



# Q-tips Newsletter

April 2021



## Law & Regulation Updates

### Connecticut Law Alerts

**Employer Discrimination Based on Natural Hair Prohibited** - On March 4<sup>th</sup>, 2021, the Governor signed legislation (HB6515) amending the state's Fair Employment

### Unemployment

The act extends unemployment programs through September 6, 2021 – Pandemic Emergency Unemployment Compensation (PEUC), the Pandemic Unemployment Assistance (PUA) and the Federal Pandemic Unemployment Compensation (FPUC)/Mixed Earners Unemployment Compensation (MEUC).

### The Employee Retention Credit

This credit, enacted under the CARES Act, is extended to Dec. 31, 2021. It allows qualifying employers to claim a credit for wages paid to workers they retained on their payroll during the pandemic.

Please let us know if you would like to learn more.

## Mandatory COVID Vaccinations – A Guide for Employers

Now that effective vaccines against COVID-19 are available (although not yet widely), employers are wondering whether they should require employees to get vaccinated. The guidance from the Equal Employment Commission (EEOC) indicates that generally employers can require employees to get the COVID vaccine as a condition of continued employment. However, employers who do so will need to consider making exceptions for employees who cannot get vaccinated because of a disability or religious belief.

Also, some states are considering providing employment protections for those who choose not to receive the vaccination, so keep an eye out for new laws passed in your state.

Other issues to consider include concerted activity, safety, and confidentiality.

In addition, it is recommended employers consider if their circumstances might be better served by *encouraging* rather than requiring employees to vaccinate against COVID.

Keep in mind that guidance in this area is likely to change relatively quickly.

## CDC Guidance for Fully Vaccinated

On March 8, 2021, the Centers for Disease Control and Prevention (CDC) released its first [Interim Public Health Recommendations for Fully Vaccinated People](#) guidance under which fully vaccinated people can:

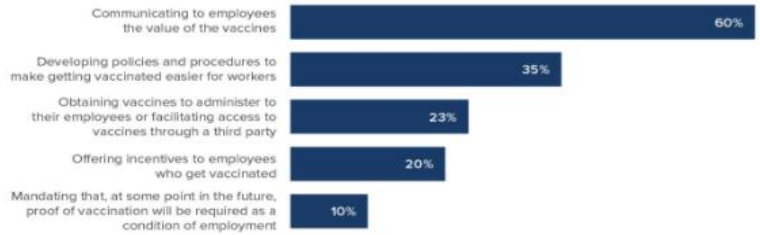
- Visit with other fully vaccinated people indoors without wearing masks or physical distancing.
- Visit with unvaccinated people from the same household who are at low risk for severe COVID-19 disease indoors without wearing masks or physical distancing.
- Refrain from quarantine and testing following a known exposure if asymptomatic. However, the CDC recommends that fully vaccinated people should continue to:
  - ✓ Take precautions in public like wearing a well-fitted mask and physical distancing.
  - ✓ Wear masks, practice physical distancing, and adhere to other prevention measures when visiting with unvaccinated people who are at increased risk for severe COVID-19 disease, including household members.
  - ✓ Wear masks, maintain physical distance, and practice other prevention measures when visiting with unvaccinated people from multiple households.
  - ✓ Avoid medium- and large-sized in-person gatherings.
  - ✓ Get tested if experiencing COVID-19 symptoms.
  - ✓ Follow guidance issued by individual employers.

## How Employers Are Educating Employees About Getting Vaccinated

Determining whether to mandate vaccinations is a difficult decision for most employers. As opposed to requiring employees to get vaccinated from COVID-19, many are opting to provide educational material for employees, strongly encouraging them to get the vaccination.

### Employers Are Adopting Vaccination Policies

Ways in which employers are addressing COVID-19 vaccination issues:



Source: 2021 Emerging Trends in Health Care Survey, Willis Towers Watson, March 2021.

### Employers Are Getting the Word Out

How employers are encouraging employees to get vaccinated against COVID-19:



Source: Pulse of the Purchaser 2021-2023, National Alliance of Healthcare Purchaser Coalitions, March 2021.

Employers are taking steps to make vaccines more accessible to their employees and to encourage them to get vaccinated to end the pandemic. Commonly, employers are providing various resources to help convince employees to get the vaccine and making it easy for them to do so.

