



OKLAHOMA Office of Management & Enterprise Services

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Issue

What protocols should state agencies follow when inquiring about an employee's COVID-19 vaccine status?

Answer

An agency must first determine why it plans on inquiring into the employee's vaccine status. Agencies must ensure that all Americans with Disabilities Act of 1990 (ADA) requirements are met. The protocols that ensure compliance with the ADA are dependent upon why the agency is inquiring.

Analysis

Before inquiring into an employee's vaccine status, the employer should identify the reason behind the inquiry. Most state agencies do not have a business purpose that justifies this inquiry.

Vaccine status inquiry

Under the ADA, an employer cannot ask an employee questions about a disability or require a medical examination unless the employer can show that certain requirements are job related and necessary to the conduct of the employer's business. See [The ADA: Your Responsibilities as an Employer | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](https://www.eeoc.gov).

Subsequent questions as to why the employee did not receive the vaccine may elicit information about a disability. The agency's knowledge of the disability may trigger the need to offer the employee a reasonable accommodation unrelated to the COVID-19 vaccine and may cause other HR-related issues moving forward.

Practical considerations

Certain jobs (i.e., nurses, health department clinic staff, etc.) may provide direct, in-person care to citizens such that information regarding vaccination status may be deemed necessary from a business standpoint to help safeguard public safety. Employers may consider mandating that any employee in jobs such as those listed be vaccinated.

Conclusion

Vaccine inquiry protocols vary based on the justification for the inquiry. State agencies need to be aware and prepared to comply with the ADA requirements and review and

respond to any requests for religious accommodations regardless of what purpose is driving the inquiry. State agencies that do not provide direct medical care to citizens likely do not have a business purpose that justifies this inquiry.

[Executive Order 2021-16](#)