



KROKIDAS & BLUESTEIN LLP

CLIENT ALERT

**EEOC UPDATES GUIDANCE REGARDING EMPLOYER POLICIES
AND COVID-19 VACCINES**

On May 28, 2021, the U.S. Equal Employment Opportunity Commission (“EEOC”) issued [new guidance](#) regarding the interplay between federal equal employment opportunity laws and employer policies regarding COVID-19 vaccinations.

The EEOC addressed a broad range of topics, including the following:

- **An employer may require all employees physically entering the workplace to be vaccinated for COVID-19, subject to the requirement that reasonable accommodations be provided for employees with disabilities or sincerely held religious beliefs relating to vaccination.** Accommodation requirements are fact-specific and subject to consideration of factors including any “direct threat” to the health and safety of the employee or others in the workplace. Employers should also keep in mind that certain demographic groups may face greater barriers to receiving vaccinations than others.
- **Employers should take steps to minimize the risk of receiving confidential medical information beyond vaccination status.** In particular, employers should not request copies of any medical records or notes that might include information on medical conditions that might explain an employee’s priority for vaccination or reason for not receiving a vaccine.
- **An employer may encourage and provide incentives for employees to be vaccinated.** Employers can provide educational information about COVID-19 vaccines, raise awareness about the benefits of the vaccination, and address common questions and concerns. Also, employers may offer incentives to employees to voluntarily provide confirmation of vaccination. Vaccination programs operated by an employer or its agent raise unique issues including prohibitions contained in the Genetic Information Nondiscrimination Act (“GINA”).
- **Information about an employee’s COVID-19 vaccination status is considered “confidential medical information” under the ADA.** The ADA confidentiality requirement applies regardless of where the employee gets the vaccination.

If you have any questions about how to develop a COVID-19 vaccine policy, or any other questions about employers' obligations and best practices in light of COVID-19, please contact a member of our employment law team: Paul Holtzman (pholtzman@kb-law.com), Jill Brenner Meixel (jmeixel@kb-law.com), Allison Lennon (alennon@kb-law.com), or Brian Richichi (brichichi@kb-law.com).

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