



sixfifty

Developing an Effective Vaccination Policy

January 21, 2021

Agenda

- Current Legal Guidance Regarding Vaccination Policies
- Vaccination Policy Options for Businesses
 - Mandatory vs. Voluntary
- Best Practices
- Questions and Answers

Current Legal Guidance – Part I

- The Equal Employment Opportunity Commission (EEOC) issued [guidance on December 16, 2020](#), concerning vaccines and the applicability of various EEO laws.
 - All EEOC materials regarding COVID-19 are available [here](#).
- Employers can generally require that employees receive the COVID-19 vaccine to enter their workplaces but may need to provide reasonable accommodations for individuals with medical conditions or religious beliefs that preclude them from being vaccinated.

Current Legal Guidance – Part II

- Currently, employers do not have to require their employees to receive the COVID-19 vaccine to enter their worksites.
 - The Occupational Safety and Health Administration (OSHA) does, however, require that employers provide each of their employees with a place of employment that is free from recognized hazards that could cause serious harm. 29 U.S.C. § 654.
 - This requirement could give rise to a vaccination requirement in the future.
 - State Occupational Safety and Health Agencies could also require vaccinations.

Vaccination Policy Options

- Require Vaccinations
- Encourage Vaccinations
- Do Nothing

Potential Benefits of Requiring Vaccinations

- Protect employees, customers and others who enter the worksite
- Reduce employee sick days and need for medical care
- Reduce risk of having to close business because of COVID-19 outbreak
- Reduce risk of civil liability or administrative enforcement action
- Further public health benefits of vaccinations

Potential Drawbacks of Requiring Vaccinations

- Divert resources to administering the vaccination policy
- Negatively affect employee morale and retention
- Increase risk of discrimination suits regarding accommodations
- Fewer benefits in certain industries

Middle Ground: Policy Encouraging Vaccinations

- **Potential Benefits:**
 - Some protection for employees, customers and others who enter worksite
 - Some reduction of employee sick days
 - Some reduction of risk of having to close business
 - Some reduction of risk of civil liability or administrative enforcement action
- **Potential Drawbacks:**
 - Still diverts resources to administer policy
 - May still affect employee morale and retention

Best Practices for Vaccine Policy – General

- Create a clear, written policy.
- Distribute the policy to all employees.
- Explain the reason for the policy decision
 - Example: “At SixFifty, we are committed to the safety of our employees, customers, and all others who enter our workplace. . .”
- Provide a clear contact point for questions about the policy.

Best Practices for Vaccine Policy – Mandatory Part 1

- Do not administer the vaccine or contract with a third party to administer the vaccine.
 - The COVID-19 vaccines require that certain medical questions be asked before they can be administered, and the EEOC has concluded that asking these questions constitutes a “medical examination” under the Americans with Disabilities Act.
- Pay individuals for time spent being vaccinated.

Best Practices for Vaccine Policy – Mandatory Part 2

- Provide a clear process for individuals to verify that they have been vaccinated or to seek an exemption from the vaccine requirement because of a disability or sincerely held religious belief.
 - Provide a standard vaccine verification form with the vaccination process.
 - If individuals are requesting an exemption because of a disability, instruct them not to disclose their disability, diagnosis or any other personal medical information on the form.

Best Practices for Vaccine Policy – Mandatory Part 3

- Explain that a representative of the company will reach out to individuals who request an exemption from the policy to discuss their specific situation.
- Explain that the company will not discharge or discipline employees who request an exemption from the policy in good faith.

The Big Question

Part 1

- Can a business fire an employee who refuses to receive the COVID-19 vaccine but has not requested an exemption because of a disability or religious belief?
 - Maybe.
 - “The ADA allows an employer 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.’” [EEOC Guidance](#)
 - How likely is an unvaccinated individual to expose others at work to COVID-19?

The Big Question

Part 2

- Can a business fire an employee who cannot receive the vaccine because of a disability or religious belief?
 - Businesses are required to provide a reasonable accommodation, unless it would pose an “undue burden.”
 - An “undue burden” under the ADA means “significant difficulty or expense.”
 - An “undue burden” under Title VII means “more than a de minimis cost or burden on the employer.”

The Big Question

Part 3

Requests for an exemption from a vaccination requirement because of a disability or religious belief and questions about reasonable accommodations and what constitutes an undue burden are complicated and should be discussed with an attorney.

Best Practices for Vaccine Policy – Voluntary Part 1

- Pay individuals for time spent being vaccinated
- Offer an incentive
 - One time payment toward employee health insurance premiums
- Ask individuals to submit verification that they have been vaccinated so company can monitor success of policy
- Explain that employee will not face adverse employment actions if they decide not to be vaccinated

SixFifty Solution

Document Generation Engine

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This tool will help you to create a customized COVID-19 Vaccination Policy.

2



Please provide the name of your company...

You do not need to provide the full name of...

This tool and the COVID-19 Vaccination Policy that you create may contain legal information, but they do not contain legal advice. The COVID-19 Vaccination Policy should be reviewed with an attorney before it is used.

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What office, department, or person at you...

The office, department or person that you ...

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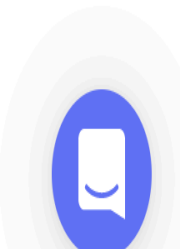
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SixFifty Solution

Customizable Mandatory or Voluntary Vaccination Policy

SixFifty COVID-19 Vaccination Policy

At SixFifty, we are committed to the safety of our employees, customers, and all others who enter our workplace. While COVID-19 poses a threat to the health and well-being of all individuals, vaccinations can significantly reduce that threat and help protect our workplace as well as our community. After careful consideration, we have adopted this Policy requiring all employees to receive a COVID-19 vaccination as a condition of entering the workplace, except as otherwise noted.

Before returning to the worksite, all employees must complete and submit the Vaccination Verification Form attached to this Policy and provide acceptable documentation that they have received a COVID-19 inoculation to Human Resources at HR@Sixfifty.com. Human Resources

Questions and Answers

www.SixFifty.com