

MIOSHA Updates Workplace COVID-19 Emergency Rules

May 24, 2021

On May 24, 2021, Governor Whitmer announced updates to **MIOSHA's COVID-19 emergency rules**, which supersede the prior **version** filed on October 14, 2020, and extended on April 13, 2021. The updated rules are set to remain in effect until October 14, 2021. Under the updated rules:

- Employers are no longer required to maintain a policy prohibiting in person work to the extent that an employee's work activities can feasibly be completed remotely.
- Employers are still required to have a written COVID-19 preparedness and response plan, but are no longer required to categorize job tasks and procedures into different risk categories or include such information in the plan.
- Employers are no longer required to prohibit employees from sharing phones, desks, offices, tools or equipment.
- Employers are still required to conduct a daily self-screening protocol for employees or contractors entering the workplace, including a questionnaire regarding COVID symptoms or suspected or confirmed exposure to people with possible COVID-19, but are no longer required to conduct temperature screening of employees.
- In the event an employer learns of an employee, visitor or customer with a known case of COVID-19, the employer is no longer required to immediately notify the local public health department, but is still required to notify any co-workers, contractors, or suppliers who may come into contact with the person with a known case of COVID-19 within 24 hours.
- Generally, the requirements regarding social distancing, wearing face coverings indoors when you cannot maintain 6 feet of distance, and providing face coverings to employees are only applicable to unvaccinated employees. In other words, employers do not have to require fully vaccinated employees to maintain social distancing or wear masks in the workplace, nor are employers required to provide face coverings to fully vaccinated workers. However, fully vaccinated persons must continue wearing face coverings in health care settings where patients may be present and when using airplane or public transportation if required by the latest CDC guidance.
- Employers may show compliance with the updated rules regarding social distancing and face coverings for fully vaccinated employees "in a manner deemed effective for the place of employment," which may include:
 - Keeping records of employees' vaccination status and relaxing the social distancing and face covering requirements for fully vaccinated employees;
 - Posting signs in the workplace reminding unvaccinated employees to wear face coverings and maintain appropriate distancing;
 - Allowing or requiring remote work; or
 - Requiring face coverings and social distancing for all employees regardless of vaccination status.
- Employers are still required to provide training to employees on COVID-19. The training shall cover: (1) workplace infection-control practices, which specifically include information on vaccinations available for COVID-19; (2) the proper use of personal protective equipment; (3) steps the employees must take to notify the business or operation of any COVID-19 symptoms or a suspected or confirmed COVID-19 diagnosis; and (4) how to report unsafe working conditions. Updated training must be provided if the employer changes its preparedness and response plan, or if

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new information regarding COVID-19 becomes available.

- The recordkeeping requirements are still in place. Employers are still required to maintain record of COVID-19 training and required notifications when there is a confirmed case of COVID-19 in the workplace. For health screening records, employers are only required to maintain those of unvaccinated employees or contractors entering the workplace. Employers exempting fully vaccinated employees from the social distancing and face mask requirements in the workplace based on their vaccination status must maintain the record of vaccination status.
- All other industry-specific requirements (i.e., those in place specifically for the construction, manufacturing, retail/libraries/museums, restaurant/bar, health care, in-home services, and personal care services industries) have been eliminated.

If you have any questions about the updated MIOSHA emergency rules or how the changes impact your workplace, please contact the authors of this alert or your Miller Canfield attorney.

This information is based on the facts and guidance available at the time of publication and may change.