

Covid-19 Return to Work Plan

Vaccination Toolkit

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Vaccination Policy Considerations

When establishing a company policy for employee vaccinations, employers should consider the following factors to determine the risk of exposure for employees and their customers arising out of business operations.

1. Risk exposure for your organization:

- Evaluate the type and amount of contact employees have with each other and with the public.
- Proactively contemplate Reasonable Accommodations to limit exposure. Examples of these considerations may include:
 - Increased social distancing
 - Workspace dividers
 - Reconfigured work space
 - Remote work options
- Review procedures for essential business travel for employees – If it is essential for employees to travel for business, what steps the employer can take to minimize employee risk.

2. Establishing policy:

- Business necessity – Do operations necessitate mandatory vaccination?
- Employee concerns/hesitation – Understanding employees' feelings about vaccination can aid employers in establishing an effective policy.
- Expense obligation – Who pays for vaccination? Is cost covered by employee health insurance or available through state or local agencies free of charge?
- Develop timelines for compliance – Consider vaccine availability when establishing timelines for compliance.
- Reasonable accommodations – Have a plan to handle employee requests for reasonable accommodation to forego vaccination.
- Incentives – Weigh risks against benefits for offering vaccination incentives; employers should avoid incentives that may appear coercive. See "Risks of Employer Incentivized Vaccinations" for more information on this topic.

3. Policy implementation:

- Communicate company policy in writing with signature acknowledgement
- Responding to employee questions – Identify a workplace coordinator to respond to Covid-related questions and concerns.
- Documentation and recordkeeping – Maintain records of employee activity related to training and vaccination; protected health information must be stored in a secured environment.
- Vaccination vendor/location – Identify vaccination vendor and location for referrals.

Vaccination Q & A

Q. Can employers ask employees if they receive a Covid-19 vaccine?

A. Employers can ask employees if they received a Covid-19 vaccine; however, caution should be taken to avoid soliciting information related to an employee's medical condition. A simple yes or no response from employees should be sufficient and employers should instruct employees not to provide additional information about the reason they may not have received the vaccine.

Q. Do we need to have a policy in place if we are requiring or encouraging employees to receive the COVID-19 vaccine?

A. Yes; employers should develop a policy outlining any requirement or recommendation for COVID-19 vaccinations in the workplace.

Q. Do employers need to pay for the COVID-19 vaccination for their employees?

A. If the employer mandates vaccination, the employer may be required to pay for the vaccine and pay employees for time spent getting the vaccine. Under the Fair Labor Standards Act, an employer must cover any work-related expenses for an employee if the cost of the expense would drop the employee below minimum wage. State laws may also require payment.

Q. Can employers be held liable for administering COVID-19 vaccinations onsite?

A. The Public Readiness and Emergency Preparedness Act may provide employers immunity from claims related to side effects of a vaccine or other injury at the employer's vaccination site if the employer supervises or administers an onsite vaccination program.

Q. Can we fire an employee for refusing to get a COVID-19 vaccination?

A. Absent a medical or religious exemption from a mandatory vaccination requirement, an employer may require COVID-19 vaccination, as a condition of employment and

terminate employees who do not comply. *However, employers should tread carefully with this practice and consult legal counsel prior to making termination decisions.*

Q. After employees have been vaccinated, can they stop practicing other preventive measures such as social distancing and wearing masks?

No. CDC recommends that people continue to take these and other preventive measures after they are vaccinated. Even if employees have received the COVID-19 vaccine, it will be important for them to continue other preventive measures such as wearing a mask, staying 6 feet away from others, avoiding crowds, washing hands often, and cleaning high-touch surfaces frequently. It takes time for your body to build protection after any vaccination, and the COVID-19 vaccine may not protect you until a week or two after your second shot (dose). Together, getting vaccinated for COVID-19 and following CDC's recommendations for how to protect yourself and others will offer the best protection from getting and spreading COVID-19.

