

## VIRGINIA'S PERMANENT COVID STANDARD HAS BEEN REVISED, AGAIN

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Virginia's Department of Labor and Industry (DOLI) has made additional changes to Virginia's safety standard on COVID in the workplace, the Permanent COVID Standard (**16VAC25-220, VOSH Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19**). In July 2020, Virginia became the first in the nation to issue workplace safety rules regarding COVID-19, with its emergency temporary standard. DOLI revised the emergency temporary standard and made it permanent in January 2021, with the Permanent COVID Standard. Now, in light of the ever-changing guidance from the Centers for Disease Control (CDC) on this issue, DOLI has revised the Permanent COVID Standard yet again. This article highlights the main changes in the Revised Standard.

Foremost, the Revised Standard does away with the more burdensome requirements of the last version. Employers no longer have to classify their workers into low, medium, high, and very high exposure risk groups, or complete hazard assessment forms for medium exposure risk groups. Training is required only for health care services, health care support services, and higher-risk workplaces.

The Revised Standard further simplifies compliance for businesses by providing that actual compliance with current CDC guidelines will be considered compliance with the Revised Standard. As the CDC guidelines change faster than DOLI can revise its COVID Standard, this provision allows employers the flexibility to respond to COVID issues with the latest information.

Under the Revised Standard, businesses should remove from the workplace employees who are COVID-19 positive or have "suspected COVID-19," which is defined as: told by a health care provider that they are suspected of having COVID-19; experiencing a recent loss of taste/smell with no other explanation; a fever and new cough with shortness of breath; or other COVID-19 symptoms without other explanation. Employees who have COVID-19 or suspected COVID-19 should remain out until the employer determines that it is safe to return the employee to work under the then-current CDC guidelines. Employees with suspected COVID-19 can be returned earlier if they receive a negative COVID-19 polymerase chain reaction test result.

On face coverings, the Revised Standard requires that unvaccinated employees and "otherwise at-risk employees (because of a prior transplant or other medical condition)" wear them while indoors. In areas of "substantial or high community transmission," vaccinated employees must wear them, too. Employees do not need to wear face coverings, however, when they are alone in a room.

One additional change is worth noting: the Revised Standard requires that employers have a way to receive anonymous complaints from employees about COVID safety violations.

Vandeventer Black LLP continues to monitor the COVID-19 situation closely and is available to assist businesses in responding to this crisis.