#### Related SHRM Articles:

[CDC Recommends Employer Steps to Increase Vaccine](#)

[Acceptance](#), SHRM Online, April 2021

[CDC Provides Guidance on Employers' Onsite](#)

[Vaccination](#), SHRM Online, March 2021

[For CFOs, COVID-19 Employee Vaccinations Are](#)

[Complicated](#), SHRM Online, March 2021

[Do Employers Have to Pay for Time Off to Get](#)

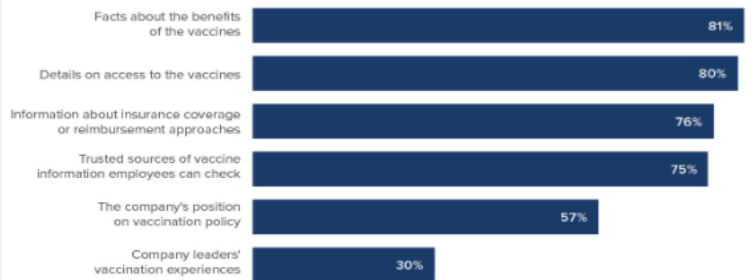
[Vaccinated?](#), SHRM Online, March 2021

[Workers' Vaccination Fears Pose Businesses Challenges.](#)

[SHRM Survey Finds](#), SHRM Online, February 2021

### Employers Are Providing a Variety of Resources

Information employers are sharing about the COVID-19 vaccine in employee communications:



Source: 2020/2021 U.S. Coronavirus Business Impact Survey, Mercer, March 2021.

## Burning COVID-19-Related Level Questions for 2021

**1. How should an employer respond to an employee who resists returning to onsite work due to fear of contracting the virus?** If an employee fears contracting COVID-19 because of an existing health condition, the employee may be eligible for leave under the Family and Medical Leave Act (FMLA) or an accommodation such as remote work under the Americans with Disabilities Act (ADA).

**2. What are the key points related to leave associated with COVID-19?** According to guidance from the Department of Labor issued Dec. 31, 2020, an employer is not required to provide FFCRA leave after Dec. 31, 2020; however, an employer may voluntarily decide to do so. Additionally, the Consolidated Appropriations Act, 2021, extended employer tax credits for paid sick leave and expanded family and medical leave voluntarily provided by employers until March 31, 2021.

**3. Can employers restrict employees' off-duty conduct?** Employers are unable to fully control employees' off-hours activities however, they can minimize risks to other employees by implementing sound policies that are consistent with local, state, and Centers for Disease Control and Prevention guidance; always encouraging employees to socially distance; and reminding employees of their shared responsibility to maintain a safe and healthy workplace for all.

**4. Can an employer be held liable if an employee who contracted the virus at work spreads it among relatives at home?** This question has not yet been conclusively resolved, and courts are still considering whether and to what extent employers can be held liable for secondary COVID-19 exposure.

**5. What are the best practices for managing remote employees?** Effective communication is critical in establishing trust, and managers may need to be more purposeful in how they check in with employees to motivate and engage staff, monitor employee performance, and engage in social interaction.

Employers need to establish a solid framework to ensure employee accountability by clearly defining the expected work schedule, performance metrics, time-keeping procedures, timeliness of communication, and adherence to company policies and procedures in the remote environment. Adherence to company policies and procedures might include standards of conduct, leave management, and protection of confidential company information and trade secrets.

Monitoring remote workers' hours is through reasonable diligence, the employer needs actual or constructive knowledge that compensable work was being performed. One way to demonstrate reasonable diligence is to develop written time-keeping policies and procedures so employees can accurately record hours worked, including unscheduled hours. Although the onus may be on employees to utilize an employer's reasonable time-keeping procedures, project and performance management platforms and communication tools increasingly provide managers with greater visibility into employee productivity. Managers should be trained on how to identify and report unscheduled work and consistently enforce company standards.

#### **Back to the workplace: How to Plan Your Reopening**

- **Put together a reopening team comprised of company leaders from all departments.** This will help to ensure every decision is "human" and not solely left up to HR.
- **Send out a reopening survey obtaining the employees views.** Employees should be included in the process and planning events to boost morale and encourage inclusion.
- **Create health and safety guidelines.** Organizations need to establish safety regulations that will keep both employers and employees healthy. To mitigate the spread of the virus, creating a COVID-19 screening form that employees fill out on their mobile devices will help track illness. Once they pass the screening, employees are asked to schedule time to come in to limit the number of people in the workspace.
- **Purchase the right safety equipment.** Ensure to provide hand sanitizer, touchless thermometers, Plexiglas dividers, stocked washing stations, educational material and masks for the employees.
- **Consult experts** such as the CDC and OSHA.
- **Come up with a contingency- and alternative- plan.** Continue to work on creating flexible schedules and making accommodations for those employees who are not ready to come back into the office just yet.