



## Allegheny County Department of Human Services Helpful Resources

### Vaccination of Provider Staff

#### A. Background

As Covid-19 vaccines become available, human services providers will have a strong interest in ensuring that their staff get vaccinated. Even through the worst stages of the pandemic, many human service providers and workers maintained in-person operations to ensure continuity of essential services to vulnerable individuals and communities. Against this context, human services staff performing essential services are believed to be at higher risk for contracting and transmitting Covid-19. Once vaccines become available, it will be critical for provider staff to get vaccinated. Unvaccinated workers will pose risk to themselves, to other employees and to clients.

We have received inquiries from providers seeking guidance on vaccination of staff. This guidance:

1. Underscores that **frontline workers performing essential human services have early priority** to get vaccinated per federal and state guidance
2. Sets forth DHS' vision for the **critical role that DHS providers can play** in supporting essential workers to get vaccinated
3. Addresses the parameters within which **DHS providers may choose to require employee vaccinations**, so long as providers' vaccination policies allow for exceptions when necessary. It also offers guidance in how to get started in implementing a vaccination requirement.

**DHS strongly urges all providers to develop a plan for communicating to employees the critical importance of getting vaccinated against Covid-19 and for excusing worktime that employees may need to miss to get the vaccine.**

We will provide additional updates as federal and state guidance continues to evolve and as regional vaccination efforts unfold.

## PA DOH's Covid-19 Vaccination Plan and Covid-19 Vaccines in Allegheny County

The Allegheny County Health Department has established a Vaccine Command Center with the objective of overseeing efficient and equitable distribution of local Covid-19 vaccines as they become available. ACHD is collaborating with PA Department of Health to ensure operational support of its vaccination efforts.

Allegheny County looks to [Pennsylvania Department of Health's vaccination priorities](#) for planning of a phased approach to the administration of the vaccine. While vaccine supply is low, allocation of doses is focused on vaccination of critical populations. Following the recommendations of the [Advisory Committee on Immunization Practices](#) of the Center for Disease Control, ACHD and PA DOH are prioritizing allocation of vaccination doses as follows:

In **Phase 1a**, the phase we are currently in during which vaccine supply is very limited, vaccine distribution is targeted to:

- a. **Healthcare personnel** serving in health care settings who have the potential for direct or indirect exposure to patients or infectious materials, including emergency medical service personnel, nurses, nursing assistants, physicians, technicians, therapists, clinical personnel in school settings, among others; and
- b. Residents of **long-term care facilities** (LTCF), with sub-priority to skilled nursing facilities.

If you believe that your organization employs workers or serves clients in a setting falling into a Phase 1a prioritization category, please complete a COVID Vaccination Request form through the [County's Online Support Center](#). You will need to create an account and then select the options for Request Service ► Health Department ► COVID Vaccination Request to submit the information for your organization. An eligible organization or facility must be physically located within Allegheny County. It does not matter if your employees do not live within the county.

In **Phase 1b**, when more vaccine becomes available, vaccination distribution is expected to expand to include:

- a. **people ages 75 and older**
- b. **people in congregate settings (non-LTCF),**
- c. **people receiving home and community-based services**
- d. **first responders; and**
- e. **frontline essential workers**

In **Phase 1c**, vaccination distribution is expected to expand to include:

- a. **People ages 65-74**
- b. **People ages 16-64 with high risk conditions** causing increased risk for severe disease
- c. **Essential workers in sectors not included in 1b**

In **Phase 2**, when a large number of doses is available and supply is likely to meet demand, vaccination distribution will expand to the general population of any age not previously vaccinated.

### C. **Employee Vaccination Communication and DHS Expectations**

DHS expects providers in its network to make a plan for communicating to employees the critical importance of getting vaccinated. DHS strongly recommends that providers' employee Covid-19 vaccine planning and communication efforts incorporate several considerations, including:

- Essential service workers' **early priority** to get vaccinated per state and local health authorities, in view of the elevated infection and transmission risk associated with the in-person nature of this work;
- A protocol that employees can follow to **request an excuse from missed worktime** reasonably needed to get vaccinated
- The **benefits** of getting vaccinated, per the [relevant CDC guidance](#)
- [Resources](#) for learning about the **safety** of Covid-19 vaccines
- Allegheny County Health Department's resource for providing up-to-date information about vaccination in Allegheny County (<https://www.alleghenycounty.us/Health-Department/Resources/COVID-19/COVID-19-Vaccine-Information.aspx>).

In addition, to promote and ensure high vaccination rates among employees, providers may choose to set goals for vaccination rates among their employees. In addition, providers may ask employees to share their Covid-19 vaccination status with them; the Equal Employment Opportunity Commission has ruled that employers have the authority to request this information as part of their obligation to maintain safety in the workplace and that requesting proof of Covid-19 vaccination does not implicate the Americans with Disabilities Act as long as employees are not asked to disclose any medical information as part of the proof. See [What You Should Know about Covid-19](#), EEOC, December 16, 2020, Question No. K.3).

Finally, the CDC published a [Covid-19 Vaccination Communication Toolkit](#) for health care staff and a [Long-Term Care Facility Toolkit](#) to promote vaccination of staff and residents at providers' long term care facilities. These resources feature fact sheets, posters, stickers, slide decks, and social media to build vaccine confidence, and can be adapted to meet the needs of your organization.

