

Do Employers Have to Pay for Time Off to Get Vaccinated?

By Lisa Nagele-Piazza, J.D., SHRM-SCP

March 19, 2021

As COVID-19 vaccines become available, employers may be managing more employee requests to take time off to get vaccinated. Employers may need to pay employees for time off to receive vaccines—particularly if they mandate inoculation. State and local sick-leave laws, as well as employer policies, may also cover such time off.

We've rounded up articles and resources from *SHRM Online* and other trusted media outlets on the news.

Illinois Officials Weigh in on State and Federal Rules

The Illinois Department of Labor (IDOL) recently issued guidance on wage and hour rules under the Illinois Minimum Wage Law and the federal Fair Labor Standards Act. The IDOL said that an employer that requires employees to get vaccinated would likely have to pay employees for time spent getting the vaccine—even outside of working hours. If employees voluntarily get vaccinated, they "should be allowed to use sick leave, vacation time or other paid time off" to receive the vaccine, according to the IDOL. The guidance recommends that employers consider offering flexible work schedules when paid time off is unavailable. Employers should note that the Illinois Employee Sick Leave Act requires employers that offer voluntary paid-sick-leave benefits to allow workers to use the time off to care for certain relatives on the same terms that employees are allowed to use the time for themselves. The IDOL said the law would cover a relative's appointment to receive a COVID-19 vaccine dose if the employer allows workers to use sick leave benefits to get vaccinated.

(National Law Review (<https://www.natlawreview.com/article/illinois-department-labor-issues-guidance-providing-leave-employees-to-get>))

New York Employees Are Entitled to Paid Time Off for Vaccinations

Under a new state law, all employees in New York must receive paid leave for up to four hours per COVID-19 vaccine injection. So employees may be entitled to up to eight hours of paid time off if they received a two-injection vaccination. Employers should note that they cannot require employees to use other available paid time off.

(*SHRM Online* (www.shrm.org/ResourcesAndTools/legal-and-compliance/state-and-local-updates/Pages/New-York-Employees-Are-Entitled-to-Paid-Time-Off-for-COVID-19-Vaccinations.aspx))

Check State and Local Paid-Sick-Leave Laws

Employers should note that they may be required under existing state and local paid-sick-leave laws to let employees use accrued leave to get a vaccine. Additionally, employees should stay "on the clock" when employers provide vaccines onsite or require vaccination offsite. Employers may also be required under state or local laws to provide paid sick or medical leave if an employee has an adverse reaction to the vaccine.

(Perkins Coie (<https://www.perkinscoie.com/en/news-insights/covid-19-vaccine-questions-answered.html>))

CDC Says Employers Should Create Supportive Policies

The U.S. Centers for Disease Control and Prevention (CDC) said employers can help increase vaccinations among essential workers by providing information about vaccines and creating supportive policies. "Although COVID-19 vaccine supply is currently limited, it's not too early to share clear, complete and accurate messages, promote confidence in the decision to get vaccinated, and engage your employees in plans to address potential barriers to vaccination," the CDC said. "Strong confidence in the vaccines within your workplace leads to more people getting vaccinated, which leads to fewer COVID-19 illnesses, hospitalizations and deaths."

(U.S. Centers for Disease Control and Prevention (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/recommendations/essentialworker/workplace-vaccination-program.html>))

Some Employers Offer COVID-19 Vaccine Incentives

Some big employers have announced that they will encourage employees to get vaccinated, offering cash, paid time off or extra vacation time to help stop the spread of the coronavirus. However, the lack of legal guidance (www.shrm.org/resourcesandtools/hr-topics/benefits/pages/employers-look-for-clarification-on-covid-19-vaccine-incentives.aspx) about appropriate incentives likely is keeping some employers from moving ahead.

(*SHRM Online* (www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/employers-offer-covid-19-vaccine-incentives.aspx))

Can an Employee Refuse to Get a COVID-19 Vaccine?

Employers that want to require workers to get a COVID-19 vaccination should be prepared to respond to workers' concerns and make reasonable accommodations under federal and state laws. Mandating vaccinations could have benefits for employers and employees alike. Vaccinations will likely decrease the risk of spreading the virus in the workplace, reduce absenteeism, increase productivity and decrease employee health care costs, said Elisa Lintemuth, an attorney with Dykema in Grand Rapids, Mich. On the other hand, she added, employees may react poorly to mandatory vaccination policies.

(*SHRM Online* (www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/employees-refuse-to-get-a-covid-19-vaccine.aspx))

Visit SHRM's resource page on COVID-19 vaccination (www.shrm.org/hr-today/news/hr-news/Pages/COVID-19-Vaccination-Resources.aspx).

Feedback

HR DAILY NEWSLETTER

News, trends and analysis, as well as breaking news alerts, to help HR professionals do their jobs better each business day.

Email Address

**CONTACT US (WWW.SHRM.ORG/ABOUT-SHRM/PAGES/CONTACT-US.ASPX) | 800.283.SHRM
(7476)**

© 2021 SHRM. All Rights Reserved

SHRM provides content as a service to its readers and members. It does not offer legal advice, and cannot guarantee the accuracy or suitability of its content for a particular purpose.

Disclaimer (www.shrm.org/about-shrm/Pages/Terms-of-Use.aspx#Disclaimer)

Feedback