

### Can Employers Require a COVID-19 Vaccine?

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Every day Americans are promised an end to this pandemic through the advent of an all hallowed vaccine. As this day draws nearer, questions for employers become more eminent—how (and whether) to administer a vaccine program; whether employers can require employees to obtain a vaccine; and in the climate of controversy, how to manage an employee who refuses.

There are some things we know—and some things we don't.

The ADA and Title VII are implicated when we are looking at mandatory vaccination as a condition of employment. Unless an employer can demonstrate an “undue hardship” (1) the ADA requires qualified employers to make a reasonable accommodation for those who cannot receive the vaccine due to a disability and (2) Title VII, requires qualified employers to make a reasonable accommodation where an employee's sincerely held religious belief prevents him/her from receiving a vaccine.

The EEOC, which is the federal administrative agency tasked with interpretation and enforcement of both the ADA and Title VII, issued guidance in 2009 as to the H1N1 pandemic, which was updated in March of 2020 as to the current COVID-19 pandemic. According to the EEOC an employer may need to accommodate under the ADA and Title VII as to mandatory vaccines, even during a pandemic.

For now the available EEOC guidance encourages employers to suggest that employees be vaccinated, rather than requiring vaccination; keep in mind the current guidance was issued in March when there wasn't a COVID-19 vaccine, and now we have a vaccine (3 possibly) expected soon.

The analyses required under the ADA and Title VII are complex and fact intensive. Employers should contact any member of **Bodman's Workplace Law Group** to assist with this determination. Bodman cannot respond to your questions or receive information from you without first clearing potential conflicts with other clients. Thank you for your patience and understanding.

**For more information:** [COVID-19 Town Hall: Requiring Employees To Take A COVID Vaccine With Bodman's Michelle L. Kolkmeier](#)

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