

Virginia Passes First-In-Nation OSHA Standard for COVID-19

By [Courtney M. Malveaux](#) on July 15, 2020

Employers wondering whether Virginia is the new California just got their answer: California has some catching up to do.

In a split vote, the Virginia Safety and Health Codes Board (which includes author Courtney Malveaux) passed a first-in-the-nation standard to address COVID-19 in workplaces. Virginia Occupational Safety and Health (VOSH), the state's version of the Occupational Safety and Health Administration (OSHA), now will enforce a standard that mandates — and in some instances exceeds — guidance issued by the U.S. Centers for Disease Control and Prevention (CDC) and OSHA. The new standard covers most private employers in Virginia, as well as all state and local employees.

In addition to CDC and OSHA guidelines, the standard includes provisions that require employers to:

- Provide flexible sick leave policies, telework and staggered shifts when feasible;
- Provide both handwashing stations and hand sanitizer when feasible;
- Assess risk levels of employers and suppliers before entry;
- Notify the Virginia Department of Health of positive COVID-19 tests;
- Notify VOSH of three or more positive COVID-19 tests within a two-week period;
- Assess hazard levels of all job tasks;
- Provide COVID-19 training of all employees within 30 days (except for low-hazard places of employment);
- Prepare infectious disease preparedness and response plans within 60 days;

- Post or present agency-prepared COVID-19 information to all employees; and
- Maintain air handling systems in accordance with manufacturers' instructions and American National Standards Institute (ANSI) and American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) standards.

The standard protects employees who raise reasonable concerns about infection control to print, online, social or other media. It also requires building and facility owners to report positive COVID-19 tests to employer tenants. The standard exempts private and public institutions of higher education with re-opening plans certified by the State Council of Higher Education in Virginia (SCHEV) and public school divisions that submit re-opening plans to the Virginia Department of Education. No such exemptions are provided to private elementary and secondary schools.

The standard also implements provisions that echo CDC and OSHA guidance, including requirements to:

- Place requirements on workplaces based on hazard levels (i.e., “very high,” “high,” “medium,” and “low”);
- Screen employees prior to entry to work;
- Establish requirements for employees with COVID-19 positive tests and symptoms before returning to work;
- Require social distancing or, when social distancing is not possible, respiratory protection; and
- Clean and disinfect commonly used areas and equipment.

The emergency standard will take effect upon publication at the end of July and is set to expire within six months or upon expiration of the Governor's State of Emergency or the enactment of a permanent standard.

Virginia is a “State Plan” state that operates its own occupational safety and health program under an OSHA grant. There are twenty-seven other “State Plan” states that might also consider similar COVID-19 standards as well.

If you have questions or need assistance in an OSHA or VOSH matter, please reach out to a member of the [Jackson Lewis Workplace Safety and Health Practice Group](#).