Vaccination Incentives

Employers should consider many variables when determining whether to offer incentives to encourage employee vaccination. While employers may have the best intention to provide a safe workplace, incentivizing vaccination poses risk to the employer. Some of the risks associated with incentives include claims of discrimination (under the Americans with Disabilities Act (ADA) and Title VII (Religious discrimination), wage theft (unpaid/improperly paid wages), and non-compliance with HIPPA wellness program provisions.

Regardless of any incentive offered, employers should ensure that the organization's vaccination program emphasizes concern for each individual's health and safety. The information below describes various incentives and employer actions, classified by their level of risk. The following chart illustrates the level of risk associated with corresponding incentive activities:

Risk Level		Activities	
Low Risk:	Employee Education	Providing PTO for all employees	Offering a 'de minimis' incentive
Medium Risk:	Paying for vaccine related expenses	Providing PTO for vaccinated employees	Offering a drawing for a prize
High Risk:	Offering financial incentives for vaccination	Providing additional benefits for vaccinated employees only	

Lowest Risk Incentives

Low risk incentives include educating employees about the COVID-19 vaccine, providing all employees with a specific amount of paid time off (PTO), which employees may use to obtain the COVID-19 vaccine or offering a *de minimis* incentive. An ongoing education campaign allows an employer to explain why employees should receive vaccinations and how vaccination will help them. Whether or not an employer supplies other incentives, education should be part of any employer's vaccination program.

The Equal Employment Opportunity Commission (EEOC) has issued statements concerning the cost of employer incentives for vaccination. The EEOC views *de minimis* incentives to be low cost items, such as a water bottle, a similar item, or a modest gift card (likely at a value of \$25 or less). To comply with reasonable accommodation obligations, whether related to disability or religious belief, employers will also need to offer the same incentive or an equivalent to any worker who establishes such a reason for not receiving the vaccine.

Medium Risk Incentives

Incentive options with medium risk activities include supplying paid time off (PTO) to employees for voluntary vaccination, reimbursing employees for vaccination expenses and prize drawings for vaccine recipients. Under a voluntary program where employees receive PTO, they can receive the vaccine from a vendor of their choice and the employer does not incur obligatory expense for the vaccine.

Depending upon employee pay rates, the reimbursable amounts or the value of prizes offered these options might be more than a *de minimis* incentive. Highly valued Incentives may lead to claims that the vaccine was not actually voluntary and therefore a violation of the wellness plan rules.

High Risk Incentives

Employers may offer an incentive of greater value to those employees who receive the Covid-19 vaccine. However, the higher the value, the greater the risk that a program will be seen as unnecessarily coercive and therefore not voluntary. Employers should consider a number of factors when making this determination, including geographic location, industry, the median pay of the workforce, and wellness program rules. Employers should avoid any program designed to treat employees differently as such programs may lead to claims of discrimination.

Sample policy language Mandatory Vaccination policy 2021

Purpose

[Company Name] is committed to provide and maintain a workplace that is free of known hazards and safeguard the health of our employees and their families; our guests and visitors; and the community at large from infectious diseases, such as COVID-19 or influenza that may be reduced by vaccinations. This policy will comply with all applicable laws and is based on guidance from the Centers for Disease Control and Prevention and local health authorities, as applicable.

Scope

All employees are required to receive vaccinations as determined by public health agency policy, unless a reasonable accommodation is approved. Employees not in compliance with this policy will be placed on unpaid leave until their employment status is determined by the human resources department.

Procedures

Employees will be notified by the human resources department as to the type of vaccination(s) covered by this policy and the timeframe(s) for having the vaccine(s) administered. [Company Name] will provide either onsite access to the vaccines or a list of locations to assist employees in receiving the vaccine on their own.

[Company Name] will pay for all vaccinations. When not received in-house, vaccinations should be processed through employees' health insurance where applicable and otherwise be submitted for reimbursement.

All employees will be paid for time taken to receive vaccinations. For offsite vaccinations, employees are to work with their managers to schedule appropriate time to comply with this policy.

Before the stated deadlines to be vaccinated have expired, employees will be required to provide either proof of vaccination or an approved reasonable accommodation to be exempted from the requirements.

