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| |  |  | | --- | --- | | |  | | --- | |  | |  |  |  |  | | --- | --- | --- | | |  |  | | --- | --- | | |  | | --- | | February 2, 2021                                                                                   215-809-2089 | | |  |  |  |  | | --- | --- | --- | | |  |  | | --- | --- | | |  | | --- | | **Should I require my employees be vaccinated?** | | |  |  |  |  | | --- | --- | --- | | |  |  | | --- | --- | | |  | | --- | | **By:  Christina M. Reger, Esq. and Tatiana Cook**    As COVID-19 vaccines roll out, I have many employers asking: “Can I mandate a vaccine?”  For many months, we did not have an answer to that; but, thankfully the EEOC has spoken. Based on [**guidance issued by the EEOC**](https://cregerlaw.us4.list-manage.com/track/click?u=2fae821dec80251d6e8f89056&id=66492faf72&e=817fdfd845) in December U.S. employers *can*require their workers to get vaccinated against COVID-19, but the real question is should they?  There are many landmines that come with imposing such a requirement on employees. Aside from the general [**fear**](https://cregerlaw.us4.list-manage.com/track/click?u=2fae821dec80251d6e8f89056&id=a4f02b491f&e=817fdfd845)of injecting a new cocktail of drugs into your body that has the fastest approval rate in FDA history, employees are scared. Putting this fear aside, however, there are other legal concerns.  Under the [**ADA**](https://cregerlaw.us4.list-manage.com/track/click?u=2fae821dec80251d6e8f89056&id=4472e0e1c6&e=817fdfd845), employers are prohibited from administering a medical examination as a prerequisite for employment or continuous employment. However, the EEOC has recently announced that a vaccination in itself is not considered a medical examination. A medical examination is “a procedure or test usually given by a health care professional or in a medical setting that seeks information about an individual’s physical or mental impairments or health.” Examples include “vision tests; blood, urine, and breath analyses; blood pressure screening and cholesterol testing; and diagnostic procedures, such as x-rays, CAT scans, and MRIs.”   A vaccination is not considered a medical examination because the employer is not seeking information about an individual’s impairments or current health status. However, an employer may not issue a pre-screening question about a vaccination unless a vaccination is job-related and consistent with business necessity. | | |  |  |  | | --- | --- | | |  | | --- | |  | |  |  |  |  | | --- | --- | --- | | |  |  | | --- | --- | | |  | | --- | | Even if an employer does mandate a vaccine, an employee can object for religious or disability concerns. If they do, employers should know that they will have to provide reasonable accommodations.  However, objecting to a vaccine because of a political belief is not protected under federal law and an employer is not required to accommodate such objection.  While mandating a vaccine can be tempting for employers to get their workers back in the office, offering incentives in a voluntary program may be a better way to go. Employers who do want to mandate the vaccine should focus on distributing factual and trustworthy information, communicating how the vaccine will be administered, and allowing employees to schedule a vaccination appointment. | | | |
| |  |  | | --- | --- | | |  | | --- | | [**Have Questions? Click Here to Email Me!**](mailto:christina@cregerlaw.com?subject=Tina%2C%20I%20need%20your%20advice!) | | |
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| |  |  | | --- | --- | | |  | | --- | |  | |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | | |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | | |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | | |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | | |  |  |  |  |  | | --- | --- | --- | --- | --- | | |  |  |  |  | | --- | --- | --- | --- | | |  |  |  | | --- | --- | --- | | |  |  | | --- | --- | | [Forward to Colleagues, Clients, Connections](http://us4.forward-to-friend.com/forward?u=2fae821dec80251d6e8f89056&id=ce2c4330e0&e=817fdfd845) | [Forward to Colleagues, Clients, Connections](http://us4.forward-to-friend.com/forward?u=2fae821dec80251d6e8f89056&id=ce2c4330e0&e=817fdfd845) | | | | | | | |  |  |  | | --- | --- | | |  | | --- | | [**Subscribe to Our Blog**](https://cregerlaw.us4.list-manage.com/track/click?u=2fae821dec80251d6e8f89056&id=268930ddc2&e=817fdfd845) | |  |  |  | | --- | --- | | |  | | --- | | [**Visit Website**](https://cregerlaw.us4.list-manage.com/track/click?u=2fae821dec80251d6e8f89056&id=1b8d6c38dc&e=817fdfd845) | |  |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | | |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | | |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | | |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | | |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | | |  | | --- | | [Facebook](https://cregerlaw.us4.list-manage.com/track/click?u=2fae821dec80251d6e8f89056&id=ab06eb68e0&e=817fdfd845) | | |  | | --- | | [LinkedIn](https://cregerlaw.us4.list-manage.com/track/click?u=2fae821dec80251d6e8f89056&id=0d3b840ab6&e=817fdfd845) | | |  | | --- | | [Email](mailto:christina@cregerlaw.com) | | | | | |  |  |  |  |  |  | | --- | --- | --- | --- | --- | | |  |  |  |  | | --- | --- | --- | --- | |  | |  |  | | --- | --- | | |  | | --- | | Law Offices of Christina Reger **(215) 809-2089** 41 University Drive, Suite 400 Newtown, Bucks County, PA | | | |  |  |  | | --- | --- | | |  | | --- | |  | |  |  |  |  | | --- | --- | --- | | |  |  | | --- | --- | | |  | | --- | | *Copyright © 2021 Law Offices of Christina Reger, All rights reserved.* You are receiving this email because you opted in via our website.  **Our mailing address is:**  Law Offices of Christina Reger  41 University Dr Ste 400  Newtown, PA 18940-1873  [Add us to your address book](https://cregerlaw.us4.list-manage.com/vcard?u=2fae821dec80251d6e8f89056&id=4f9bc4d278)  Want to change how you receive these emails? You can [update your preferences](https://cregerlaw.us4.list-manage.com/profile?u=2fae821dec80251d6e8f89056&id=4f9bc4d278&e=817fdfd845&c=ce2c4330e0) or [unsubscribe from this list](https://cregerlaw.us4.list-manage.com/unsubscribe?u=2fae821dec80251d6e8f89056&id=4f9bc4d278&e=817fdfd845&c=ce2c4330e0).  [Email Marketing Powered by Mailchimp](http://www.mailchimp.com/email-referral/?utm_source=freemium_newsletter&utm_medium=email&utm_campaign=referral_marketing&aid=2fae821dec80251d6e8f89056&afl=1) | | | |