

OSHA Nixes Recording Obligations for Vaccine Mandates

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The U.S. Department of Labor Occupational Safety and Health Administration has revised its FAQs and is no longer requiring COVID-19 vaccine reactions to be recordable on an OSHA log when an employer mandates the vaccine.

The FAQs now read:

DOL and OSHA, as well as other federal agencies, are working diligently to encourage COVID-19 vaccinations. OSHA does not wish to have any appearance of discouraging workers from receiving COVID-19 vaccination, and also does not wish to disincentivize employers' vaccination efforts. As a result, OSHA will not enforce 29 CFR 1904's recording requirements to require any employers to record worker side effects from COVID-19 vaccination through May 2022. We will reevaluate the agency's position at that time to determine the best course of action moving forward.

Prior guidance had stated that any side effects from mandated vaccines should be recorded on an OSHA log if it met other recordable criteria - for example, days away from work or medical treatment beyond first aid. It remains unclear whether an employee's hospitalization from a mandatory COVID-19 vaccine triggers the OSHA 24-hour notice requirement, though a conservative approach would favor notice under those circumstances.

Employers should remember that the Pennsylvania Workers' Compensation Act likely will treat side effects from mandatory vaccines as work-related, regardless of OSHA's position. Encouraged or incentivized vaccines will not be considered work-related should they result in injury.

The Barley Snyder Employment Practice Group can assist you in creating or evaluating COVID-19 protocols or evaluating whether a specific proposal constitutes a "requirement" for OSHA or Pennsylvania workers' compensation purposes. If you have any questions or concerns, please [contact me](#) or [reach out to anyone in the group](#).

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The views expressed in this alert are those of the individual author and do not necessarily reflect the views of the firm or the firm's clients. The response to the COVID-19 pandemic is particularly challenging, evolving and, in many cases, can be controversial. Any views expressed in this alert are not intended to advocate for or endorse a particular governmental response to the pandemic.

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