



MEMORANDUM

Date: November 5, 2021

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: Jan Leshner 
Chief Deputy County Administrator

Re: **Occupational Safety and Health Administration Issues Emergency Temporary Standard Regarding Vaccination Requirements for Employers with 100 Employees or More**

On November 4, the U.S. Department of Labor's (DOL) Occupational Safety and Health Administration (OSHA) issued an emergency temporary standard (ETS) to require large employers to develop, implement and enforce a COVID-19 vaccination policy or institute a policy to allow employees to choose between vaccination, and at least weekly testing and masking. The ETS applies to employers with 100 employees or more that are subject to the Occupational Safety and Health (OSH) Act of 1970. Arizona operates under an OSHA-approved state plan which must be generally consistent with OSHA rules. County governments are subject to the rules adopted under the state plan.

The ETS takes effect today, November 5, 2021, and requires that impacted employers develop a mandatory COVID-19 vaccination policy, which suggests that effective December 5, unvaccinated employees will be required to wear a mask at all times. In addition, if an employee is not fully vaccinated by January 4, 2022, regular testing will be required, at the employee's expense.

Under a "state plan," which Arizona has, when an ETS is issued, the state plan must either amend their standards to be identical or "at least as effective as" the new standard, or show that an existing State standard is "at least as effective as the Federal standard. According to an Industrial Commission of Arizona (ICA) statement released yesterday, it believes that Arizona's OSHA-approved plan provides for the exclusive responsibility for the development and enforcement of occupational safety and health standards by the State of Arizona and, therefore, opines that the OSHA ETS is not binding or enforceable in Arizona.

Pima County staff is monitoring the rollout of this emergency temporary standard and developing appropriate policies for consideration by the Board of Supervisors should it be determined that the OSHA ETS provisions will apply to counties in Arizona.

JL/anc

c: Francisco García, MD, MPH, Deputy County Administrator & Chief Medical Officer,
Health and Community Services
Cathy Bohland, Director, Human Resources
Terry Cullen, MD, MS, Public Health Director, Pima County Health Department