

OSHA ADOPTS “VACCINE OR TEST” REQUIREMENT FOR CA PUBLIC EMPLOYEES

On Thursday, November 4, 2021, the US Department of Labor, Occupational Health and Safety Administration (OSHA) filed an emergency temporary standard (ETS) that established mandatory federal requirements for vaccination and testing for large employers (100 or more employees), as well as state and local government employers in states without their own OSHA approved workplace safety and health programs. California, as one of 28 states with its own OSHA-approved workplace safety and health programs, may adopt its own regulations, provided those regulations are at least as effective as the federal standards.

What Does the ETS Require?

Under the rules, employers must implement a policy that requires employees either (1) to be fully vaccinated or (2) to provide proof of weekly COVID-19 testing and wear a face mask while indoors. The deadline for implementation is January 4, 2022.

The rules also require employers to determine the vaccination status of all employees and obtain proof of vaccination for all employees claiming to have received the job. Employers must also provide employees four hours of paid release to obtain a vaccination and a reasonable amount of paid sick leave if an employee experiences side effects from the vaccine. The testing of employees must occur no less than once per week for any employee that is in the workplace even once per week.

When is the ETS Effective?

The ETS is effective immediately upon publication in the Federal Register, which is anticipated to occur tomorrow (Nov. 5th). States with OSHA-approved workplace safety and health programs, such as California, must notify OSHA within 15 days whether they will adopt their own regulations, and must adopt such regulations within 30 days, of the final federal rule.

What Should Employee Unions Do?

Despite mandated compliance with the ETS, employers must still meet and confer with recognized employee organizations over the impacts and effects of the

rules. Associations are advised to consult with legal counsel to determine the specific impact of this legislation upon their members and to consider an appropriate course of action.

Note: The 490-page ETS is subject to change. If the ETS is modified, this news alert will be updated accordingly on the [RLS website](#).

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