

November 2021

HR BRIEF

Provided by Infinity Benefit Solutions, Inc.

OSHA Releases Vaccination and Testing ETS

The Occupational Safety and Health Administration (OSHA) recently [announced a federal emergency temporary standard](#) (ETS) to address the grave danger of COVID-19 infection in the workplace. Affected employers will be required to comply with most provisions of the ETS by **Dec. 6, 2021**, and with its testing requirements by **Jan. 4, 2022**. Affected employers include private employers with 100 or more employees (firmwide or companywide count). State plans will have 30 days to adopt the federal ETS or implement their own vaccination standard.

The ETS requires employers to:

- Develop, implement and enforce a mandatory COVID-19 vaccination policy; or
- Create a policy allowing employees to choose to get a vaccination or wear a face covering in the workplace and have weekly COVID-19 testing done.

Employers must also determine the vaccination status of each employee, obtain acceptable proof of vaccination and keep a roster of each employee's vaccinations status.

Weekly Testing Requirements

Employees who are not fully vaccinated must be tested weekly or within seven days before returning to work. The ETS does not require employers to pay for any costs associated with testing. However, employer payment for testing may be required by other laws, regulations, collective bargaining or other agreements.

Paid Leave Requirements

Employers are required to allow reasonable time—including up to four hours of paid time—for employees to receive a primary vaccination dose. Reasonable time and paid sick leave are also required to be provided to recover from any side effects of the vaccination.

Employer Takeaway

At this time, employers should review eligibility and requirements for the ETS. Affected employers must develop, implement and enforce a COVID-19 vaccination policy that complies with the ETS.

Final Forms for 2021 ACA Reporting Released

The Internal Revenue Service (IRS) released final 2021 forms for reporting under Internal Revenue Code (Code) Sections 6055 and 6056.

- 2021 Forms [1094-B](#) and [1095-B](#) are the forms that will be used by providers of minimum essential coverage (MEC), including self-insured plan sponsors that are not applicable large employers (ALEs), to report under Section 6055.
- 2021 Forms [1094-C](#) and [1095-C](#) are the forms that will be used by ALEs to report under Section 6056 and for combined Section 6055 and 6056 reporting by ALEs who sponsor self-insured plans.

No substantive changes were made to the forms for 2021 reporting. These forms are substantively identical to the final 2020 versions.

Final instructions have not been released yet. However, draft instructions (for [Forms 1094-B and 1095-B](#) as well as for [Forms](#)

[1094-C and 1095-C](#)) are available, which include updated penalty maximums for 2021. Keep in mind that certain other changes may be made once the instructions are finalized.

Important Dates

Employers should note the upcoming deadlines for Affordable Care Act (ACA) reporting:

- Individual statements for 2021 must be furnished by Jan. 31, 2022.
- Paper IRS returns for 2021 must be filed by Feb. 28, 2022.
- Electronic IRS returns for 2021 must be filed by March 31, 2022.

Action Steps

Employers should become familiar with these forms for reporting for the 2021 calendar year. Note that additional information may become available regarding these forms once final instructions are released.