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## COVID-19 Vaccine Guidelines & Resources for Employers

As of April 19, 2021, every adult in the United States is eligible to receive a COVID-19 vaccination. Eligible, however, does not always mean available. Even when available, not all U.S. adults are signing up to receive their vaccination.

For employers, having vaccinated employees may seem to be the easiest way to reach full operations quickly and safely. The question remains how to achieve employee compliance with vaccination goals. The recurring question is whether an organization should take a carrot or a stick approach. Both mandates and incentives have been acknowledged as acceptable methods, but businesses should remember a myriad of state and federal laws apply to both.

Both mandates and incentives can pose a variety of potentially unforeseen consequences. For instance, what if the employee has a medical condition, pregnancy, or sincerely held religious belief that prevents receiving the vaccine? Under a mandate, what reasonable accommodation can be made for that individual? As to an incentive program, how will the program address these employees? Does the employee still qualify for the incentive?

Additionally, standard discrimination concerns must still be recognized and considered. While the Equal Employment Opportunity Commission (EEOC) has stated employers can request employees present proof of vaccination, the standard rules about not asking employees about medical conditions apply. "Have you been vaccinated?" would be acceptable, but "Why haven't you been vaccinated?" may lead to a potential Americans with Disability Act (ADA) claim.

Moreover, the EEOC issued guidance in January 2021 that incentives be de minimus, such as a water bottle or equivalency, on the logic that too large of an incentive, such as an extra day's pay or PTO, would make taking the vaccine less voluntary and more of a forced choice. While this guidance has officially been frozen under the new Administration, experts agree it will likely move forward once the general freeze has been lifted.

There is a third option between carrot and stick: education and encouragement. The Centers for Disease Control and Prevention (CDC) has created a resource center for businesses to assist in educating and encouraging employees to receive the COVID-19 vaccine. The resource center provides talking points, presentations, handouts, social media posts, and other materials to help employees distinguish between vaccine fact and vaccine fiction. To view resource materials, [visit the CDC website](#). Local and state health departments have additional resources about vaccine availability and scheduling.

Remember, even with the advent of millions of vaccines, immunity will not be immediate, and precautions must remain in place. Even when fully vaccinated, the CDC continues to advise [precautions to help end the spread of COVID-19](#). Notably, OSHA's directives surrounding workplace safety are not only in place but being vigorously enforced with the aid of additional funding from the most recent COVID-19 relief bill.

## **Guidelines**

In all cases, clients should notify Staffmark Group about any statements made by any Staffmark Group talent of his/her inability to receive the vaccine. We will follow our standard reasonable accommodation protocols.

In all cases, existing COVID-19 protocols will continue to be adhered to, including, but not limited to following CDC guidelines on social distancing in offices, daily disinfecting by all team members, and hand washing. No exceptions.

In all cases, retaliation or harassment of any employee for reporting failure to adhere by these guidelines is prohibited. Non-compliance reports may be made through standard reporting chain of command or anonymously through the Safety Hotline.

## STAFFMARK GROUP CLIENT FAQs

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### **Q: Can we implement an incentive for Staffmark Group talent to be vaccinated?**

A: It is important that any plan for incentives include a clear plan for those individuals who cannot participate due to medical condition, disability, or sincerely held religious belief. Staffmark Group is eager to work with you to ensure all talents' needs are met. Your incentive plans must be reviewed by Staffmark Group's corporate office.

### **Q: Can we mandate vaccination to work on-site?**

A: Yes, the law does allow such a mandate, but you must have a plan on how to accommodate those who cannot receive the vaccine due to a disability or religious objection. Also, while the law does allow mandates, we encourage you to start with a voluntary program, as it may result in better participation. The American Staffing Association has [several resources](#) available for educating and encouraging employees to receive the vaccine.

### **Q: Can we offer talent a bonus to receive the vaccine?**

A: Yes, if the bonus is truly a bonus and not a requirement and if the bonus is not so large as to force the talent's hand. We encourage you to lead the bonus arrangement, and you will need to reimburse Staffmark Group if we are to distribute the bonus to talent.

**Q: Can we verify if talent have been vaccinated?**

A: [According to the CDC](#), whether an employer may require or mandate COVID-19 vaccination is a matter of state or other applicable law. If an employer requires employees to provide proof that they have received a COVID-19 vaccination from a pharmacy or their own healthcare provider, the employer cannot mandate that the employee provide any medical information as part of the proof.

Barring a state-specific law to the contrary, Staffmark Group, as our talent’s employer, can request the immunization card be presented to verify vaccination status. Follow up questions surrounding why an individual has not been vaccinated would not be allowed as they may likely result in protected health information. Out of an abundance of caution, all vaccination information should be treated like medical information and handled accordingly.

**Q: What happens if vaccinated talent have adverse side effects?**

A: People may experience various side effects after receiving the COVID-19 vaccination, regardless of the vaccination type. Some of these common side effects include the same symptoms as COVID-19, such as fever, chills, headache, and fatigue. As such, we can reasonably anticipate that vaccinated employees may request time off, ranging from a few hours to a few days, because of side effects. Ensure these individuals are placed back to work as soon as they are ready to return.

Allow employees to utilize any accrued paid time-off benefits, such as sick leave or vacation, for vaccination, including any adverse side effects. While there are currently no federal paid benefits specifically for COVID-19 vaccinations, New York recently enacted a law that mandates paid COVID-19 vaccination leave of up to four hours per injection. However, New York’s vaccination leave does not address time off for any adverse effects — just time off for the vaccination itself.

**Q: What happens if vaccinated talent have adverse side effects that we believe are COVID-19 symptoms?**

A: Let’s work together with our respective human resources departments to define a clear plan prior to rolling out a vaccination policy for those individuals exhibiting symptoms that would otherwise be considered a bar to work. For example, if you take employee temperatures, should talent who develop a fever following vaccination be permitted to work or required to quarantine?

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As your business partner, Staffmark Group is committed to providing you with information and resources on issues that impact your business. This whitepaper is designed to provide an overview of COVID-19 vaccine guidelines and resources and how we can work together to formulate and communicate your company’s plans. This whitepaper is not intended as legal advice.

*Sources: Centers for Disease Control and Prevention and American Staffing Association*

## About Staffmark Group

Staffmark Group is a family of staffing brands with a mission to align people and companies to create opportunity. We provide the expertise, connections, and technology to help people and companies succeed. If you need a job, we want to provide it. And if you need staff, we want to deliver the best candidates.

A proud member of RGF Staffing, Staffmark Group is organized into three operating units: Commercial Staffing Services (Administrative & Light Industrial), Technical & Professional Services, and Strategic Workforce Solutions. Our national network of 400+ branch and on-site service locations connects 250,000 talent annually.

Opportunity is everywhere, but it's not always easy to uncover. We partner with you to help you find it.

[www.staffmarkgroup.com](http://www.staffmarkgroup.com)

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