



COVID-19 Vaccines for Faculty and Staff: What Higher Ed Employers Need to Know

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Presenters



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Agenda

1. Compare vaccines currently under Emergency Use Authorization (EUA).
2. Discuss requirements for offering a mass vaccination clinic on campus.
3. List action items to reduce vaccine hesitancy in the college campus population.
4. Potential legal implications
5. HR considerations

Poll Question

Will your institution require all employees to receive the vaccine?

- Yes
- No
- Haven't decided yet

Mass Vaccination

- The most effective tool to end the pandemic
 - Develop herd immunity
 - Protect against the emergence of variants
- Tasks for campus leadership
 - Promote vaccine uptake/reduce hesitancy
 - Assist in mass vaccination efforts

Comparison of Vaccines under EUA

Pfizer	Moderna	Johnson and Johnson
mRNA 95% effective (1-2 weeks after 2nd dose) People 16 years and older Ultra-low freezer temperature at -112 degrees to 76 degrees F After thawing must be used in 5 days – within 6 hours after dilution	mRNA 94.1% effective (2 weeks after dose 2) People 18 and older Shipped and stored in regular freezer (-4 degrees F) Stable in refrigerator for 30 days – use within 6 hours after vial is punctured	Non-replicating viral vector 72% within 4 weeks of vaccination One dose Refrigeration for 3 months; stable for 2 years

Contraindications: People with a history of serious allergic reactions, anyone with a history of allergic reactions to vaccine ingredients including polyethylene glycol, and anyone with a history of allergic reactions to polysorbate.

Vaccines in the Pipeline

AstraZeneca

Novavax

Vaccination Side Effects/Allergic Reactions

- Short lived - usually last 24-48 hours
 - soreness at injection site, fatigue, slight fever, headache, muscle and joint achiness, nausea
- More common after 2nd dose
 - consider staggering immunizations for staff if absences occur
- Allergic reactions are very rare
 - all vaccination locations should have medical staff available along with emergency equipment and ability to access 911 immediately if needed

Questions yet to be answered

- Does vaccination stop asymptomatic transmission?
- How long does protection last?
- How will vaccines deal with variants?

Effectiveness Against Variants

- Moderna, Pfizer and Johnson and Johnson are all performing well in decreasing serious disease.
 - Moderna and Pfizer remain highly effective against B.1.1.7 variant (UK) and New York variant.
 - Less effective against the P1 (Japan/Brazil) variant but appear to provide an effective cushion against severe illness.
 - Less effective against the South African variant – major focus of efforts for booster.
- Moderna, Pfizer and Johnson and Johnson are all working on options to increase effectiveness against variant.

Vaccine Myth Busting

- The mRNA technology used to develop Pfizer and Moderna vaccine has been in play for over a decade.
- The messenger never enters the nucleus of the cell so it cannot alter our DNA.
- There are no aborted fetal cells in the vaccine.*
 - Pfizer and Moderna did perform confirmation tests (to ensure the vaccines work) using fetal cell lines. Johnson & Johnson uses fetal cell lines in vaccine development, confirmation and production.
 - Fetal cell lines are grown in a lab and are thousands of generations away from fetal cells and are not fetal tissue.
 - The Vatican has issued clear guidance that permits Roman Catholics in good faith to receive COVID-19 vaccines that use fetal cell lines in development or production.

*<https://www.nebraskamed.com>

Assessing Mass Vaccination Capabilities

- Work closely with local, county and state public health departments
- Distribution site considerations
 - Storage of vaccine – adequate refrigeration with alarm system
 - Security – for vaccine, staff, vaccinees
 - Location for registration, administration of vaccine, observation
 - Emergency response if needed

Models for Vaccination Clinics

- Colleges - strong track record for large scale immunizations for Flu/Meningitis
- Need large open space (gymnasium) - three separated areas
 - On site Registration/Vaccine Administration/Observation
 - Maintain 6 ft. distancing in all aspects of operation
 - Have enough chairs
 - Staffing needed for all 3 areas
 - Register vaccinees ahead of time if at all possible

Vaccination Clinics cont.

- Critical role for technological support
 - Online pre-registration
 - Onsite documentation
 - System for notification when due for second vaccine
 - System for uploading vaccination to state vaccination registry

Action Items for Campus Leadership

- Develop clear, consistent, regular communication promoting vaccination including rationale, expectations and benefits using all available platforms.
- Partner with local public health, other community partners to share resources, information, consistent messages.
- Involve trusted voices on campus to promote vaccination to constituencies.

Action Items cont.

- Assess feasibility of providing a mass vaccination clinic on campus – convenience, no cost.
- Include stakeholders and public health partners in discussions regarding pros and cons of vaccination requirements.
- Consider the use of incentives to encourage vaccination.
- Continue to message the importance of mask wearing, physical distancing and hand hygiene.