Reasonable Accommodation

Employees in need of an exemption from this policy due to a medical reason, or because of a sincerely held religious belief must submit a completed Request for Accommodation form to the human resources department to begin the interactive accommodation process as soon as possible after vaccination deadlines have been announced. Accommodations will be granted where they do not cause [Company Name] undue hardship or pose a direct threat to the health and safety of others.

Please direct any questions regarding this policy to the human resources department.

Sample policy language
Voluntary Vaccination policy 2021

Purpose

In accordance with [Company Name]’s duty to provide and maintain a workplace that is free of known hazards, we are adopting this policy to safeguard the health of our employees and their families; our customers and visitors; and the community at large from infectious diseases, such as COVID-19 or influenza, that may be reduced by vaccinations. This policy will comply with all applicable laws and is based on guidance from the Centers for Disease Control and Prevention and local health authorities, as applicable.

Scope

All employees are encouraged to receive vaccinations as determined by public health agency policy, unless the Company approves an employee’s request for a reasonable accommodation exemption.

Procedures

The Human Resources department will notify employees of the type of vaccination(s) covered by this policy and guidelines for submitting documentation. [Company Name] will provide either onsite access to the vaccines or a list of locations to assist employees in receiving vaccines on their own.

Employees may request time off to receive vaccination through Supplemental Paid Sick Leave benefits; however, we encourage employees to work with managers to coordinate vaccination scheduling. Employees should provide proof of vaccination or an attestation form to human resources. Employees who do not provide proof of vaccination will be required to wear an approved face covering at all times while in the workplace and when engaging with customers, unless an approved exemption from wearing a face covering has been provided.

Please direct any questions regarding this policy to the human resources department.

Sample letter
Mandatory Vaccination 2021

Date:

To:

From:

Subject: Mandatory Vaccination Policy

[Company name] has implemented a mandatory vaccination policy effective **[date]** requiring Covid-19 vaccinations for all employees. In accordance with **[Company name]**'s duty to provide and maintain a workplace that is free of known hazards, we are adopting this policy to safeguard the health of our employees and their families, our customers and visitors, and the community at large from infectious diseases that may be reduced by vaccinations. In making this decision, the executive leadership team reviewed recommendations from **[insert department names or other organizations consulted such as the Centers for Disease Control and Prevention, the Advisory Committee on Immunization Practices and local health officials]**.

All employees must receive the vaccination no later than **[date]**. Individuals seeking an exemption from this requirement for medical or religious reasons should complete a request for accommodation form and submit the form to the human resources department.

Vaccinations will be administered by **[insert details regarding who will provide the vaccine and where employees must go to receive the vaccine]**.

[Company Name] will pay for all vaccinations and the time spent receiving the vaccinations.

Should you have any questions regarding this new policy, please contact **[name and contact information]**.

Sample letter
Voluntary Vaccination 2021

Date:

To:

From:

Subject: Voluntary Vaccination Policy

[Company name] is implementing a voluntary vaccination policy effective **[date]** regarding **[disease name(s)]** vaccination(s) for employees. In accordance with **[Company name]**'s duty to provide and maintain a workplace that is free of known hazards, we strongly encourage employees to receive this vaccination to minimize the risk of infectious disease in our workplace. In making this decision, the executive leadership team reviewed recommendations from **[insert department names or other organizations consulted such as the Centers for Disease Control and Prevention, the Advisory Committee on Immunization Practices and local health officials]**.

Employees may obtain the vaccination wherever they choose; however, **[Company name]** is facilitating vaccinations through **[insert details regarding who will provide the vaccine and where employees can go to receive the vaccine]**. Employees will not need to pay for this vaccination and will be able to use supplemental paid sick leave time to receive this vaccination.

Should you have any questions regarding this new policy, please contact **[name and contact information]**.

