

What Associations Need to Know: COVID-19 Vaccines and the Workplace

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Remain flexible!

Know and Follow:

1

**LOCAL AND
STATE ORDERS**

2

**STATE AND
FEDERAL LAWS**

3

**CDC GUIDANCE AND
PUBLIC HEALTH
AUTHORITIES**

VACCINE MANDATES

Vaccine Mandates

- Era of the “Great Resignation”.
- It is generally permissible for employers to mandate immunizations.
- Generally, state restrictions on employers apply to state or local employers.
- Most of the workforce will be covered by the Federal Rule.

Vaccination Mandates

- **Hard Mandate** requires staff to be fully-vaccinated as a condition of employment.
- **Soft Mandate** requires proof of vaccination or unvaccinated may be subject to additional requirements or limitations.
- Must consider medical and religious exemptions to vaccine mandates; not necessary if there is a testing option.

Hard Mandate

- Ensure that the state or locality where the employee lives or works prohibit employer vaccine requirements; keep up-to-date with any changes.
- Determine which employees the policy applies to; does it apply to remote employees, only to certain positions or locations, or does it apply across the organization.
- Provide employees with advance notice and a set deadline for compliance.
- Describe process for requesting an exemption, where requests should be directed, and what needs to be submitted as part of the request.
- Be prepared to deal with non-compliance.

Soft Mandate

- Unvaccinated individuals are not a protected class (except in Montana).
- Permissible to impose additional safety requirements on unvaccinated employees, such as testing, masking, social distancing, or exclusion.
- If require testing of unvaccinated employees, need to determine how often unvaccinated need to test and what tests will be accepted.
- Be sure to have a secure, confidential method for collecting and maintaining all testing results.

Proof of Vaccination

- Honor system
- Attestation
- Copy of vaccination card

Vaccination status is considered confidential information; be sure to keep any vaccination records in a separate place with limited access.



*What about
boosters?*

EXEMPTIONS

Disability Exemption

- Must consider accommodations to vaccination mandates for disability-related reasons.
- Remember that the definition of disability is pretty broad under the Americans with Disabilities Act; the same analysis applies with COVID, as with any disability-related accommodation request.
- The vaccine is recommended for a broad group of individuals, including those with certain medical conditions.
- Even when an accommodation is made, other safety precautions still permissible.

Religious Exemption

- Title VII and most state laws prohibit discrimination on the basis of religion.
- Federal and state laws require exceptions for religious beliefs.
- Protections are broad – can apply to religions you have never heard of, subscribed by only a small number of people or that seem illogical or unreasonable others.
- What *doesn't* constitute “religion”?
 - Constitutional or liberty issues.
 - Political beliefs
 - Involuntary testing
 - Safety concerns
 - Lack of need (already had COVID)
 - Mis-information about vaccines

Religious Exemption

- Two Step Process:
 1. Is the request based upon a “sincerely held religious belief”?
 2. Can it be accommodated without imposing more than a *de minimus* burden?
- Employers should assume that an employee’s request is based on a sincerely held religious belief.
- Employers can push back if there is an objective basis to question the religious nature or sincerity of the belief.
 - May request additional supporting information and documentation.
 - Consider conducting a personal interview with the employee.
- Ultimately, employer needs to be able to defend any conclusion that an accommodation is not available.

When COVID-19 Happens: Be Prepared

- Be familiar with the most recent CDC guidance.
- Develop an Employee COVID-19 Response Plan
- Communicate with staff proactively about expectations and process for notifying employer if they are exposed or diagnosed with COVID-19.
- Always be sure to maintain confidentiality.

Resources

- [NAR COVID Resources](#)
- [CDC Workplace Guidance](#)
- [EEOC COVID-19 FAQs](#)

THANK YOU.



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