



ILLINOIS DEPARTMENT OF LABOR

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GOVERNOR

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EMPLOYER GUIDANCE: COMPENSATION, PAID LEAVE AND THE COVID-19 VACCINE

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As the COVID-19 vaccination rollout continues, the Illinois Department of Labor issues the following employer guidance to provide employees leave, time, and flexibility to get vaccinated.

MANDATORY VACCINATION PROGRAMS:

Under the Illinois Minimum Wage Law (IMWL) and the federal Fair Labor Standards Act (FLSA), if an employer requires employees to get vaccinated, the time the employee spends obtaining the vaccine is likely compensable, even if it is non-working time.

Mandatory vaccination requirements by employers should be combined with paid leave for employees to receive the 1st and 2nd dose of the COVID-19 vaccine, or the employer should otherwise provide compensation for the time taken by the employee to comply with an employer-mandated vaccine requirement.

OPTIONAL VACCINATION PROGRAMS:

Employees that choose to obtain the vaccine voluntarily should be allowed to utilize sick leave, vacation time or other paid time off for employees to receive the 1st and 2nd dose of the COVID-19 vaccine. Employers that do not choose and are not obligated to provide any paid leave, should consider offering the employee FLEX time to allow the employee to become vaccinated without having to take unpaid time. If the employer does not wish to provide FLEX time, the employer should allow the employee flexibility to take the time off unpaid.

VACCINATION REQUIREMENTS FOR EMPLOYEE'S FAMILY MEMBERS:

The Employee Sick Leave Act (ESLA) requires employers to allow their employees to use employer-provided sick leave benefits for absences due to, among other things, medical appointments of the employee's child, stepchild, spouse, domestic partners, sibling, parent, mother-in-law, father-in-law, grandchild, grandparents, or stepparent on the same terms upon which the employee is able to use personal sick leave benefits for their employee's own illness or injury. An appointment to receive the COVID-19 vaccine 1st dose or 2nd dose would qualify as a permissible medical appointment for purposes of the ESLA if the

employer allows the use of an employee's sick leave benefits for purposes of vaccinations.

Therefore, employers should allow the use of sick leave benefits by an employee for purposes of the employee taking a qualifying family member to receive the 1st dose or 2nd dose of the COVID-19 vaccine.

In order to promote health and safety in the workplace, the Illinois Department of Labor recommends that employers review their leave and vaccination policies and revise accordingly to provide leave, time, and flexibility in order to encourage employees to obtain the 1st dose and 2nd dose of the COVID-19 vaccine.

Employers and employees should also review the following websites for the most recent information on the COVID-19 vaccine.

<https://www.dph.illinois.gov/covid19/vaccine-faq>

<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>

<https://www.cdc.gov/vaccines/covid-19/index.html>