Request for Emergency Paid Sick Leave Families First Coronavirus Response Act

1. Employee Name (print): [Click here to enter text.](#)

2. The date or dates for which leave is requested:
[Click here to enter a date.](#) - [Click here to enter a date.](#)

**By completing this form, I attest that I am unable to work or telework for the following reason
(complete all form fields as applicable):**

- ☐ (1) I am subject to a Federal, State, or local quarantine or isolation order related to COVID-19.

Name of the government entity that issued the quarantine or isolation order:
[Click here to enter text.](#)

- ☐ (2) I have been advised by a health care provider to self-quarantine due to concerns related to COVID-19.

Name of the healthcare provider:
[Click here to enter text.](#)

- ☐ (3) I am experiencing COVID-19 symptoms and seeking a medical diagnosis.

- ☐ (4) I am caring for an individual subject to an order described in (1) or self-quarantine as described in (2).

Name of the government entity that issued the quarantine or isolation order or name of healthcare provider advising self-quarantine:
[Click here to enter text.](#)

Name of Person in Need of Care:
[Click here to enter text.](#)

Relation to Employee:
[Click here to enter text.](#)

- ☐ (5) I am caring for a son or daughter whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19.

Name(s) of son(s) and/or daughter(s) being cared for:

[Click here to enter text.](#)
Age: [Click here to enter text.](#)

[Click here to enter text.](#)
Age: [Click here to enter text.](#)

[Click here to enter text.](#)
Age: [Click here to enter text.](#)

Name of the school, place of care, or child care provider that has closed or become unavailable:

[Click here to enter text.](#)

By completing this reason section above (number 5), I also affirm that that no other person will be caring for the above-named son(s) or daughter (s) during the period for which I am requesting paid sick leave. I further affirm that if the above-named son(s) and/or daughter (s) are over the age of 14 and care is needed during daylight hours that special circumstances exist requiring me to provide care.

- ☐ **(6)** I am experiencing a substantially similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.
- ☐ **(7)** I am seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, COVID-19 and have been exposed to COVID-19 or my employer has requested such test or diagnosis (this reason is only available from April 1, 2021 through September 30, 2021).
- ☐ **(8)** I am obtaining immunization related to COVID-19 (this reason is only available from April 1, 2021 through September 30, 2021).
- ☐ **(9)** I am recovering from any injury, disability, illness, or condition related to COVID-19 immunization (this reason is only available from April 1, 2021 through September 30, 2021).

I certify that the above information is true and correct.

[Click here to enter text.](#)

Employee Signature

[Click here to enter text.](#)

Date

Request for Accommodation: Religious Exemption Request Form

Part 1: To be completed by employee

Name: _____ Department: _____

Date of request: _____

Immediate supervisor: _____

Requested accommodation (job change, schedule change, dress/appearance code exception, vaccination exemption, etc.):

Length of time the accommodation is needed: _____

Describe the religious belief or practice that necessitates this request for accommodation:

Describe any alternate accommodations that might address your needs:

I have read and understand [Company Name]'s policy on religious accommodation. My religious beliefs and practices, which result in this request for a religious accommodation, are sincerely held. I understand that the accommodation requested above may not be granted but that the company will attempt to provide a reasonable accommodation that does not create an undue hardship on the company. I understand that [Company Name] may need to obtain supporting documentation regarding my religious practice and beliefs to further evaluate my request for a religious accommodation.

Employee signature: _____ Date: _____

Request for Accommodation: Medical Exemption from Vaccination

To request an exemption from required vaccinations, please complete section 1 below and have your medical provider complete section 2 before returning this form to the human resources department.

Section 1

Name (print):	Date:
Dept.:	Position:
Manager:	Work/Cell Phone:

I am requesting a medical exemption from [Company Name]'s mandatory vaccination policy for the following vaccination(s):

I verify that the information I am submitting to substantiate my request for exemption from [Company Name]'s vaccination policy is true and accurate to the best of my knowledge. I understand that any falsified information can lead to disciplinary action, up to and including termination.

I further understand that [Company Name] is not required to provide this exemption accommodation if doing so would pose a direct threat to myself or others in the workplace or would create an undue hardship for [Company Name].

Employee Signature:	Date:
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