

Employer-Provided Incentives for Vaccinations—

COVID-19 Response Resource Center: Timely Counsel for your Business

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The Equal Employment Opportunity Commission (EEOC) issued updated Question and Answer Guidance on COVID-19 vaccinations today. The new guidance clarifies several issues that were making some employers reluctant to provide incentives to encourage employees to get vaccinated. They also provide some clarification for employers implementing vaccination policies that differentiate among vaccinated and unvaccinated employees. Below are some of the highlights from the new guidance:

- Employers may require that all employees physically entering the workplace be vaccinated, subject to making reasonable accommodations for disabilities and sincerely held religious beliefs.
- Sample reasonable accommodations include having unvaccinated people wear masks, work socially distanced, work modified schedules, get periodic COVID-19 tests, telework or, as a last resort, accept reassignment.
- Employers who implement vaccination policies or require documentation of vaccination should notify employees that they will consider requests for accommodations on an individualized basis.
- Employers should educate managers on how to recognize an accommodation request and how to handle the request.
- Employers may rely on Centers for Disease Control and Prevention (CDC) recommendations when deciding whether an effective accommodation is available that will not pose an undue hardship on the employer.
- Employers may offer incentives to employees to voluntarily provide proof of vaccination without any limit on the incentive so long as the vaccination is administered by someone independent of the employer (a pharmacy, the health department, etc.).
- If an incentive is being offered to an employee to receive a vaccination administered by the employer or someone retained by the employer to provide the vaccine, there are different standards and considerations. For example, incentives need to be limited so they are not perceived as coercive.

Employer-Provided Incentives for Vaccinations—Finally Some Guidance

- Employers are reminded to keep all vaccination information as confidential medical information once received.

While this guidance clarifies much with regard to vaccination incentives and the anti-discrimination laws carried out by the EEOC, there are other issues to consider before offering incentives for vaccination. For example: what are the tax implications of incentives? Will the incentive be viewed as a wellness program subject to additional rules and administrative complexity? Will it be viewed as an Employee Assistance Program?

Reach out to the Brooks Pierce Labor and Employment team to help formulate your vaccination policy and structure incentives.

Tags: Centers for Disease Control and Prevention (CDC), Equal Employment Opportunity Commission (EEOC), Vaccine