would be administered.



Should I restrict business travel?

HEALTH CONSIDERATIONS

Traveling, especially to areas with lower vaccination rates and/or higher infection rates, poses a significant exposure risk for unvaccinated employees.

CDC [recommends](#) that domestic travel be delayed and international travel be entirely avoided until individuals are fully vaccinated.

Employers should, in general, consider making remote work possible, but if business-related travel is necessary, employers should monitor travel destinations and enforce COVID-19 safety procedures for traveling employees.

LEGAL CONSIDERATIONS

See CDC recommendations and requirements for [domestic](#) and [international](#) travel for fully vaccinated and unvaccinated individuals. Employers should develop employee travel policies that are consistent with CDC travel guidance.

Employers [may consider](#) loosening business travel bans with proof of vaccination. However, for those who cannot be vaccinated for health reasons, employers should continue to consider whether business travel can be done safely to avoid any claim that individuals with health, disability, or religious reasons for not receiving the vaccine at all or right away are losing opportunities for compensation or advancement as a result.

OTHER CONSIDERATIONS

Until all employees are fully vaccinated, employers may want to limit non-essential business travel.

In order to protect vulnerable employees who are either unvaccinated and/or immunocompromised, employers should control as much as possible against COVID-19 exposure risks and transmission.



If I don't mandate vaccines, how do I manage a partially vaccinated workforce?

HEALTH CONSIDERATIONS

Unless otherwise required by federal, state, local, tribal, or territorial laws, rules, and regulations, OSHA has [established](#) that most employers no longer need to take steps to protect their fully vaccinated workers who are not otherwise at risk from COVID-19 exposure.

CDC has [said](#) vaccinated workers in the majority of workplaces do not need to continue to mask or social distance.

Unvaccinated workers are not as protected as vaccinated workers from COVID-19, but masks and social distancing do offer some level of protection.

Unvaccinated workers who don't follow masking and distancing protocols are more likely to get infected, potentially triggering other safety protocols. They are also more likely to infect others.

Immunocompromised employees are at higher risk for COVID-19 infection, and vaccines [may not offer as much protection](#). According to CDC, anyone who has a condition or takes medications that weaken their immune system may not be fully protected even if they are fully vaccinated. Employees who are immunocompromised should be encouraged to talk to their healthcare provider about whether they should continue taking all precautions, even after vaccination.

LEGAL CONSIDERATIONS

In a workplace with mixed-vaccination status employees, OSHA has [established](#) that employers should take steps to protect unvaccinated or otherwise at-risk workers in their workplaces or well-defined portions of workplaces.

Some employers may choose to continue to follow masking and distancing protocols for all employees. This can avoid some of the legal issues raised by having different rules for different types of employees.

Employers can legally separate vaccinated and unvaccinated workers in the same workplace. But some attorneys have warned [against](#) that approach.

Employers choosing to 'separate' employees should [consider](#) avoiding "disparate impacts upon individuals requiring accommodations. Additionally, any such policy will need to be justified by a "business necessity."

Employers also have the option of requiring unvaccinated workers to continue to work remotely while bringing vaccinated workers back to the workplace.

OTHER CONSIDERATIONS

Choosing to continue pandemic protocols (masking, etc.) could create morale challenges for those who are fully vaccinated.

While legally allowable, separating workers may not be practical or even possible in some workplaces and may create resentments around different rules.

Vaccinated workers are largely protected from infection. If employers decide to remove masking and distancing requirements, employers should consider making unvaccinated workers aware of the risks of working while unvaccinated.

For employees who are unvaccinated, employers should continue to share facts about the safety and efficacy of vaccines and the risks of remaining unvaccinated. Concurrently, employers should consider ways to make it easier for employees to get vaccinated by offering paid time off, hosting an on-site vaccination clinic, or offering modest incentives.

Even if not mandating vaccines, employers can still encourage voluntary disclosure of vaccination status and offer individual or group incentives within [EEOC guidance](#).

Can I ask customers for proof of vaccination or deny service to customers who aren't vaccinated?

HEALTH CONSIDERATIONS

Businesses with a partially vaccinated customer base should enforce multi-layered interventions to reduce transmission of COVID-19, protect workers and protect customers.

Whereas CDC's recent [guidance](#) says that fully vaccinated people can resume indoor and outdoor activities without wearing masks or physically distancing, OSHA [recommends](#) that retailers and other businesses in higher-risk settings should continue to encourage masking and social distancing for all customers and visitors who are unvaccinated or whose vaccination status is unknown.

Along with appropriate masking and physical distancing policies, businesses should:

- promote personal hygiene (i.e., frequent handwashing)
- provide face coverings or surgical masks to customers
- consider conducting health checks of customers to track COVID-19 symptoms and cases
- improve and sustain ventilation systems
- regularly clean and disinfect the workplace

In certain higher-risk settings where there is close interaction between employees and customers (e.g., retail, restaurants, travel, live events, etc.), the potential for transmission of COVID-19 is greater.

CDC [recommends](#) that unvaccinated individuals continue wearing masks and maintaining physical distance in order to protect themselves and others.

