

COVID-19 Vaccine Mandate Business Sector Implementation Guidance Last updated: Sept. 1, 2021

The Denver Department of Public Health & Environment (DDPHE) has compiled the following resource for businesses and organizations to utilize in development of their individual vaccine mandate policies, procedures, and enforcement. This guidance is meant to provide information and resources on best practices but is not mandated or enforceable by DDPHE.

DDPHE recommends all organizations consult with their Human Resources and Legal teams for specific implementation information. Requiring vaccinations for employees, contractors, volunteers, patrons, or event attendees does not constitute a discriminatory or otherwise unlawful practice, as it is directly related to protecting health and safety.

[Under the current Public Health Order](#), personnel who are onsite or in the field providing services in high-risk settings in Denver **are required** to be fully vaccinated against COVID-19 by Sept. 30. For these entities, employee vaccination information and proof of compliance with the Public Health Order must be maintained by the employer or entity and made available for inspection by DDPHE upon request. This guidance may be helpful to those entities required by the Order to implement the vaccine mandate.

Requiring Vaccines for Employees

Vaccinations can be required, and in some cases are required by law, for employees, contractors, and volunteers of private companies and organizations. Employers should work with their human resources partners to collect and maintain vaccine information. Further, employers are advised to coordinate with their human resources team to provide reasonable accommodations to those eligible for exemptions from the vaccine. Each employer will be responsible for making that determination.

A person's vaccination card is proof of vaccination. People can also [access the Colorado Immunization Information System \(CIIS\) Public Portal](#) to view and print an official immunization record, which can also serve as proof of vaccination.

Exemptions

- Employers should create processes that will enable employees who may seek exemptions from the vaccine mandate for medical and religious reasons to obtain and submit exemption request forms through human resources staff, rather than their supervisors or managers, to ensure that confidentiality and employee privacy are maintained. Employers should consult with their employer's human resources or legal staff to develop appropriate exemption approval request forms and processes.
- The state's standard [certificates of medical and nonmedical exemption](#) only address vaccines required by [state Board of Health rules for school entry](#).
 - These resources can be used to create a document for use by your business / organization.
- Resource: <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>

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Accommodations for Vaccine-Exempt Staff (i.e. Un-Vaccinated)

Testing:

- **Testing Frequency:** Testing can be used as an accommodation for vaccine-exempt employees. Currently, it is recommended that employees who have in-person work duties are tested multiple times per week.
- The ADA requires that any mandatory medical test of employees be “job related and consistent with business necessity.” Applying this standard to the current circumstances of the COVID-19 pandemic, employers may take screening steps to determine if [employees entering the workplace have COVID-19](#) or symptoms consistent with the COVID-19 virus because [an individual with the virus will pose a direct threat](#) to the health of others. Therefore, an employer may choose to administer temperature checks or COVID-19 rapid testing to employees before permitting them to enter the workplace and/or require employees to get tested on a regular basis to determine if they may have the virus and need to quarantine to protect the health and safety of others.
- Currently, the ADA allows an employer to bar an employee from physical presence in the workplace if they refuse to have their temperature taken or refuse to answer questions about whether they have COVID-19, have symptoms associated with COVID-19, or have been tested for COVID-19.

Masking:

- Unvaccinated individuals with COVID-19 vaccination exemptions should be required to wear a mask while at work, except while eating, drinking or working in a private room with the door closed.
- Masks may be removed while actively eating and drinking, but employees should remain 6 feet from others whenever possible, regardless of vaccination status.

Remote/Virtual Workspace:

- Unvaccinated individuals with COVID-19 vaccination exemptions could potentially be accommodated through approval to telework.
- Consult with your Human Resources staff and legal counsel regarding legality and acceptability of mandating teleworking.

Confidentiality:

- The ADA requires that all medical information about a particular employee be stored separately from the employee's personnel file, thus limiting access to this confidential information.
- An employer may store all medical information related to COVID-19 in existing medical files. This includes an employee's statement that they have the virus or suspect they have the virus, or the employer's notes or other documentation from questioning an employee about symptoms.

If an employee does not adhere to accommodations or is unable to complete their job duties with the necessary accommodations, employers may work with their Legal and Human Resources teams to consider termination or other alternatives.

Requiring Vaccination to Attend Ticketed Events

For ticketed events, the following is recommended:

- Indicate details of vaccine requirement clearly prior to purchase
- Message ticket holders prior to event to remind of verification process
- Note that use of fraudulent vaccination cards is a federal crime (unauthorized use of an official government agency's seal) and a state-level crime related to forgery or fraud.
- Consider what security or other staffing is needed to verify and enforce the vaccination requirement.

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Requiring Proof of Vaccine for Customers / Visitors

A business may check customer and visitor vaccination status.

- **It is not a violation of any federal or state law for a business to ask customers about their vaccination status.**
- The federal Health Insurance Portability and Accountability Act (HIPAA) does not apply to businesses like retail stores and restaurants because these businesses do not engage in any form of health care activity. Customers may voluntarily share this information with a business if they choose to do so.
- A business may require public health measures (e.g. mask-wearing) if a customer chooses not to share their vaccination status.

Note: The state public health department, which maintains the Colorado Immunization Information System (CIIS), does not share a person's protected health information, such as their COVID-19 vaccination status, with any business. Individuals may choose whether to share their vaccination status with others.

Implementing a vaccine mandate at your business does not exempt you or your business from following any Local or State Public Health Orders related to business operations, safety and cleaning, or outbreak reporting. Visit <https://covid19.colorado.gov/guidance-for-businesses-communities> for additional information.

Resources

- **Denver Public Health Order - Vaccine Mandate:** <https://www.denvergov.org/Government/COVID-19-Information/Public-Health-Orders-Response/Public-Health-Orders>
- **Denver's Vaccine Requirements FAQ:** <https://denvergov.org/Government/COVID-19-Information/Guidance-Resources/Businesses/Employer-FAQ>
- **City of Denver Resources for Employers:** <https://www.denvergov.org/Government/COVID-19-Information/Guidance-Resources/Businesses/Resources-for-Employers>
- **CDPHE Vaccine FAQ:** <https://covid19.colorado.gov/vaccine-faq>
- **US Equal Employment Opportunity Commission- What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws:** <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>

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