

Blog Post

# Employees Starting to Receive the COVID-19 Vaccine – Now What?

February 15, 2021

Despite some employees receiving the COVID-19 vaccine, employers should still require workers to wear face coverings and remain physically distant to help prevent the spread of the virus, according to updated guidance by the Occupational Safety and Health Administration (OSHA) and the Centers for Disease Control and Prevention (CDC).

According to *Bloomberg's COVID-19 Vaccine Tracker*, as of February 14, 2021, 53.8 million doses of the COVID-19 vaccine had been administered in the United States with more than 173 million across 77 countries. But multiple sources make clear that even after an individual receives the COVID-19 vaccine, it is important to continue the COVID-19 precautions implemented at the onset of the pandemic.

Not only are there concerns that the vaccines in the U.S. with current Emergency Use Authorization approval might not be effective against some of the new strains that are proliferating, but also, it is unclear whether those who have been vaccinated can still spread the virus. “Currently, we do not have enough data to be able to say with confidence that the vaccines can prevent transmission,” White House Health Advisor Dr. Anthony Fauci said on February 4, 2021 during an online Q&A session. “So even if vaccinated, you may still be able to spread the

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virus to vulnerable people. Masks are vital until we learn more & significantly reduced infections.”

The CDC’s guidance confirms that there is just not enough information currently available to say if or when it will stop recommending that people wear masks and staying socially distant.

Based on this uncertainty, OSHA issued its updated guidance agreeing with the CDC regarding those safety measures. The new guidance does not impose new legal requirements on employers but rather, reinforces the same recommended practices that have been in place for some time, such as instructing workers who are infected or potentially infected to stay home and isolate or quarantine. The suggested practices help identify risks of being exposed to and of contracting COVID-19 in workplace settings and help determine appropriate measures to implement.

OSHA suggested implementing a COVID-19 prevention program early on in the pandemic, to help mitigate the spread at workplaces. OSHA now also recommends making the vaccines available to workers at no cost and “provid[ing] information and training on the benefits and safety of the vaccinations.” OSHA further suggests “[n]ot distinguishing between workers who are vaccinated and those who are not” (*i.e.*, ensuring all workers continue to follow protective measures, regardless of their vaccination status).

Employers should continue to take steps to ensure that workers are not retaliated against for raising any safety concerns, says OSHA, and that there should be a process set up for workers to voice their concerns. The protections against retaliation and discrimination are just as important now as before, especially given that workers may feel emboldened to no longer wear face coverings because he/she has been vaccinated.

Employers are reminded that they may require employees in the workplace to get a COVID-19

vaccine, so long as they make reasonable accommodations for those with disabilities or sincerely held religious objections, according to newly issued guidelines from the Equal Employment Opportunity Commission (EEOC). However, employers may not necessarily terminate an employee who refuses a vaccine. *See* Akerman's HR Blog post on "Employer May Compel COVID-19 Vaccinations, But..." for more information.

Moreover, just because the EEOC says that an employer can require a vaccine, does not mean that the employer should do so – particularly while the vaccines administered in the U.S. only have Emergency Use Authorization, not full FDA authorization.

For assistance with updating COVID-19 policies and procedures, contact your Akerman attorney.

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