

# EMPLOYMENT LAW UPDATE

## Revocation of the Virginia Standard for Infectious Disease Prevention of COVID-19

On March 21, 2022, the Virginia Safety & Health Codes Board (Board) voted to revoke the Virginia Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus that Causes COVID-19 (Standard). The revocation is effective **March 23, 2022** upon publication in the Richmond Times-Dispatch.

The Department of Labor and Industry (DOLI) proposed the revocation following the issuance of [Executive Order 6](#) by Governor Youngkin, which stated that the Standard was “not having a measurable impact on preventing the spread of COVID-19” but was having a “significant burden on businesses.” Ultimately, the Board concluded that the Standard was no longer necessary based on “scientific and medical evidence that the current widespread variants of the virus no longer constitute a grave danger to employees in the workplace.” See Recommended Action Document, presented at [March 21, 2022 meeting](#). Note that while the Standard has been revoked, employers must still comply with any Virginia Occupational Safety and Health industry- or workplace-specific mandatory safety and health standards.

The DOLI has prepared a guidance document ([Guidance](#)), which will be published in the Virginia Register on March 28, 2022 for a 30-day comment period. The Guidance provides *recommendations* (not requirements) for employers in mitigating the risk of COVID-19 to employees. It specifically notes that employers have the right to implement safety and health rules in the workplace that are stricter than the Guidance. The DOLI Commissioner has noted that the Department will continue to look at the Guidance and adjust it as necessary.

The revocation of the Standard means, in part, that employers are no longer required to have written COVID-19 policies for their Virginia-based workforce. Additionally, employers no longer need to require unvaccinated employees to wear face coverings. Notwithstanding the revocation of the Standard, under the Occupational Safety and Health Act and Va. Code §40.1-51.1.A, employers are still responsible for providing a safe and healthy workplace free from recognized hazards likely to cause death or serious physical harm. For that reason, employers should consider maintaining their COVID-19 policies to continue mitigating exposure and transmission in the workplace, especially policies encouraging employees with COVID-like symptoms to stay home from work and seek testing/medical advice and policies requiring employees infected with COVID-19 to refrain from reporting to work.

Employers should keep in mind that while the Guidance encourages individuals to “consider the benefits of vaccines and boosters” (Guidance at 1), there is no vaccination mandate at the state or federal level. Thus, the decision as to whether to require vaccinations is left to individual employers.

**Conclusion**

The revocation of the Standard means that, for the most part, COVID-19-related health and safety measures in Virginia workplaces are now voluntary. To ensure a safe and healthy workplace, we recommend that employers continue to take steps to diminish the risk of COVID-19 to employees.

***More Questions?  
We are here to help.***

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