

KD Alert: OSHA Recommends Employers Consider Adopting COVID-19 Vaccination Policies

The United States Department of Labor Occupational Safety and Health Administration ("OSHA") recently issued updated COVID-19 related guidance to employers.

These new guidelines track those made by the Centers for Disease Control (the "CDC") which recommend that fully vaccinated people, who are employed in a non-healthcare setting, wear a mask in public indoor settings if they are in an area of substantial or high transmission. The CDC determines an area's risk of transmission, by county, based upon data obtained regarding levels of community transmission. OSHA's guidance further recommends employers to encourage employees to voluntarily wear a mask in public indoor settings, regardless of their area's level of transmission to reduce their risk of becoming infected with COVID-19, or a variant thereof. OSHA also adopted the CDC's recommended universal indoor mask-wearing in the K-12 school setting, which recommends all teachers, staff, students, and visitors to K-12 schools wear a mask, regardless of the individual's vaccination status.

Additionally, in conjunction with guidance on mask wearing and physical distancing, OSHA recommends employers "consider adopting policies that require workers to get vaccinated or to undergo regular COVID-19 testing." This guidance also adopts the CDC's most recent guidance on COVID-19 testing, and encourages employers to remove all people experiencing COVID symptoms from the workplace. Further, it is recommended that unvaccinated individuals obtain a negative test at least five days after a close contact with a person infected with COVID-19, and that vaccinated individuals get tested three to five days after exposure and be required to wear face coverings for fourteen days after said contact unless they test negative for COVID-19.

Based on OSHA's guidance, employers who have not already implemented a vaccination policy should consider doing so now. Such policies should be reflective of the industry and customer base served, while considering the health and safety of employees, customers and the public at large. Employers should determine whether it is appropriate to implement a mandatory vaccination policy based on their industry and how they interact with the public. Finally, employers need also be aware of their obligation to review and consider applications for religious and/or medical exemptions for those employees who refuse the vaccination.

KD IS HERE TO HELP

If you have questions about these developments, please contact one of KD's experienced Labor & Employment Law attorneys: Philip Voluck, Managing Partner of Blue Bell Office, Co-Chair of Labor & Employment Law Practice Group; Keith J. Gutstein, Co-Managing Partner, Long Island Office and Co-Chair, KD Labor & Employment Law Practice Group; Attorney Caitlyn O'Neill, or any of our experienced attorneys at KD's national Labor and Employment Law Practice Group.