



KROKIDAS & BLUESTEIN LLP

CLIENT ALERT

EEOC Guidance Regarding COVID-19 Vaccines

On December 16, 2020, 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.

EEOC confirmed that employers can institute mandatory vaccine policies, but there are certain limitations and restrictions.

- Employers may need to accommodate employees with disabilities that prevent the employees from receiving the vaccine. The accommodation process is individualized, as discussed in a previous [client alert](#) and employers will need to evaluate each instance in which an employee requests an accommodation.
- Similarly, some employees may indicate that they are unable to receive the vaccine because of a sincerely held religious belief, and employers will need to consider whether it is possible to make an accommodation based on such belief.
- Employers will need to consider whether and how they are able to accommodate employees who are unable to receive the vaccine, whether on the basis of a disability or religious belief.
- If an employer does decide to provide vaccinations to its employees, it will need to be careful with respect to what information it requests from employees; pre-vaccination screening protocols may implicate disability-related inquiries or receipt of genetic information.

Employers will need to consider whether, and how, they wish to implement a COVID-19 vaccine policy. Some may provide access to employees on a voluntary basis, while others may require that all employees receive the vaccine and provide proof before returning to the workplace. Vaccine availability will likely shape these decisions, as not all employees will necessarily be able to obtain a vaccine at the same time. Each employer may also have specific needs and concerns. Healthcare providers, for example, are likely to obtain access to vaccines earlier in the process and may wish to encourage or require employees to obtain a vaccine. Employers will

also need to consider the impact on employees of requiring vaccinations, and recognize that the roll-out process may not be smooth and that conditions may change over the coming months.

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).