LEGAL CONSIDERATIONS

In most states, requiring proof of vaccination is perfectly legal. Business owners must make the decision that best suits their business's needs, while protecting staff and customers.

However, several states have issued bans on any business receiving state funding from requesting proof of vaccination from customers, guests, or patrons, including Florida, Texas, Ohio, Arizona, and Montana.

In most cases, the ADA prevents businesses from establishing a blanket policy refusing service to unvaccinated customers. Instead, if a customer has not been vaccinated or refuses to disclose their vaccination status, businesses can require the customer to wear a mask or can organize an outside delivery of their purchase. If the customer refuses to agree to the compromise, businesses can then refuse to provide a service on health and safety grounds.

For businesses set on requiring proof of vaccination from customers, how to do so is the question that's top of mind. While CDC vaccination cards may work for the moment, paper records are not a long-term solution. Since they can be forged or misplaced, many companies and local jurisdictions are considering digital verification options.

The Biden Administration has ruled out use of a federal vaccine passport program or requirement.

OTHER CONSIDERATIONS

For some customers, requiring proof of vaccination may be perceived as an infringement on personal freedom. For others, requiring proof of vaccination may be interpreted as classist or racist since Black, Hispanic and other communities of color have faced greater barriers to vaccines and, as a result, have lower rates of vaccination compared to the general population.

Although it's legal in most states to ask customers for proof of vaccination, businesses could risk alienating customers by doing so. Especially as many retailers, restaurants, and small businesses have struggled since the pandemic began, many business owners don't want to risk customer backlash.

The contradiction between CDC and OSHA guidance on masking and distancing creates a complicated communications challenge for retailers and other businesses in higher-risk settings, and has led to [tragic incidents](#) of customer outrage and workplace violence. CDC has created [this guide](#) to help retail, services, and other customer-based businesses limit violence that may occur as a result of policies and practices that are intended to minimize the spread of COVID-19 among employees and customers.

The wishes of employees in customer-facing roles further complicate the issue. According to a [recent survey](#), 44% of employees do not feel comfortable interacting with unvaccinated customers.

In areas with lower vaccination rates or higher rates of COVID-19 transmission, this may mean requiring vaccines as a prerequisite for service. Other business owners will choose to take precautionary measures, like enforcing social distancing and mask-wearing for all.



What other public health and safety issues should I consider?

HEALTH CONSIDERATIONS

Employers with a partially vaccinated workforce should enforce multi-layered interventions to reduce transmission of COVID-19.

Along with appropriate masking and physical distancing policies, employers should:

- provide resources and a work environment that promotes personal hygiene (i.e. frequent handwashing)
- provide face coverings or surgical masks at no cost
- consider conducting daily health checks of employees to track COVID-19 symptoms and cases
- improve and sustain ventilation systems
- regularly clean and disinfect the workplace
- record and report COVID-19 cases and deaths
- implement protections from discrimination for following occupational safety and health activities

LEGAL CONSIDERATIONS

Under [Section 5](#) of the OSH Act, employers are responsible for providing a safe and healthy workplace free from recognized hazards likely to cause death or serious physical harm.

OSHA requirements apply to preventing occupational exposure to COVID-19.

CDC recommendations as well as mandatory OSHA standards, including requirements for PPE, respiratory protection, sanitation, and employee access to medical records, should be considered in developing a COVID-19 response plan.

OTHER CONSIDERATIONS

Employers should clearly communicate to employees their COVID-19 procedures and guidelines and implement a verification process of compliance with workplace policies.

Throughout the pandemic, employers have been among the most [trusted](#) sources of COVID-19 information and guidance for employees. To accelerate nationwide vaccination efforts, employers should consider educating employees on COVID-19 vaccine safety and encourage workers to get vaccinated.

Check out HAA and NSC's [Guidance for Safer Workplace Returns](#) for more detailed information and guidance about workplace health and safety.

Additional Resources

Health Action Alliance

- [Guidance for Safer Workplace Returns: A Toolkit for Business Leaders](#)
- [Tips for Safer Workplace Returns](#)
- Fact Sheet: [EEOC Authorizes COVID-19 Vaccine Mandates and Incentives](#)
- Fact Sheet: [OSHA's Updated Guidance on Protecting Unvaccinated and At-Risk Workers](#)
- [Quick Start Guide](#): Preparing your Business for COVID-19 Vaccines
- [Small Business Guide to COVID-19 Vaccines](#)

Centers for Disease Control & Prevention

- [COVID-19 Information Hub](#)
- [Workplaces & Businesses: Plan, Prepare and Respond](#)

Equal Employment Opportunity Commission

- [Coronavirus and COVID-19](#)

National Safety Council

- [COVID-19 and the Workplace](#)
- [SAFER Playbooks](#)

Occupational Safety and Health Administration

- [COVID-19 Portal](#)

Public health guidance on COVID-19 is constantly evolving. Health Action Alliance is committed to regularly updating our materials once we've engaged public health, business and communications experts about the implications of new guidance from the public health community and effective business strategies that align with public health goals. **Together, we can turn the tide against COVID-19 and build a stronger, healthier future.**