



EEOC updates and expands COVID-19 guidance regarding vaccination of employees

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The U.S. Equal Employment Opportunity Commission (EEOC) recently expanded its [guidance](#) on COVID-19 and the application of federal equal employment opportunity (EEO) laws. The update addresses new questions regarding employee vaccinations frequently asked since the EEOC first published the guidance in [December](#) 2020. The EEOC also added information about how the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act (GINA) apply when an employer offers incentives for employees to get vaccinated.

Key updates to the guidance are summarized below:

- The EEOC confirmed that the federal EEO laws do not prevent employers from requiring all employees physically entering the workplace to be vaccinated, so long as employers comply with the reasonable accommodation due to a disability, pregnancy or religious belief. This applies whether an employee gets the vaccine in the community or from the employer. However, state or local laws may place other restrictions on an employer's ability to require vaccinations.
- Federal EEO laws do not prevent employers from offering incentives to employees to voluntarily provide confirmation of vaccination obtained in the community, such as a pharmacy, personal health care provider or public clinic. However, if employers choose to obtain proof of vaccination from their employees, employers must keep it confidential pursuant to the ADA.
- Employers (or their agents) that are administering vaccines to their employees may offer modest incentives for employees to be vaccinated, as long as the incentives are not large enough that they would be deemed coercive. Because

vaccinations require employees to answer pre-vaccination disability-related screening questions, a substantial incentive could make employees feel pressured to disclose protected medical information in violation of the ADA or GINA in order to get the incentive.

- Employers may provide employees and their family members with information to educate them about COVID-19 vaccines and raise awareness about the benefits of vaccination.

The EEOC also cautioned that, because some individuals or demographic groups may face greater barriers to receiving a COVID-19 vaccination than others, some employees may be more likely to be negatively impacted by a vaccination requirement.

Authors
