



Mandating COVID-19 Vaccinations for U.S. Law Enforcement Personnel

Educate Yourself. Stay Informed. Be Safe.

Police leaders in the U.S. may require employees to be vaccinated without violating any federal statutes. However, employers are required to consider religious accommodation requests under Title VII of the Civil Rights Act of 1964 (Title VII) and medical accommodation requests under the Americans with Disabilities Act (ADA). This aligns with the ways in which departments may similarly mandate tetanus; hepatitis; measles, mumps, and rubella (MMR); and/or flu immunizations, or issue medical requirements for health and fitness.

MEDICAL AND RELIGIOUS EXEMPTIONS

Employees can refuse to be vaccinated if they have valid medical or religious objections to vaccination.

- Employees seeking a medical exemption or accommodation must establish a qualifying disability under the ADA or state/local regulations that prevents them from taking the vaccine.
- Employees seeking a religious exemption or accommodation under Title VII must establish that the vaccine would violate a sincerely held religious belief, practice, or observance.
- Moral, ethical, or personal objections, including anti-vaccination positions, are legally insufficient to obtain an exemption or require an accommodation.
- Where a religious or medical objection is raised, an employer must offer to engage in what is called the “interactive process” – a collaborative discussion to determine if an individual’s objections can be accommodated.

Accommodations for an employee exempt from vaccination can include such things as:¹

- Increasing or mandating the use of personal protective equipment (PPE)
- Moving the employee’s workstation
- Temporary reassignment
- Virtual or remote working
- Minimizing interactions with other employees or the public

In many cases, such accommodations will not be possible, especially for line officers. And, depending on the size of the department, they may place an undue burden on the employer, making any requested accommodation unreasonable. If, after engaging in the interactive process, no reasonable accommodation can be found, employees may be terminated or granted unpaid leave.

OPERATIONAL CONSIDERATIONS

Absent further guidance from the U.S. Equal Employment Opportunity Commission (EEOC), agencies considering a mandatory COVID-19 vaccination program should consider the following actions:

- In departments with collective bargaining agreements, provide notice and an opportunity to request bargaining to agreement or impasse before implementing a new rule.
- Provide access to and pay for the vaccine if it is not already covered by health insurance.
- Update job descriptions to specify essential functions that might compel mandatory vaccination (i.e., travel, public interaction, etc.).
- Consider, based on job descriptions, whether a mandatory policy is necessary for all members of the department in light of other alternatives such as remote work and other CDC-recommended measures to prevent the spread of COVID-19.
- Plan for a staggered vaccination schedule in consultation with medical providers, should employees experience side effects and be unable to work after receiving the vaccine.

¹ For additional examples of accommodations, refer to Question G.5 of the EEOC’s Technical Assistance Questions and Answers at: <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>.



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- Maintain records of vaccinated employees, but keep medical records separate from general personnel files and limit internal access to medical information to those with a specific need to know.
- Recognize that employees suffering allergic reactions or other adverse side effects to mandatory vaccinations, as well as those infected with COVID-19 by coworkers, could file workers' compensation claims.
- Keep in mind that a vaccine is not a fail-safe for an employer's general obligation to provide a safe working environment.
- Consult with legal counsel to navigate the laws and regulations related to how COVID-19 impacts the workplace.
- CDC: COVID-19 Vaccine Plans by State/Territory: <https://www.cdc.gov/vaccines/covid-19/covid19-vaccination-guidance.html>
- EEOC: What you should know about COVID-19: <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>
- EEOC: COVID-19 Guidance: <https://www.eeoc.gov/coronavirus>
- FDA: COVID-19 Vaccines: <https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/covid-19-vaccines>

As COVID-19 vaccines are approved by the U.S. Food and Drug Administration (FDA) and become available for use, employers should continue to monitor guidance and regulations relating to vaccinations in the workplace from the EEOC, Centers for Disease Control and Prevention (CDC), and other federal, state, and local authorities.

ADDITIONAL RESOURCES

- Collins, John M. *Mandating Vaccinations for Public Safety Personnel*. Police Chief Magazine, January, 2021. www.policechiefmagazine.org/chiefs-counsel-mandating-vaccinations
- CDC: COVID-19 Vaccines: <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/index.html>

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