



ASAC Health & Safety Committee
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Considerations for Vaccine Mandate

Many employers are considering imposing a vaccine mandate either due to company choice or due to orders being received from municipalities or owners/general contractors of projects. We recently saw President Biden issue an Executive Order requiring vaccines for all federal contractors and their subcontractors. At the same time, President Biden instructed OSHA to issue an Emergency Temporary Standard for all employers with more than 100 employees to require either vaccines or weekly testing of unvaccinated workers. The State of Colorado has issued vaccine mandates for certain workers along with the City of Denver issuing a vaccine mandate for all City contractors. Regardless of the reason, certain considerations must be taken into account when implementing a vaccine mandate. The article below discusses those considerations.

6 Steps to Consider with a Vaccine Mandate

If you decide that now is the time to impose a vaccine mandate on your workforce, here are the six steps you should consider:

1. Spend time considering how your employees, customers, and other constituents are likely to respond to the policy, including how you will handle pushback. Anticipate and prepare for certain levels and forms of anxiety and/or resistance – even if the EUA has been removed.
2. Figure out the best way to communicate your policy to employees, including how much notice to provide before implementing the requirement, how proof of vaccination will be kept, and who within the company will have access to the confidential information.
3. Consider related logistics, including compensation issues that may be implicated for the time spent traveling to and receiving the vaccine and any related reimbursement costs. Make sure you also understand when employees are entitled to be paid for their time, such as supplemental paid sick leave for time taken to receive the vaccine or to recover from vaccine side effects.



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4. Develop a robust and clear reasonable accommodation policy to address religious and disability issues. Take special care to communicate and administer the accommodation process in a thoughtful way, with emphasis on individualized, confidential consideration of each request.
5. Develop a designated “vaccine team” for coordinating this entire process.

And if You're Not Ready to Impose a Mandate

For those employers still not ready to require their workers to get inoculated against COVID-19, there are at least four other options to consider.

- You could launch an information campaign, driving to improve vaccination rates by offering targeted educational opportunities to your workers about the vaccines. Many people are flooded with disinformation about COVID-19 vaccines from social media, disreputable news sources, and word of mouth, and such a campaign might be of critical assistance.
- You could offer workplace incentives to any employee who can prove they are fully vaccinated. The most common incentives employers have offered include cash, gifts, or paid time off. Thanks to clear guidance from the EEOC earlier this summer, you have simple directions to ensure you don't run afoul of any discrimination laws if you decide to offer incentives.
- You can require all non-vaccinated personnel to be subjected to regular COVID-19 testing to ensure the highest level of workplace safety.
- You can also require those who do not prove vaccinated status to comply with additional safety restrictions as necessary to maintain a safe working environment. These can include renewed masking requirements, social distancing rules, restrictions on business-related travel, and other concepts relevant to your work environment.

Each of these options requires some level of consideration and should be carefully planned. If you need information for your employees regarding vaccines or need help implementing a written vaccine policy, please contact Kristin White at Fisher Phillips. Kristin White is a partner with the law firm of Fisher Phillips in Denver.