



**ASSOCIATION OF FLIGHT ATTENDANTS – CWA, AFL - CIO
HAWAIIAN AIRLINES MASTER EXECUTIVE COUNCIL**

WEBSITE: HAWAIIANAFA.ORG * FACEBOOK: HAWAIIANAFA * APP: BY INVITATION

August 18, 2021

Dear Flight Attendants,

Since the beginning of the pandemic, the Association of Flight Attendants-CWA (AFA) has and continues to advocate for the health and safety of our members. We encourage all Flight Attendants who can to be vaccinated to help stop the spread of COVID. Ultimately, the decision to require a vaccination is solely at the company's discretion which legally it can do. The Company must also consider employees' requests for a reasonable accommodation due to disability or sincere religious belief.

AFA has received many concerns surrounding the legality of employer mandated COVID vaccinations, the process for reasonable accommodations and the testing option should you be granted an exemption. With help from AFA International, we have pulled together some of the frequently asked questions.

Why are airlines requiring vaccines?

The pandemic has been devastating around the world, with millions of lives lost, millions more suffering long term medical effects, and individuals, families, communities, small and large businesses, and the worldwide economy has suffered because of the pandemic too. The vaccines are proving high efficacy rates for protecting against serious illness, death, hospitalization, and lower rates of transmission. However, the vaccines only work to help end the pandemic when nearly everyone is vaccinated, and the virus spread, and mutation is significantly slowed in a fully vaccinated population. Virus mutation can potentially cause new strains that are resistant to current vaccines, causing the pandemic to not only continue but create new threats as well. The pandemic will continue to rage until vaccination rates are significantly increased. In transportation, it is critically important that we maintain public trust and do everything in our power to stop the spread of the virus. We have already lost too many people in aviation, and together we can save lives and restore the freedom we enjoy in transportation to visit communities around the world.

Is it against federal law for my employer to require me to get a COVID vaccination?

No, it is not a violation of federal law for your employer to require you be vaccinated against COVID. The Equal Employment Opportunity Commission (EEOC) is the federal agency that has jurisdiction over this question. It announced in an updated guidance issued on May 28, 2021, that employers may require an employee to be vaccinated in order to work for the employer.

<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>

Are there any exceptions to this ability of an employer to require employee vaccinations?

The only exceptions to an employer-mandated vaccination program are when an employee's sincerely held religious beliefs do not allow for vaccinations and when an employee has a valid claim for reasonable accommodation under the Americans with Disabilities Act (ADA). It is not clear yet what reasonable accommodations an employer might make for a Flight Attendant making a claim under the ADA.

Does the Health Insurance Portability and Accountability Act (HIPAA) apply to employer-mandated vaccination requirements?

No, HIPAA does not cover mandatory vaccination programs. HIPAA applies to "Covered Entities." An employer is NOT a Covered Entity under HIPAA. Covered Entities include group health plans, service providers, and healthcare clearing houses.

I've heard that the "Nuremberg Code" may protect me from vaccination mandates. Is this true?

No, this claim is false. The Nuremberg Code is a set of ethical principles that were developed in 1947 to address Nazi atrocities committed during World War II. The Code provides guidelines about medical experimentation forced on people against their will. The ethical principles adopted require the informed consent of people subject to experimentation or clinical trials. For example, those people volunteering to participate in the several large clinical trials held for COVID vaccines prior to their manufacturers' applications for FDA approval were required to sign forms indicating their consent to the terms and conditions of the trial.

The Code does not apply to policy decisions about the utility of requiring vaccinations in order to maintain employment. While choice of employment provides individual options as opposed to the circumstances that led to creation of the Code, the Code's ethical principles also do not have the force of law nor is the Code enforceable against individual parties. In terms of the COVID vaccines, full FDA approval is expected at least a month to six weeks prior to the vaccination deadline set by any U.S. airline.

Will AFA represent me if I seek a vaccine exemption from my airline?

Yes, if the process to seek an allowed exemption leads to any negative effect on your employment, AFA will represent your rights under the contract and law. The vaccination exemption process relates to individual private circumstances, whether religious or medical. If the company disciplined or terminated Flight Attendants for refusing to be vaccinated, those Flight Attendants would be able to seek AFA assistance to file a grievance. AFA would process the grievance in accordance with the provisions in the CBA.

While we know many of you may have additional questions, we are waiting to get more information from the company on how the requirement will be implemented, how exemptions will be granted, as well as the details for testing should you qualify for an exemption. We encourage you to read the company's communications and updates to stay informed.

As always please send any questions to the Questions Form link: [TinyUrl.com/AFAQuestionForm](https://tinyurl.com/AFAQuestionForm)

In Unity,

Joni, Scott and Chasity

[AFA-CWA Mutual Respect Policy](#)