

VACCINE FAQs

1. Can an employer require that I get the COVID-19 shot?

- Yes, a private employer can make the shot a requirement. However, religious exemption requests must be accommodated, where a reasonable accommodation exists without undue hardship to the employer, under Title VII of the Civil Rights Act of 1964. Medical exemptions must also be accommodated under the Americans with Disabilities Act (ADA).

2. How do I obtain a religious exemption?

- The process begins when you communicate to your employer that you are unable to receive the COVID-19 shot because of a sincerely held religious belief. You can do this through a written letter or email. We have a sample letter that you must tailor to fit your personally held beliefs. Once an employer is on notice that your sincerely held religious belief prevents you from getting a COVID-19 shot, the employer must provide a reasonable accommodation unless it would pose an undue hardship.

3. Can my employer force me to disclose information about my pastor or church attendance?

- The only questions you are required to answer are those about whether your religious beliefs are sincere and how they prevent you from receiving the COVID-19 shot. Legally, an employer cannot force you to prove that a church or religious leader agrees with your sincere religious beliefs. An employer is not permitted to determine which religious adherent has a correct understanding of religious doctrine or whether your sincerely held religious beliefs are shared broadly among other members of the faith. The only legally relevant questions are about your own personal sincere beliefs.

4. What constitutes a “reasonable accommodation”?

- Some examples include things we have seen employers do since the inception of COVID: allowing employees to work from home, self-screening with temperature checks, taking weekly COVID tests, wearing personal protective equipment (PPE), and complying with other safety protocols to reduce the risk of getting or spreading COVID-19. Employers are not required to make accommodations if such accommodations will create an “undue hardship” for the employer, which is where the cost of the accommodation is more than minimal cost or minimal burden on the employer.

5. My employer granted my religious exemption but is discriminating against me. Is that legal?

- There is a line between reasonable accommodations, which are legal, and unlawful discrimination. If an employer requires you to wear a face mask, get tested weekly, etc., those are lawful requirements. It crosses the line to discrimination when the employer takes

any action depriving you of employment opportunities or adversely affects your status as an employee, such as demotes you in title or reducing pay. It also crosses the line when your employer creates a hostile work environment based on your religious exemption.

6. What if I get fired for refusing to get the COVID-19 shot?

- If you claimed a religious or medical exemption and then were fired specifically for not getting the shot, you may have a case for wrongful termination and discrimination. Contact a local employment attorney and request a consultation to see if you have a case. You can also file a claim with two different governmental agencies to help you preserve their rights. These two agencies are the Department of Fair Employment and Housing (DFEH) for state law claims or the Equal Employment Opportunity Commission (EEOC) for federal law claims.

7. Is it a violation of HIPPA for my employer or school to ask me if I have been vaccinated?

- HIPPA does not prevent anyone from asking you directly, it only prevents third parties from disclosing your information without your consent. HIPPA also only applies to the healthcare industry (including healthcare insurance providers) – healthcare providers, health plans, healthcare clearinghouses, and their business associates.

8. Can my public or private university require the COVID-19 shot?

- Yes, colleges and universities can require vaccinations as a prerequisite for living on campus or attending in-person classes. If it is a state (public) college or university, they must allow religious exemptions. However, private universities are not subject to the Bill of Rights and have more discretion of mandates. You can nonetheless attempt to request a religious exemption even at a private university.

9. What if I do not want to take the vaccine because I am concerned about side effects or future health issues?

- Unfortunately, only medical and religious exemptions are available. At this time, there is no exemption for those who are declining the vaccine based on potential side effects, personal preference, the lack of long-term studies, or any reason other than a religious objection or medical exemption.

10. Can Advocates for Faith and Freedom represent me if I want to challenge the COVID-19 mandates?

- Advocates currently has two federal vaccine related lawsuits to get the courts to chime in on the ability of the state, schools, and private employers to mandate the COVID-19 shot, weekly testing, contact tracing, and other invasive mandates. Unfortunately, we do not have enough resources to meet the demand for the countless people in recent days who need legal help or individual consultations. We urge you to do your research, understand your rights, and advocate for yourself. We are all in this fight together, and we all have a responsibility to be our own advocates during this unprecedented time. We have strategically taken on two lawsuits and do not have the capacity to litigate several lawsuits.

11. Can there be a class action to challenge the COVID-19 mandates?

- Yes, it is possible to bring a class action lawsuit with your co-workers, colleagues, fellow students, etc. In fact, law firms throughout the country have started collecting information for potential plaintiffs to bring a lawsuits against Kaiser, the military, United Airlines, Delta Airlines, and others. Also, a class action was recently filed in Hawaii on behalf of first responders. Advocates is unable to initiate a class action lawsuit at this time but seek out independent legal counsel to explore your options.

12. What if I get injured or have a serious adverse reaction after being forced to get the COVID-19 shot?

- You may be able to sue the school or company that required you to get the shot if you can prove you only got the shot because it was a requirement and the injury was caused by the shot.

13. Is there a legal basis to challenge vaccine mandates?

- Yes, there are a variety of ways to challenge the mandates depending on the facts of a particular situation. Numerous lawsuits are currently making their way through the courts, including the two lawsuits we are working on. However, thus far there have not been any decisions that are helpful in stopping mandatory vaccinations for employees and students. We are hopeful that one of these cases will find their way to the Supreme Court of the United States for a definitive decision on the COVID-19 shot mandates.

14. Are shot mandates unconstitutional?

- There is a potential argument that the shot mandates violate the free exercise clause of the First Amendment to the Constitution of the United States. The Bill of Rights only applies to actions taken by government or agents of government, not private employers or private schools. Public schools and government sponsored colleges and universities are under the Bill of Rights, so the constitutional arguments would apply to them as well.

15. How is it possible that my employer or school can mandate the COVID-19 shot?

- Historically, courts have upheld strict vaccine mandates, especially in public schools. The legislature in California has prohibited students in public k-12 school from religious exemptions and has significantly narrowed medical exemptions. Flu shot mandates have also been upheld in various contexts, such as employment and universities. However, despite the case precedent supporting vaccine mandates, the courts have consistently held that valid religious exemptions must be granted in the employment context.