

COVID-19 Vaccinations in Independent Schools

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A school's decision whether to mandate all employees and students to present proof of vaccination for COVID-19 before returning to campus can be challenging, and stressful, especially with information continuing to evolve. Schools must keep in mind two primary legal considerations when adopting vaccination policies: exemptions and confidentiality.

EMPLOYEES

A school has a legal right to require all employees to present proof of full COVID-19 vaccination as a condition of employment, subject to limited exceptions. A school may restrict or terminate employment if an employee chooses against vaccination where no exemption applies. Under law, an employer that imposes a mandatory vaccination requirement must reasonably accommodate employees who do not get vaccinated because of a disability or sincerely held religious belief. An employee must request an exemption from mandatory vaccination. Generally, a request for a disability exemption must include certification from a healthcare provider, whereas employees can simply present a sincere religious reason for declining the vaccine. Schools need not grant an accommodation if it will impose an undue hardship. Schools can take into account factors such as operational needs, financial impacts, and health and safety risks in making this assessment. Individualized circumstances govern accommodation requests.

STUDENTS

Currently, students older than twelve are eligible for COVID-19 vaccines. Schools can require all eligible students to provide proof of full vaccination to enroll and attend school. Schools should permit a student to request a disability or religious exemption from mandatory vaccination by following the process similar to employees. For unvaccinated students, a school may impose conditions on attendance depending on specific circumstances, such as requiring a face covering, restricting a student's participation in extracurricular activities, and ongoing testing. A school is not obligated to provide remote learning for unvaccinated students due their unvaccinated status. Schools, where possible, should disclose mandatory vaccination policies to allow families to make informed decisions in advance of financial commitments.

For both employees and students, schools should also adopt mandatory quarantine policies for unvaccinated individuals who have had close contact with someone who tested positive for COVID-19. Even vaccinated individuals who are infected or experiencing symptoms should remain off-campus.

CONFIDENTIALITY

Schools must maintain the confidentiality of proof of vaccination, and any disability accommodation documentation. Employees or students should upload vaccination cards to confidential health information databases, or to an email address restricted to a human resources officer. In all instances, a school must limit the amount and type of medical information compiled, and restrict any follow up questions that could intrude on private health information or solicit unnecessary information.