



**COMMUNITY CARE
NETWORK OF KANSAS**
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COVID-19 Vaccination Employer Guidelines¹

Can we ask an employee about their vaccination status? If so, do you have any recommendations on how to approach this?

An employer may request proof of receipt of a COVID-19 vaccination without violating the ADA. However, subsequent employer questions, such as asking why an individual did not receive a vaccination, may elicit information about a disability and would be subject to the ADA “job-related and consistent with business necessity” standard. We recommend that an employer only asks for proof of receipt of vaccine, with no subsequent questions. This will allow an employer to determine if the employee should wear a mask based on CDC and OSHA guidance.

How do we handle vaccinated vs. unvaccinated employees within the office? Can we require the "unvaccinated" to wear a mask during working hours or when they attend meetings?

Yes, recent OSHA guidance suggests providing unvaccinated and otherwise at-risk workers with face coverings or surgical masks. The guidance also suggests implementing physical distancing for unvaccinated and otherwise at-risk workers in all communal work areas. According to CDC, fully vaccinated employees should be encouraged to wear a mask indoors in places with high COVID transmission rates.

Are there any "do's or don'ts" related to treating vaccinated vs unvaccinated individuals?

Outside of requiring unvaccinated employees to wear masks and social distance, we encourage employers to treat vaccinated and unvaccinated individuals equally to every extent possible. Failure to do so could result in ADA/HIPAA legal claims. Because these types of claims are so new and have not been addressed by either the court or state statutes, we do not know how they will be interpreted.

What obligation does a health center have in sharing information with employees when an employee is being tested for COVID or having COVID?

You may not give out any identifying information about the infected individual. Identifying the individual may violate ADA and HIPAA obligations. However, employers are required under OSHA’s general duty requirement to provide a safe workplace to promptly notify potentially exposed employees of their exposure and reduce additional exposures.

¹ Guidelines will be revised as CDC and KDHE recommendations are updated

Are there any best practices that should be considered for the workplace?

- Identify and communicate to all employees who will be responsible for COVID-19 workplace questions
- Implement flexible sick leave and supportive policies and practices and communicate them clearly and frequently along with updated changes
- Assess your essential functions and have a business plan in place, in the event that there is an increase in absenteeism and business operations need to be altered due to staffing

Should a Vaccination Policy be created for our health center?

If employees are required to receive certain vaccinations for their employment, then a policy should be created. Information to include in a Vaccination Policy:

- Where employees may receive the vaccination
- Time spent becoming vaccinated is compensable if the vaccination is provided during normal working hours
- How employees will demonstrate proof of their immunization
- Who to contact if the employee would like to apply for an exemption and chooses not to get vaccinated for medical or religious reasons; this should be a member from HR or someone outside of employees’ direct reporting line
- Immunization records and information will be maintained confidentially and separate from personnel files
- Potential consequences for anyone who fails to receive the vaccine and does not have an approved exemption within a certain period of time (provide specific information on timeframe the employee is to be vaccinated or receive an approved exemption)
- Point of contact for questions regarding the policy

Can we require our employees to get their COVID-19 vaccination?

- The federal [EEO](#) laws do not prevent an employer from requiring all employees physically entering the workplace to be vaccinated for COVID-19, subject to the [reasonable accommodation provisions of Title VII, the ADA and other EEO considerations listed in the sources below](#). These principles apply if an employee gets the vaccine in the community or from the employer.
- Due to state laws rapidly evolving regarding mandatory vaccination policies, employers should monitor this activity at [KDHE](#) for any vaccine restrictions and guidelines.

What are the work restrictions and recommendations for [vaccinated employees](#)?

- It is recommended by the CDC that fully vaccinated individuals get tested via PCR or antigen test 3 to 5 days after exposure to a suspected or confirmed case of COVID-19 even if they do not have symptoms with an additional recommendation by KDHE to re-test 7-10 days after exposure. However, they do not have to isolate at home while waiting for results if they do not have symptoms.

Who can I contact if I have further questions about COVID-19 vaccinations and our workforce?

- Megan Schrader, Workforce Development Specialist, Community Care Network of Kansas at mschrader@communitycareks.org
- Mel Martin, Director of Training and Development, Community Care Network of Kansas at mmartin@communitycareks.org

Sources:

Society for Human Resources Management (SHRM)	Center for Disease Center (CDC)
Kansas Department of Health and Environment (KDHE)	U.S. Equal Employment Opportunity Commission (EEOC)