#### D. Mandating Staff to Get a Covid-19 Vaccine

Although DHS urges DHS providers to take affirmative steps to promote vaccination among provider staff, DHS is not requiring providers to mandate employees to obtain vaccinations. We have received inquiries from providers regarding employers' authority to require Covid-19 vaccination among staff. This section addresses the parameters by which an employer may adopt a mandatory employee vaccination policy.

In December 2020, the Equal Employment Opportunity Commission confirmed that the Americans with Disabilities Act [allows an employer to implement a safety-based Covid-19 vaccination requirement](#) (see Question No. K.5). According to the EEOC, a mandatory vaccination policy aligns with the portion of the ADA that allows an employer to require that an individual **shall not pose a direct threat to the health or safety of individuals in the workplace** – especially when an employer's workers face increased Covid-19 risk due to the in-person nature of its essential service operations. However, providers that implement an employee vaccination requirement will need to weigh several considerations before establishing such a policy and exercise care in how it is handled.

If an employee cannot get vaccinated for Covid-19 because of a disability, a medical condition that is a contraindication to the vaccine, or has a sincerely held religious belief, the employer must engage in an interactive, individualized process with the employee. The provider will need to consider whether to require documentation of the disability (which is allowable) and determine whether to grant the employee's request for exemption. If the provider grants the exemption request, the provider will need to make available a reasonable accommodation that will reduce the health risks posed by the unvaccinated employee, such as having the employee wear a mask. (Important to note that per CDC guidance, until there is data showing that vaccinated people do not transmit virus, even vaccinated employees will need to continue wearing masks at work for the foreseeable future).

Additionally, in enforcing a mandatory vaccination policy, the employer may not take any action regarding an unvaccinated employee unless there is no way to provide the employee with a reasonable accommodation to reduce the employee's Covid-19 threat. For example, if an employee who is exempt from the vaccination requirement cannot safely wear a mask due to a disability, the employer must consider whether another reasonable

accommodation can reduce the employee's Covid risk while still allowing the employee to perform his or her job, such as having the employee work separately from people, or via telework. (See [What You Should Know about Covid-19](#), EEOC, December 16, 2020, Question Nos. K.5-K.6.)

### **Practice Tips**

Based on the ideas summarized above, please review these practice tips when considering your workplace vaccination policy:

- **Working with employees seeking an exemption from a vaccination requirement.** Managers and supervisors responsible for communicating with employees about the provider's vaccination policy must know that employees may request an exemption from a mandatory vaccination policy based on a disability, medical contraindication, or a sincerely held religious belief, and know with whom in the organization the request should be shared for consideration and accommodation.
- **Understanding the “direct threat” concept.** If an employee cannot get vaccinated for Covid-19 because of a disability or sincerely held religious belief, the employer must determine whether the unvaccinated employee poses a direct threat to the health or safety of people in the workplace. If the unvaccinated employee poses a direct threat to others at work, the employer is obligated to provide the employee with a reasonable accommodation to reduce the risk of harm. In relation to Covid-19, the EEOC determined that public health authorities' finding of significant community spread of the virus supports the conclusion that unvaccinated employees pose a direct threat to workplace safety. (See [Pandemic Preparedness in the Workplace](#), Section II.B (“Direct Threat”)).
- **Understanding reasonable accommodations.** In discussing accommodation requests in connection with a Covid-19 vaccination requirement, employers and employees may find it helpful to consult the [Job Accommodation Network \(JAN\)](#). A common accommodation for an employee who cannot comply with a workplace inoculation requirement is a mask.
- **Showing proof of vaccination.** In its December 2020 guidance, the EEOC said that requiring an employee to show proof of having received a Covid-19 vaccination is permissible because it would not amount to a disability-related inquiry (which would generally not be permitted in the workplace). (See [What You Should Know about Covid-19](#), EEOC, December 16, 2020, Question No. K.3).

## 2. Drafting a Policy

Providers implementing a mandatory vaccination policy will need to put a written policy in place. The written policy should address several points, including:

- a. The **justification** for the policy, to alert staff to why the policy is important to your organization and why the policy is being adopted
- b. **Definitions** of what Covid-19 vaccination means (and entails) and who the policy applies to within your organization
- c. **Procedures.** Detail regarding how employees can get vaccinated, the process for providing Covid-19 vaccination documentation, and vaccination timeframes.
- d. **Exemptions.** Information clarifying that the policy exempts individuals who cannot get the vaccine due to a disability, medical contraindication, or a sincerely held religious belief and detailing the process an employee can follow to apply for an exemption.
- e. **Contingency planning.** Information regarding how the organization's vaccination policy and vaccine prioritization is expected to change when the supply of vaccine is insufficient to meet demand.
- f. **Education/communication:** Resources and references by which staff may learn more about Covid-19 vaccines and the basis for your mandatory vaccination policy.

Providers will also need to designate and train staff to oversee compliance with the policy. Designated staff will be needed to:

- a. communicate information to staff about how to obtain the vaccine
- b. track vaccinations among staff and obtain staff's vaccination documentation
- c. receive, review, and answer employee's requests for exemption from the requirement
- d. oversee an exemption application process and ensure reasonable accommodations are granted when needed