

EEOC Issues New Guidance on Employer Required COVID-19 Vaccines

On May 28th, the Equal Employment Opportunity Commission issued, [What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws](#). This new guidance covers what mandates employers are allowed to make concerning COVID-19 vaccinations. Federal EEO laws allow employers to require employees to be vaccinated before physically entering the workplace if the employer applies the policy equally under Title VII of the Civil Rights Act 1964 and allows reasonable accommodations per the Americans with Disabilities Act, religious objections, or pregnancy issues. However, the EEOC did not offer guidance on whether mandatory COVID-19 vaccinations can be required for remote workers.

VACCINATION POLICY

Employers who implement mandatory vaccination plans must comply with federal and state employment laws, which means respecting vaccine exceptions for medical, disability, or religious reasons. As a best practice, the EEOC recommends that any employer who implements a COVID-19 vaccination policy that requires confirmation of vaccination notify employees of their rights under the ADA and Title VII to request a reasonable accommodation.

These exemptions are protected by the ADA and Title VII; however, employers may require employees seeking an exemption to provide reasonable supporting documents, such as a doctor's note. In addition, employers must offer reasonable accommodations to these employees unless those accommodations would pose an [undue hardship](#), which means a significant difficulty or expense, or would pose a direct threat to other employees' health and safety.

INCENTIVES

In the new guidance, the EEOC permits employers to offer incentives for employees to get vaccinated from a third party and to require proof of vaccinations, where permitted by state law. Employers may also offer vaccinations to employees and provide incentives for receiving one, but only if the incentives are not so large as to be coercive and the employer does not unduly pressure the employee to provide disability-related information.

WHAT THIS MEANS FOR COUNTIES

CTSI is not aware of any member counties mandating COVID-19 vaccinations for employees. Any counties considering a mandatory vaccination policy should review the EEOC guidance and consult with their county attorney. Technical Updates vols. 25 no. 4 and no. 13 [Mandatory Covid-19 Vaccinations & CAPP Coverage](#) and [COVID-19 Vaccinations - What Employers Can and Can't Do](#) offer additional information on COVID-19 vaccinations. For more information, contact CTSI at 303 861 0507.

