

## HCMP ENVIRONMENTAL UPDATE: **DOSH GUIDANCE**

The Washington Division of Occupational Safety and Health has updated its COVID-19 guidance to modify masking and social distancing requirements.

On May 21, 2021, the Washington Department of Labor & Industries/Division of Occupational Safety and Health (“DOSH”) issued [updated COVID-19 workplace safety and health guidance](#) that modifies masking and social distancing requirements in light of new CDC guidelines.

Under the updated guidance:

- Unless their employer or a local public health agency still requires it, fully vaccinated workers do not have to wear masks (i.e., cloth face coverings or medical procedure masks) or maintain social distancing at most workplaces.
- Employers must confirm that a worker is fully vaccinated before ending masking and social distancing requirements by having the worker provide: (1) proof of vaccination (i.e., a CDC vaccination card (or a photo of the card) or documentation of vaccination from a health care provider or the state immunization information system); or (2) a signed document attesting to the worker’s fully-vaccinated status.
- Employers must be able to demonstrate they have verified vaccination status for workers who are not wearing masks or maintaining social distancing. Acceptable verification methods may include:
  - Creating a log of the names of workers who have been verified as fully vaccinated and the date that the verification was done;
  - Checking vaccination status each day as workers enter a workplace; or
  - Marking a worker’s badge or credential to indicate the worker’s status as fully vaccinated.
- Employers must provide evidence of their process to verify worker vaccination status for workers who are not wearing masks or maintaining social distancing to the Department of Labor & Industries upon request.

While the updated guidance modifies certain aspects of DOSH’s COVID-19 workplace safety and health guidance, other aspects remain the same. In particular:

- Employers may still require workers to wear masks and maintain social distancing in their workplaces if they choose, and [with certain exceptions](#), employers must allow workers to wear masks or other protective equipment if they choose, regardless of vaccination status.
- If a worker is not fully vaccinated or their vaccination status is unknown, employers must continue to require the worker to wear a mask and maintain social distancing.

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- Workers in the following business categories must continue to wear masks and maintain social distancing in the workplace regardless of vaccination status: (a) healthcare (including long-term care, doctor's offices and hospitals); (ii) public transportation (including aircraft, trains and road vehicles); (iii) K-12 schools, childcare facilities and day camps in locations where students are present; (iv) correctional facilities; and (v) homeless shelters.
- Employers cannot discharge, permanently replace or in any manner discriminate against a worker who is at high risk of contracting COVID-19 and is seeking accommodation that protects them from COVID-19 exposure.
- Employers must still review local health orders, which may be more restrictive than DOSH's updated guidance.

Failures to comply with DOSH's COVID-19 workplace safety and health guidance may result in citations or form the basis of negligence claims. Employers should prepare policies that take into consideration DOSH's COVID-19 workplace safety and health guidance as well as state and local orders prior to reopening their workplaces.

Please do not hesitate to contact me with any further questions you may have about this update.

Best regards,



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