

This is the New Normal: New Jersey Employers Can Require Employee Vaccinations

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As COVID-19 vaccine rollouts become more prevalent in New Jersey, both employers and employees are faced with the reality that a return to the “normal” workplace is on the horizon. Faced with this prospect, many have asked if employers can mandate employee vaccinations. The short answer, like most legal inquiries, is “yes, subject to some exceptions”.

New Jersey, following the general rules set forth by the U.S. Equal Employment Opportunity Commission, recently issued guidance that employers can require employees to receive the COVID-19 vaccine in order to return to the workplace unless three narrow exceptions apply:

- The employee has a disability precluding them from getting the COVID-19 vaccine;
- The employee has been advised by a doctor not to get the vaccine while pregnant or breastfeeding; or
- The employee has a sincerely held religious cause precluding them from getting the vaccine.

If an employee falls within one of these three exemption categories, their employer must provide a reasonable accommodation from its mandatory vaccine policy, unless such accommodation would impose undue burden on its business operations.

In typical fashion there are exceptions to these exceptions. While employers must ensure all employee medical information remains confidential, employers may request medical documentation to confirm a disability or medical guidance preventing the employee from receiving the COVID-19 vaccine. Employers may also make a limited inquiry into the facts and circumstances supporting an employee’s request for a religious exemption from the vaccination if the employer has an “objective basis” for questioning either the religious nature or the sincerity of a particular religious belief, practice, or observance. This is a qualifier to the general rule that employers may not question the sincerity of an employee’s religious beliefs, practices, or observances.

In the event an employee is exempted from mandatory vaccination, what qualifies as a reasonable accommodation? Generally, the most common accommodation would be to allow the employee to continue to work remotely, or to otherwise work in a manner that would reduce or eliminate the risk of harm to other people in the workplace. Other accommodations may include the provision of personal protective equipment. If no reasonable accommodation can be made to mitigate the risks associated with COVID-19 transmission, an employer may exclude unvaccinated employees from the workplace, even if the employee is not vaccinated for medical or religious reasons.



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