

## HR Considerations Regarding COVID-19 Vaccine Mandates

From a clinical standpoint, it would seem to make sense to require all employees who work with patients in long term care facilities to receive the COVID-19 vaccine in order to reduce spread and create a safer environment for both the employees and the patients. The CDC has provided excellent resources for supporting vaccines in the workplace that can be found here: [CDC-Importance of COVID-19 Vaccination for Essential Workers](#).

However, as we have seen, vaccine hesitancy, and vaccine aversion are highly personal positions, and a mandate could have major implications on staffing. While it may be legal to create a mandate, there are employment regulations that need to be considered before making a decision.

### Equal Employment Opportunity Commission (EEOC)

The EEOC requires reasonable accommodation for two types of exemptions from the mandate. A Title VII objection would apply to a 'bona fide religious objection' to the vaccine, while ADA regulations would apply to a disability exclusion. Both of these categories require that certain standards be met in order to qualify for reasonable accommodation. You will find a good definition of these standards in this article: [COVID-19 Vaccinations: Considerations for Employers](#). It should be noted, that objections that are strictly personal are not enough to require accommodation.

The term 'reasonable accommodation' is a broad term and varies depending on each situation and could be as simple as continuing mask use and COVID testing. Each individual request should be considered on its own merits. 'Reasonable accommodation' is no longer considered reasonable if it creates an undue hardship or significant expense for the employer. The EEOC has published an extensive document; [What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws](#) that details not only the regulations, but how they apply to commonly occurring situations.

It is important to note that regardless of if you mandate the vaccine or simply encourage it, there are confidentiality regulations under both the ADA and the Genetic Information Nondiscrimination Act (GINA) that prevent an employer from asking if an employee has a medical condition that would prevent them from receiving the vaccine.

### OSHA and Workplace Safety Concerns

Conversely, OSHA requires that employers provide a workplace free from recognized hazards that may cause death or serious physical harm. When considering vaccine mandates and reasonable accommodations, it is important to consider the impact an accommodation would have on workplace safety. OSHA has extensive guidance that can be found here: [Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace](#)

### Additional Considerations

- If an employer mandates the vaccine and an employee has a severe allergic reaction, the employer may be responsible for the costs as part of workman's compensation
- If proof of vaccination is required, the employer should not ask for any other medical information from the employee
- Additional state regulations may also apply
- **Unions** – Collective bargaining agreements may limit or prevent the enforcement of a vaccine mandate