

Can employers legally require COVID-19 vaccinations?

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MONTGOMERY, Ala. (WSFA) - As more and more people get vaccinated against COVID-19, there is still a number of people who are hesitant. With a goal of creating a safe space for employees, employers are trying to balance encouraging vaccinations while still respecting an employees' right to privacy.

"For the employers it's an interesting issue, do you require vaccines or not? And how do you keep track of it?" said Rob Wilson, president of Employco USA and employment trends expert. "Every organization that we talk to has someone there that doesn't want to get a vaccination for whatever reason and so it put's a company in a tough place."

The question a lot of employees have, however, is whether or not an employer can legally require them to get the COVID-19 vaccine, or require proof of the job.

According to Wilson, employers are allowed to require the vaccination, and can require proof that a worker has been vaccinated.

"Yes, employers can mandate vaccinations, and we are already seeing that happen at many places such as universities," Wilson said in a written statement. "And, employers can even require vaccination proof, namely the card you receive at your vaccination appointments. Provided you are requiring this as a measure to protect the safety of the workplace, you are legally allowed to do this."

However, an employee does not have to require proof of a vaccine, and whether or not you chose to disclose that information is up to you.

"From a privacy standpoint, you are completely OK with not answering," Wilson said.

Wilson added that an employer cannot ask any other personal questions or delve any deeper into a staff member's medical history.

"Your scope is very narrow as an employer, so don't ask anything else, in fact you can't ask about any other topic," Wilson said.

But, things change if your employer is mandating the vaccine.

"If it's an employer mandate then you have to tell them or potentially you could be terminated," Wilson said.

But just like other vaccines, there are exceptions to the rules.

[The Equal Employment Opportunity Commission \(EEOC\) recently released some guidance](#) that says private employers can generally require employees to get vaccinated for COVID-19 as long as they comply with federal employment laws that prohibit discrimination on the basis of religion and disability.

"If your company mandates that you must be vaccinated, the only two options that you can get out of being vaccinated would be if it's a religious belief or if it was a medical issue," Wilson said in alignment with the EEOC.

The EEOC exception does not, however, apply to individuals that are simply afraid of getting the vaccine or for people with political reasons.

Aside from those two exceptions, Wilson said if you still chose not to get the vaccine after it being mandated, "you could potentially be terminated."

Glover Plunkett, assistant professor of history and political science at Faulkner University, said if an employee was terminated for refusing to get vaccinated, they could file a lawsuit.

"You don't have to be given a good excuse to be terminated," Plunkett said. "But that does not mean that an employee won't come back and file a lawsuit and bring this thing to court, and so that's where the, I believe, the employer is taking a real risk."

Plunkett said he believes we will see more employers recommending the vaccine instead of requiring it.

"What we are more likely to see is recommendations for employees rather than mandates," Plunkett said. "What I personally believe we'll see more of are some waivers that employees have their employees sign saying 'I don't intend to take the vaccine, I understand the risks that are associated with it' and move on."

"We don't know enough about the vaccines, we don't know enough about infections, and there is so many unknowns out there that I think the employer would be taking a big risk (by mandating the vaccine)," Plunkett went on to say.

Wilson added that employers can also offer vaccine incentives, like a cash reward or paid time off, as a way to encourage employees to get vaccinated.

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But is it ethical for employers to reward employees who get vaccinated?

"It might sound unusual at first, but the reality is that employers have long rewarded employees with incentives like extra cash and time off in exchange for making healthy choices," Wilson said. "So just as companies can offer cash incentives to workers who stop smoking or who exercise regularly, it falls within the scope of an employers' rights to offer a reward to workers who get the COVID-19 vaccination."

WSFA 12 News reached out some of Montgomery's largest employers to see if they plan to mandate their employees to get vaccinated. Both the Hyundai Motor Manufacturing Plant and Montgomery Public Schools said they will not mandate the shots, but will make recommendations to their employees to get vaccinated.

Alabama Power released the following statement:

In accordance with the state of Alabama distribution plan, Alabama Power has partnered with medical providers to make the COVID-19 vaccine available to employees. As with all protected health information, vaccination status is personal and private. We encourage employees to make the best decisions for themselves and their families.

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