



EEOC Guidelines on COVID-19 Vaccines

On December 16, 2020, the Equal Employment Opportunity Commission (EEOC) issued its first direct guidance for employers regarding COVID-19 vaccines. The EEOC is responsible for enforcing federal laws against job discrimination and harassment.

As we stated in a [previous blog post](#), employers can make the vaccine mandatory, subject to federally protected exceptions for disability and sincerely-held religious beliefs. The EEOC guidelines provided further explanations for employers regarding these exceptions, including documentation to support the request and how to manage a worker when an accommodation is not possible.

Disability Exemptions

For exceptions due to disability, the ADA permits employers to have a qualification standard that includes “a requirement that an individual shall not pose a direct threat to the health or safety of individuals in the workplace.” If this impacts an individual with a disability, the employer must show that an unvaccinated employee would pose a “direct threat” to the health and safety of the individual or others that cannot be eliminated by a reasonable accommodation, including remote work or a temporary leave of absence.

Religious Exemptions

For exceptions due to religious beliefs, the employer must provide reasonable accommodations unless it would pose undue hardship, which is defined as more than de minimis or undue burden to the employer.

Administering the Vaccine – ADA and GINA

If an employer mandates the vaccine, or contracts with a vendor to administer, the pre-vaccination medical screening questions are subject to ADA standards for disability related inquires, i.e. must be job-related and consistent with business necessity. Additionally, the Genetic Information Nondiscrimination Act (GINA) prohibits an employer or vendor working for an employer to ask questions related to genetic information. Therefore, the employer may want to require proof of vaccination – which is not a disability-related question – rather than jump through the legal hurdles of administering the vaccine.

These guidelines from the EEOC offer answers to many questions, but also leave unanswered questions and raises new ones. Employers should remember that guidance from public health authorities is likely to change as the COVID-19 pandemic evolves. Therefore, visit <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws> to follow the most up-to-date information on maintaining workplace safety.

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