



To keep our membership informed about information relating to COVID-19 the Louisiana Fraternal Order of Police has developed this FACT SHEET to some commonly asked questions.

This sheet was developed using information from the National Fraternal Order of Police Legal Counsel and our Louisiana State General Counsel, Donovan Livaccari.



Can a public employer mandate that employees get vaccinated?

Short Answer: Yes.

Medium Answer: Yes, but they may have to accommodate an employee's medical conditions under the Americans with Disabilities Act or religious beliefs under Title VII of the Civil Rights Act of 1964.

Long Answer: Yes. Mandatory vaccines have been commonplace in the workplace for years. For example, the University of Indiana requires students, faculty and staff be fully vaccinated or face termination. The State of California and New York City are requiring employees to be vaccinated or face weekly testing. President Biden has indicated that all federal employees will either have to be vaccinated or they will have to submit to other safety protocols.



If the employee refuses to get vaccinated, can a public employer mandate that the employee be tested for COVID-19? How often? Who must incur the cost of such tests?

Short Answer: Yes. Frequently. The employer decides.

Medium Answer: Yes. The frequency of testing and issues surrounding the cost of such testing will be determined by the employer.

Long Answer: Yes, the employer can mandate that unvaccinated employees be tested for COVID-19. It is the employer's decision to determine the frequency and who incurs the cost of the tests. However, it would be unlawful to apply a vaccination requirement to employees in a way that treats employees differently based on disability, race, color, religion, sex (including pregnancy, sexual orientation, and gender identity), national origin, age, or genetic information, unless there is a legitimate non-discriminatory reason.



If the employer mandates that an employee gets vaccinated and the employee gets sick, will the employee have a cause of action against the employer and/or the physician or medical entity that administers the vaccine?

Short Answer: No.

Medium Answer: No. It would probably be covered by worker's compensation.

Long Answer: If your employer mandates the vaccination, it would be considered a part of work. Therefore, as an injured employee, you give up your right to so for guaranteed benefits from worker's compensation. Furthermore, there is no cause of action against the manufacturer or medical entity pursuant to the Public Readiness and Emergency Preparedness Act (PREP Act).



What are the privacy rights of employees relative to vaccination when an employer requires that they furnish proof of vaccination? What are the privacy rights of employees relative to results of a mandatory COVID-19 test?

Short Answer: The Americans with Disabilities Act (ADA) requires employers to keep confidential any medical information they learn about an applicant or employee. Medical information includes not only a diagnosis or treatments, but also the fact that an individual has requested or is receiving a reasonable accommodation.

Medium Answer: The Americans with Disabilities Act (ADA) requires employers to keep confidential any medical information they learn about an applicant or employee. Medical information includes not only a diagnosis or treatments, but

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Long Answer: The Americans with Disabilities Act (ADA) requires employers to keep confidential any medical information they learn about an applicant or employee. Medical information includes not only a diagnosis or treatments, but also the fact that an individual has requested or is receiving a reasonable accommodation.

The Health Insurance Portability and Accountability Act (HIPAA) does not apply to your employer. HIPAA only applies to specific health-related entities, such as insurance providers, and health care clearinghouses.

Proof of vaccination, daily temperature checks, or any other medical information obtained by your employer is required to be kept separate from your personnel file and must be kept confidential as required by the ADA.



If I contracted COVID-19 at work, is this going to be covered by Worker's Compensation?

Short Answer: If you can prove the disease was contracted at work.

Medium Answer: In Louisiana, Governor Edwards has not produced anything which makes COVID-19 presumptively a worker's compensation injury. Therefore, worker's compensation is only going to cover the illness if the ill person is able to show the disease could not have been contracted anywhere else. That may be a difficult standard to meet.

Long answer: An employee's eligibility for worker's compensation will depend on the nature of the job and the circumstances of the case. The problem with getting worker's compensation benefits for any illness or occupational disease is that it is almost impossible to pinpoint the moment someone became infected or sick. In almost every case, there is some kind of delay between exposure to a virus and the resultant injury. Worker's compensation covers any injury or occupational disease that is suffered in the course and scope of one's employment. Since it is just as likely that one became infected at the grocery buying milk than on the streets answering calls for service, it is difficult to rule out causes that are outside of the course and scope of employment. Compare becoming infected by a virus

with breaking one's leg. It is pretty easy to pinpoint the precise moment when one breaks a leg – not so easy with a virus. Some states adopted legislation or worker's compensation rules that made COVID-19 presumptively a worker's compensation injury. That removes the problem of having to eliminate causes outside of course and scope. However, neither the Louisiana Legislature nor Governor Edwards enacted any such legislation or rule.