



Monthly Strategies

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Lost your COVID-19 vaccine card?

As proof of vaccination becomes required at some workplaces and establishments, if you've lost or misplaced your COVID-19 vaccine card, there's a remedy. Now, Delawareans can go online and print a copy of their vaccination record by clicking the following link: [DelVAX](#) portal. Just enter your name, birthdate, gender, and either your email or telephone number.

If you need assistance call 1.800.282.8672 or email DelVAX@delaware.gov. Responses to emails and calls received after regular business hours or on weekends may take up to 48 hours.

Not Eligible for Unemployment

If your organization requires a COVID-19 vaccination as a condition of employment and employees don't comply and are terminated for not meeting the condition of employment (like any other condition of employment such as drug testing, wearing a uniform, etc.) they are not eligible for unemployment insurance.

Federal Contractor COVID Vaccine Mandate Guidance Released

President Biden signed an executive order earlier this month to require federal contractor employers to ensure their employees working on or in connection with a qualifying federal contract (or subcontract) are "fully vaccinated." The contours of the new requirement would rely on guidance to be issued by the newly formed, "Safer Federal Workforce Task Force." The executive order gave the Task Force until September 24, 2021 to release that guidance. The Task Force provided a 14-page guidance document, and an overview is provided. The "drop dead" date for vaccinating covered federal contractor employees is **December 8, 2021**. After that date passes, the deadline will be the first day of the period of performance on a newly

awarded covered contract (or exercised option or extended or renewed contract).

The guidance can be broken down into three distinct parts: 1) rules for vaccinating all contractor employer employees working "on or in connection with" a covered contract (regardless of where the work is performed); 2) rules for anyone visiting the work site of a covered federal contractor employer; and 3) rules for employees performing work at a federal site.

Vaccination of Covered Workers

Regardless of where work is performed, all federal contractor employees who perform any work on or in connection with a qualifying federal contract or subcontract will need to be "fully vaccinated" by **December 8, 2021**. The guidance defines "fully vaccinated" as two weeks after the last shot in the vaccination course. So, if an employee receives either the Pfizer or Moderna vaccines, they are "fully vaccinated" two weeks after their second dose is administered. If they receive the Johnson & Johnson single-dose vaccine, they are fully vaccinated two weeks after their one and only dose. So far, the guidance is silent on the issue of vaccine booster shots.

Agencies are being given an "out" here, though. The guidance notes: "Should a Federal agency have an urgent, mission-critical need for a covered contractor to have covered contractor employees begin work on a covered contract or at a covered workplace before becoming fully vaccinated, the agency head may approve an exception for the covered contractor—in the case of such limited exceptions, the covered contractor must ensure these covered contractor employees are fully vaccinated within 60 days of beginning work on a covered contract or at a covered workplace. The covered contractor must further ensure that such employees comply with masking and physical distancing requirements for not fully vaccinated individuals in covered workplaces prior to being fully vaccinated."

Recordkeeping

Federal contractor employers are also responsible for requiring covered employees to provide one of the following documents to prove vaccination:

- A copy of the record of immunization from a health care provider or pharmacy;
- A copy of the COVID-19 Vaccination Record Card (CDC Form MLS-319813_r)
- A copy of medical records documenting the vaccination;
- A copy of immunization records from a public health or State immunization information system; or
- A copy of any other official documentation verifying vaccination with information on the vaccine name, date(s) of administration, and the name of the health care professional or clinic site administering the vaccine.

Covered employees may satisfy their obligation by providing “digital copies” of the required documentation including, for example, digital photos, scanned images, or PDFs. An attestation of vaccination by the employee is not an acceptable substitute, regardless of whether it is “sworn” or how many Notaries Public witness it.

Rules for All Workers and Visitors at Federal Contractor Workplaces

The federal contractor vaccine mandate requires covered federal contractor employers to require all employees, visitors, or other workers at contractor locations to follow CDC guidance for masking and physical distancing.

The employer is responsible for ensuring that: employees wear their masks consistently and correctly (over mouth and nose, not hanging off one ear or under the chin); masks are “appropriate” (meet the definition of “mask” and not made of mesh or single layer fabric, for instance); and individuals who are not fully vaccinated wear a mask in crowded outdoor settings or during outdoor activities that involve sustained close contact with other people who are not fully vaccinated, “consistent with CDC guidance.”

Some of the CDC guidance—for unvaccinated individuals outdoors, for instance—can rely on the level of community spread in the area. Employers

are responsible for checking the CDC COVID-19 Data Tracker County View website for community transmission information in all areas where they have “covered contractor workplaces.” Covered workplaces are defined as any employer-controlled location where a covered employee “is likely to be present during the period of performance for a covered contract.”

If community spread rises from low or moderate to substantial or high, contractors must implement the stricter protocols for high community spread as soon as possible. If the trend goes the other way, community spread must remain low and stable for a period of two weeks before contractors are allowed to loosen protocols to the lower community spread standard.

Working at a Federal Site?

Originally the administration considered only requiring vaccination for federal contractor employees who work at federal sites. That original course was abandoned, though, and the vaccine requirement extends to all employees performing work “on or in connection with” a qualifying contract, regardless of where work is performed. However, if work is to be performed *on federal property*, such employees must follow whatever COVID protocols are in place for federal employees at the site.

Designate a COVID-19 Workplace Safety Coordinator

The Task Force requires covered federal contractor employers to designate “a person or persons to coordinate implementation of and compliance with” the guidance. The designated individual(s) is responsible for informing employees, other workers, and visitors of COVID workplace safety protocols and for ensuring covered employees comply.

Contact HR Strategies staff at 302.376.8595 or info@hrstrategies.org if you would like support or would like to learn more about the items in this newsletter. Please contact us if you would like to be removed from our Monthly Strategies mailing list or if you would like for us to add someone to our mailing list.