

New Hampshire COVID-19 Vaccine Alliance

Employer COVID-19 Vaccination Policies

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Pre-Screening Questions

- Pre-screening questions may elicit disability information
 - Avoid by using third-party vendor/public provider
 - If information is collected internally, use HR
 - Should already have access to sensitive personnel information and have training, policies and systems in place to keep it confidential

Vaccine Incentive Programs

- Can create ADA (and other) issues
 - Must be carefully tailored with labor and employment counsel
 - Providing differential incentives to those getting a vaccine compared to those who are unable to get a vaccine may constitute an ADA violation
 - May expose employer to anti-bias laws due to religious objections
 - Can be unlawfully coercive or create wage and hour concerns

Post-Vaccine OSHA Compliance Issues

- OSHA requires employers to provide a safe working environment for employees
- COVID-19 protocols such as distancing, masking and COVID hygiene should be continued after vaccinations
- Much still remains unknown about potential COVID transmission by vaccinated workers
- Unvaccinated employees most at risk may also have ADA protections

Most Recent CDC Guidance

- Post-exposure quarantine and testing requirements have been eliminated for *most* asymptomatic, vaccinated workers (as of March 10, 2021)
 - Healthcare personnel with immunocompromised conditions (e.g., organ transplantation, cancer treatment), should consider continued work restrictions
 - Fully vaccinated inpatients and residents in healthcare settings should continue to quarantine after prolonged close-contact with confirmed COVID case
- Monitor OSHA and the CDC for changing guidance

Develop a Comprehensive Outreach and Education System

- Instead of or prior to implementing mandatory vaccination policy
- Utilize employees who are already involved in staff outreach and education
 - Such as school nurses in the educational setting, wellness committee members, etc.
- Education should include safety and effectiveness of vaccines and continued vigilance during 2-week post-vaccination period

Post-Vaccination Discrimination Issues

- Employers should not treat vaccinated and unvaccinated workers differently
 - Do not segregate vaccinated and unvaccinated workers into different shifts or teams
 - Do not identify vaccinated/unvaccinated workers such as through badges, office space or lists