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COVID-19 Vaccination in the Workplace

Hosted by: Vermont Manufacturing Extension Center



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Legal Considerations for COVID-19 Vaccination in the Workplace



Are mandatory vaccination policies lawful?

- **Yes, though this question has been litigated, a private employer may institute a mandatory vaccination policy if it is deemed necessary to protect the safety of the workplace, and the usual standards for engaging in an interactive process and reasonably accommodating employees still apply.**
 - Disabilities
 - Pregnancy/pregnancy-related conditions
 - Sincerely held religious beliefs



Does EUA status preclude mandatory workplace vaccination policies?

- **Likely not. This may also be litigated.**
- Fact sheets for vaccine recipients:
 - *"It is your choice to receive or not receive the Pfizer-BioNTech COVID-19 Vaccine."*
 - *"It is your choice to receive or not receive the Moderna COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care."*
 - *"It is your choice to receive the Janssen COVID-19 Vaccine."*



EEOC Guidelines on COVID-19 Vaccinations

What You Should Know About COVID 19 and the ADA, the Rehabilitation Act, and Other EEO Laws (last updated 12/16/20)

- In general, employers with a valid, job-related reason can mandate that employees receive a vaccine that has been authorized by the FDA, with the exceptions to reasonably accommodate employee medical conditions, disabilities, and sincerely held religious beliefs.

The CDC refers employers to EEOC guidance.



Examples of reasonable accommodations

- Continued remote work
- Continued masking or other types of PPE
- Temporarily assigning job duties that do not include close contact with others (e.g., non-direct client/customer duties)
- Reassigning the employee to a vacant position or department that would not require vaccination
- Leave of absence



OSHA Guidelines

- OSHA- Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace (guidance posted 1/29/21)
 - ***Making a COVID-19 vaccine or vaccination series available at no cost to all eligible employees.*** Provide information and training on the benefits and safety of vaccinations.
 - ***Not distinguishing between workers who are vaccinated and those who are not:*** Workers who are vaccinated must continue to follow protective measures, such as wearing a face covering and remaining physically distant, because at this time, there is not evidence that COVID-19 vaccines prevent transmission of the virus from person-to-person. The CDC explains that experts need to understand more about the protection that COVID-19 vaccines provide before deciding to change recommendations on steps everyone should take to slow the spread of the virus that causes COVID-19.



Best Practices

- Stay up-to-date with federal and Vermont guidance
- Adopt policies to address vaccination requirements, if any
- Engage in a dialogue with employees who request accommodations
- Be flexible, when possible
- Maintain employee medical information as confidential