# Answers to the Most Common COVID- 19 Vaccine Questions

## When will a COVID-19 vaccine be available?

On Dec. 11, 2020, the [U.S. Food and Drug Administration](https://www.fda.gov/news-events/press-announcements/fda-takes-key-action-fight-against-covid-19-issuing-emergency-use-authorization-first-covid-19) issued the first [emergency use authorization](https://www.youtube.com/watch?app=desktop&v=iGkwaESsGBQ&feature=youtu.be) for a vaccine for the prevention of COVID-19 in individuals 16 years of age and older. Each state will determine in what order residents will be able to receive the vaccine, with most allowing health care workers and long-term-care residents to receive the vaccine first.

## Can we require employees to receive the COVID-19 vaccine?

In general, it is recommended for employers to offer vaccinations to employees on a voluntary basis; however, employers in most states may be able to mandate COVID-19 vaccinations as long as the employer complies with the Americans with Disabilities Act and Title VII of the Civil Rights Act.

The Equal Employment Opportunity Commission has released [specific guidance](https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws) (Section K) on the COVID-19 vaccine. It has also updated its [Pandemic Preparedness for the Workplace](https://www.eeoc.gov/laws/guidance/pandemic-preparedness-workplace-and-americans-disabilities-act) guidance to reflect the current COVID-19 pandemic. The guidance indicates that an employer must consider reasonable accommodations for employees with disabilities and those employees whose religious beliefs conflict with receiving a vaccine.

If your workforce is covered by a collective bargaining agreement (CBA), a required vaccination would be a condition of employment that may already be included in the CBA or may need to be bargained with the union before such a policy could be implemented.

## Will state or federal regulations require certain workers to be vaccinated?

Because COVID-19 is a pandemic, it is likely that federal or state regulations will mandate vaccinations for certain personnel such as health care workers. This would be similar to current requirements for the flu vaccine. Employers in these industries should watch for and defer to regulations specific to their workplace.

In addition, each state has the authority to determine vaccine priority, and, while [federal recommendations](https://www.cdc.gov/coronavirus/2019-ncov/vaccines/recommendations-process.html) will likely be followed in most states, there may be some state-by-state variation.

## Do we need to have a policy in place if we are requiring or encouraging employees to receive the COVID-19 vaccine?

Yes; employers should develop a policy outlining any requirement or recommendation for COVID-19 vaccinations in the workplace.

## Do employers need to pay for the COVID-19 vaccination for their employees?

If the vaccine is mandated by the employer, the employer may be required to cover the cost of the vaccine and pay an employee for time spent getting the vaccine. Under the Fair Labor Standards Act, an employer must cover any work-related expenses for an employee if the cost of the expense would drop the employee below minimum wage. State laws may also require payment.

In addition, an employer is obligated to pay an employee for time spent [seeking medical attention](https://webapps.dol.gov/elaws/whd/flsa/hoursworked/screenEr25.asp) that is required by the employer and occurs during work hours.

## Can we fire an employee for refusing to get a COVID-19 vaccination?

Absent a medical or religious exemption from a mandatory vaccination requirement, an employer may be able to make a COVID-19 vaccination a condition of employment and terminate employees who do not comply. However, employers should tread carefully with this practice and consult legal counsel prior to making termination decisions.

## Can employers be held liable for administering COVID-19 vaccinations onsite?

The [Public Readiness and Emergency Preparedness Act](https://www.federalregister.gov/documents/2020/03/17/2020-05484/declaration-under-the-public-readiness-and-emergency-preparedness-act-for-medical-countermeasures) may provide employers immunity from claims related to side effects of a vaccine or other injury at the employer’s vaccination site if the employer supervises or administers an onsite vaccination program.