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Safe Actions For Employee Returns

Safety Tips for Mixed Vaccinated Workforces

COVID-19 vaccinations are recommended by the Centers for Disease Control and Prevention (CDC). Additionally, the Equal Employment Opportunity Commission (EEOC) issued an update to its December 2020 guidance regarding vaccinations and incentive programs. The updated guidance notes it is lawful for employers to require a COVID-19 vaccination for all employees entering the workplace under the Americans with Disabilities Act (ADA) and the Genetic Information Non-Discrimination Act (GINA).

The new guidance also makes it clear employers can legally offer an incentive to employees to voluntarily provide documentation of vaccination. Employers may also offer incentives for workers to be vaccinated by the employer if the employer does not obtain genetic information from the employee.

Things to remember when managing a mixed vaccinated workforce:

1. **Address employee vaccine hesitancy** – Address vaccine hesitancy among your workforce. Give factual information and be transparent. Encourage employees to be vaccinated.
2. **Avoid discrimination toward unvaccinated workers** – While employers can legally separate vaccinated and unvaccinated workers, lawyers are cautioning against it. Such policies can create resentment among workers. It can also create legal risks as some workers can't get vaccinated for religious reasons or for existing health conditions.
3. **Take a balanced approach** – Exercise a sensible position when enforcing masking and social distancing policies while listening to, and potentially accommodating, workers. Have masks ready for employees who aren't vaccinated and forget them, and don't alienate unvaccinated workers.

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References:

EEOC Guidance:

<https://www.natlawreview.com/article/eec-takes-second-shot-covid-19-employer-vaccine-incentives-approved-subject-to>

Segregating unvaccinated workers:

<https://news.bloomberglaw.com/daily-labor-report/segregating-unvaccinated-workers-think-twice-attorneys-warn>

Forbes:

[Three Trends to Adopt With Mixed Vaccinated Workforce](#)

Mask and vaccination conflicts:

<https://www.shrm.org/ResourcesAndTools/legal-and-compliance/employment-law/Pages/coronavirus-conflicts-over-masks-and-vaccinations.aspx>