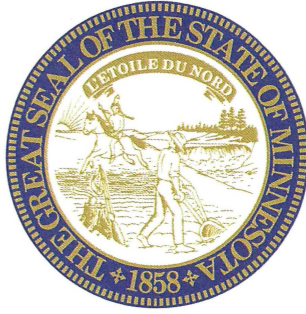


Melissa Hortman
Speaker of the House

District 36B
Anoka
Hennepin



Minnesota House of Representatives

Date: January 10, 2022
To: All Members & Staff
From: Melissa Hortman
RE: OSHA's Emergency Temporary Standard (ETS) on COVID-19 Vaccination

On November 4, 2021, the Occupational Safety and Health Administration (OSHA) issued an Emergency Temporary Standard (ETS) requiring all private employers with 100 or more workers to ensure all employees are either fully vaccinated for COVID-19, or provide a weekly negative test and wear a face covering while working. This standard is a floor and not a ceiling for COVID-related safety protocols an employer may put into place.

In states with state plans, including Minnesota, the ETS requirement to vaccinate or test and mask also applies to public employers. Minnesota adopted the ETS by reference on January 3, 2022, and it will remain in effect for six months. The requirements of the ETS go into effect today. Although all legislative staff are covered under the ETS, MN OSHA has indicated that elected officials are not covered by the ETS. Litigation regarding the ETS is ongoing, but as of today, the Supreme Court has not stayed or struck down the ETS. We will continue to monitor legal developments.

In order to comply with this standard, I will ask the Minnesota House of Representatives Rules and Legislative Administration Committee to approve a COVID-19 vaccination policy which includes:

- A requirement that all employees and interns become fully vaccinated and provide documentation of vaccination status by February 9, 2022, OR provide the results of weekly negative testing by February 9th and for the duration of the ETS.
- An option for weekly testing in lieu of vaccination is available for those who choose not to become fully vaccinated. Note: The policy will include additional detail on how to test; according to the ETS, the test may not be both self-read and self-administered. Weekly testing applies to all House staff and interns who are not fully vaccinated.
- The testing requirements do not apply to employees who work entirely remotely, but an employee must receive a test and report the results in the seven days before returning to the workplace. In addition, an employee who has received a positive



COVID-19 test or been diagnosed with COVID-19 by a healthcare provider does not have to undergo testing for 90 days following the date of the positive test or diagnosis.

- Employees who wish to receive either their first or second dose (in the case of Moderna or Pfizer) will be allowed up to four hours of leadership approved leave to become fully vaccinated. Please note that the ETS does not require a booster for an employee to be considered fully vaccinated.
- Employees who fail to provide weekly testing may be allowed up to two weeks of unpaid leave to comply with the requirements of the policy by becoming fully vaccinated or providing the required test results. Employees who fail to comply with the policy may be subject to discipline.
- Face coverings, as defined in the ETS, are required while on work time and not working remotely; this requirement will also apply to members. Until the Rules Committee adopts a new policy, the House's policy requiring masks for all members and staff while on work time and not working remotely remains in place. The House will also maintain its requirement that employees notify Human Resources when they receive a positive COVID-19 test or are diagnosed with COVID-19.

The House has an obligation to comply with OSHA standards or face stiff penalties for noncompliance. Minnesota OSHA has indicated it will start to issue citations for noncompliance with testing requirements on February 9, 2022.

Employees needing an accommodation for religious or medical reasons should contact Human Resources no later than February 1, 2022. Such requests will be evaluated on a case-by-case basis.

The Occupational Safety and Health Act prohibits retaliation against employees for exercising their rights guaranteed under the Act, including filing an occupational safety or health complaint, reporting a work-related injury or illness, or otherwise exercising any rights afforded by the OSH Act. For more information, see the [Workers' Rights under the COVID-19 Vaccination and Testing ETS \(osha.gov\)](#). The OSH Act also provides criminal penalties associated with knowingly supplying false statements or documentation.

Employees may find information about the vaccines at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/keythingstoknow.html> (*Key Things to Know About COVID-19 Vaccines*)