HR Issues and the Vaccine

- Can employers mandate the vaccine?
 - Should they?
- ADA Legal Liability Concerns
 - Issues under the ADA
 - Accommodation Considerations
- Liability in General
- Creating and Implementing a policy that works
- Incentivizing the Vaccine

Poll Question

For those that don't plan to make it mandatory for all employees, will it be mandatory for some employees?

- Yes
- No
- Haven't decided yet

Poll Question

For those that haven't decided yet, when do you anticipate that a decision will be made?

- Before June 30
- Between July 1 and July 31
- After July 31
- Don't know

Mandate or Encourage Vaccination?

- COVID vaccination can be an add on to the student immunization requirements already in place. Requirements vary from school to school.
- Rutgers, FIU, Nova Southeastern has announced that they will require the vaccination for the student body.
- It appears that EUA status will not be a barrier to requiring vaccination. (Pfizer intends to file for full approval soon.)
- Most immunization requirements allow for religious and medical exemption.

Requiring Vaccination Continued

ADA

- Under the ADA, Vaccines are NOT considered Medical Exams
 - Thus, employers CAN mandate vaccination

If the vaccine is mandatory and provided by the employer, the screening questions ARE covered by the ADA

- Must be job-related and consistent with business necessity
- Employer must show that it would be a direct threat to the employee or others not to receive the vaccine

ADA Reasonable Accommodations

Employees with ADA-covered disability may be entitled to exemption if disability prevents them from safely taking the vaccine

- Establish interactive reasonable accommodation process
- Can require medical documentation
- Employers can select alternative accommodations (e.g., masks, barriers, protective gear, etc.)
- Exclusion from workplace a last resort

Religious Accommodations

Title VII requires employers to reasonably accommodate an employee's sincerely held religious beliefs

- Unless it would be an undue hardship on business operations
- More than personal preferences, medical beliefs and political philosophies
- Does not have to be widely practiced

Examples:

- “Our bodies are a temple and God gave us dominion over our bodies”
- “Injecting the flu vaccine into my body is morally wrong”
- “Followers of my religion are healed by plants, fruits and grains”

Potential Accommodations

1

Employers must consider ADA Accommodations

If employee has a legitimate disability, analysis will turn to direct threat analysis

2

Employers must consider Sincerely Held Religious Beliefs

If employee has a religious objection, analysis will turn to direct threat analysis

3

Pregnant/breast feeding employees should also not be mandated

- Must consider accommodations if an employee refuses to get vaccinated

Liability and Immunity

If Mandatory,

- Workers compensation would cover claims
- ADA (disability) and EEOC (religious objections)
- Form to state the reason for their objection

If Voluntary,

- Proving liability would be tough
- If not workers compensation, a general commercial liability policy may cover

Liability and Immunity, Cont.

Does hiring a third party to provide on-site vaccination clinics, does this pose a liability?

- Check agreement with third-party
- If no business necessity for the vaccine, could be an unwarranted disability related inquiry

HIPAA and Confidentiality

Vaccination information is PHI (so are COVID tests) when administered by a covered entity.

Be careful with vaccination records of your own employees

Cannot share PHI with HR without authorization

Be careful with vaccination records of others
Can't disclose to employers without authorization

From a HR perspective you can:

Ask the employee

Get an authorization upfront or post-vaccination

Proof of Vaccination

- Employer can request proof of vaccine
 - Maintain in confidential employee health file

Volunteers & Vaccine Administration

Can't have your own employees volunteer to do a job they are otherwise paid to do

- Employees can't staff your clinics

What about non-employees who want to volunteer?

- Be sure to have volunteers sign forms, get health screening, etc.

Incentivizing Vaccination

Employee Communication Campaign

- Bonus
- Gift cards
- FAQs
- Leadership getting it
- Think about if you will pay the incentive to people who already received the incentive

Legal Options for Incentivizing Vaccine

- Be careful not to cloak a mandate as an incentive
- PTO for missed work time to get it
- No longer pay for COVID-19 related absences

Continue Enforcing Safety Rules

As more vaccinations become available, keep enforcing safety rules for immunity protections (public facing)

- Remember, the rules currently don't give employers exceptions for vaccinated employees.
 - This could change!

Creating a Covid-19 Vaccine Policy

- Model Template Provided
- Vaccination Policies Must Be Consistently Applied and Enforced Among Similarly Situated Employees
- Accommodations Procedure
- Request for Exemption Forms

Vaccine Education/Communication Toolkits

American Lung Association:

- COVID-19 Action Initiative (<https://www.lung.org/lung-health-diseases/lung-disease-lookup/covid-19/action-initiative>)

Center for Disease Control and Prevention (CDC):

- COVID-19 Vaccination Toolkits (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/toolkits.html>)

Harvard Law Review:

- Can Colleges and Universities Require Student Covid-19 Vaccination? (<https://blog.harvardlawreview.org/can-colleges-and-universities-require-student-covid-19-vaccination/>)

National Governors Association (NGA):

- State-based Resource Materials (<https://www.nga.org/vaccine-communication-resources/>)

Have a Question?



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using the Chat.**



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