



# 5-Step Plan for Employers as CDC Reduces COVID-19 Isolation and Quarantine Periods

Insights

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In response to the ongoing Omicron wave of COVID-19 cases, the Centers for Disease Control and Prevention just updated its guidance to reduce, in most instances, both the length of time an individual must isolate after contracting COVID-19, and the quarantine period for those exposed to the illness. While it may be a good sign the CDC believes shorter periods are appropriate due to the prevalence of milder Omicron cases, this new guidance doesn't come without complexities. The December 27 guidance not only abruptly changes rules employers had in place for several months, it also leads to questions about which guidance employers should now follow given the status of OSHA's Emergency Temporary Standard (ETS). What do employers need to know about this latest curveball? This Insight provides a practical five-step compliance plan.

## New Guidance in a Nutshell

Noting modifications were needed given what it "currently knows about COVID-19 and the Omicron variant," the CDC:

- shortened the recommended time for isolation from 10 days for people with COVID-19 to five days, if asymptomatic, followed by five days of wearing a mask when around others; and
- for most of those who are exposed to COVID-19 and unvaccinated, the CDC now also recommends a quarantine period of five days (instead of the previous seven to 14-day requirement) followed by "strict mask use" for an additional five days.

## Step-By-Step Process for Following New Guidance

Employers can follow the new guidance by following this step-by-step process:

### *Isolation Period for Infected Employee After Positive COVID-19 Test*

If an employee tests positive for COVID-19, they should follow this course regardless of vaccination status:

- Stay home for five days.
- If they have no symptoms or their symptoms are resolving after five days, they can leave their house.

house.

- They should continue to wear a mask around others for five additional days.
- If they have a fever, they should continue to stay home until the fever resolves.

### ***Quarantine Period After Employee is Exposed to Someone with COVID-19***

If an employee has “close contact” with a COVID-19 case, their course of action depends on their vaccination status.

- For employees who are unvaccinated, haven’t received a booster, or received their second dose of Moderna/Pfizer more than six months ago or their single dose of Johnson & Johnson more than two months ago:
  - Stay home for five days. After that, they should continue to wear a mask around others for five additional days.
  - If they can’t quarantine, they must wear a mask for 10 days.
  - They should get a COVID-19 test on day five, if possible.
  - If they develop symptoms, they should get a test and stay home.
- For employees who have received a booster after receiving a two-dose Moderna/Pfizer vaccine or a single-dose Johnson & Johnson vaccine, or received their second dose of Moderna/Pfizer less Than six months ago or their single dose of Johnson & Johnson less than two months ago:
  - Wear a mask around others for 10 days.
  - They should get a COVID-19 test on day five, if possible.
  - If they develop symptoms, they should get a test and stay home.

### **OSHA’s ETS Remains Unchanged – For Now**

Even though OSHA’s ETS (which is currently in effect) specifically references the CDC’s isolation guidance for employees who have contracted COVID-19, the new guidance’s five-day isolation period **does not yet apply to those employers covered by the ETS.**

Specifically, the ETS references and incorporates into its provisions an older version of the CDC isolation guidance, adopted on February 18, 2021, which required employees with COVID-19 to isolate for at least until:

- 10 days after their first symptoms or administration of their positive test;
- their symptoms improved, and
- they were fever-free for 24 hours (the ETS does not address quarantine periods for exposed employees).

As of now, the February 18, 2021 version of the CDC isolation guidance still applies for purposes of compliance with the ETS. OSHA cannot change the ETS to reflect the new guidance unless it publishes the new CDC guidelines in the Federal Register. However, based on our years of experience working with OSHA during inspections and when defending citations, we believe the agency will likely exercise discretion prior to citing an employer who falls under the ETS and adopts the new guidance. We will keep you updated on this issue and let you know if OSHA makes the required publications.

## **What Should Employers Do?**

Requirements concerning COVID-19 issues, especially for employers who fall under OSHA's ETS, are often confusing and often appear inconsistent. Take these five steps to place yourself in the best position to remain compliant despite this constantly shifting landscape.

### **1. OSHA's COVID-19 Vaccination or Testing ETS Governs Isolation – For Now – But Likely Will be Updated**

As noted, this is a fluid area. OSHA's ETS hasn't yet been updated to reflect the new guidance, but likely will be modified in the coming weeks. If you decide to follow the CDC's new guidelines, OSHA likely will not cite you from doing so – but there's no guarantee.

### **2. Educate Your Workforce**

Change has been a constant throughout the COVID-19 pandemic. Employees are always concerned when policies change. If employees know that their coworkers may return to the worksite approximately five days after being diagnosed with COVID-19, they may be concerned. Alleviate this problem by educating your workers on any new company policy on isolation, including providing information on the new CDC guidance and why you are making changes.

### **3. Vaccination Boosters are Important; Encourage Them – And Consider a Mandate**

As part of its press release announcing the new guidance as well in provisions of the guidance, the CDC highlighted the importance of COVID-19 vaccination boosters. Although they are not currently required to be considered "fully vaccinated" under the ETS and other guidance, encourage your employees to receive them this winter as COVID-19 cases remain high. If you have already mandated the vaccine in the workplace, consider requiring employees to receive a booster dose as well.

### **4. Contact Tracing Is Still Crucial to Minimize Cases of COVID-19**

As part of reducing the number of COVID-19 cases in the workplace, perform contact tracing when an employee tests positive for the virus following the 6-15-48 method. This includes asking the infected employee, and assessing the workplace, to determine who worked within six feet of the infected worker, for 15 minutes or more (cumulatively during any 24-hour period), during the time period of 48 hours before the infected person had symptoms or, if asymptomatic, the administration of the positive COVID-19 test. Implementing this process will prevent the illness from spreading in your workplace.

## 5. **Develop a COVID-19 or Infectious Disease Policy and ETS Policy**

If you haven't already done so, implement a written COVID-19 or infectious disease policy to document your work rules on how to minimize cases in your workplace. The OSHA ETS also requires written policies, including a mandatory vaccination policy or testing and masking policy, which Fisher Phillips has available. Ask your Fisher Phillips attorney about these documents. Having written policies in place will not only keep you compliant with governing rules, but also allow you to communicate your policies effectively to your employees.

## **Conclusion**

We will continue to monitor this development and provide updates as warranted. Until then, Fisher Phillips has created [a set of comprehensive FAQs for employers on the ETS](#) to help you navigate through this process. Make sure you are subscribed to [Fisher Phillips' Insight system](#) to get the most up-to-date information.

If you have questions about how to ensure that your vaccine policies comply with workplace and other applicable laws, visit our [Vaccine Resource Center for Employers](#) or contact your Fisher Phillips attorney, the author of this Insight, or any attorney on our [FP Vaccine Subcommittee](#).

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