

OSHA Releases Updated FAQs on Reporting for COVID-19 Vaccinations

What is the Coronavirus?

Coronavirus Disease 2019 (COVID-19) is a respiratory disease caused by the Severe Acute Respiratory Syndrome (SARS)-CoV-2 virus. The current mutation is a new strain of the SARS virus and no individual has any immunity prior to an exposure. The CDC has reported that testing has begun on a vaccine but for now, everyone should prepare and plan for possible impacts resulting from COVID-19. It has spread from China to many other countries around the world, including the United States.

OSHA has recently updated their FAQs (Frequently Asked Questions) with respect to adverse reactions to the COVID-19 vaccines and if these reactions are considered recordable under the federal guidelines. Please review the FAQs listed below for the official OSHA interpretation.

Of particular note for NECA contractors considering mandatory vaccination policies is the determination that only an adverse reaction to an employer required vaccination could be recordable.

It is important to review and follow all applicable CDC and Work Health Organization guidelines for vaccines and have individuals seek recommendations from their Physician or other Licensed Health Care Professional about the benefits and risks associated with the vaccines that have been developed against COVID-19.

<https://www.osha.gov/coronavirus/faqs#vaccine>

OSHA FAQs related to Vaccines:

1. Are adverse reactions to the COVID-19 vaccine recordable on the OSHA recordkeeping log?

In general, an adverse reaction to the COVID-19 vaccine is recordable if the reactions is:

- (1) Work-related
- (2) A new case,
- (3) Meets one or more of the general recording criteria in 29 CFR 1904.7 (e.g., days away from work, restricted work or transfer to another job, medical treatment beyond first aid.

2. If I require my employees to take the COVID-19 vaccine as a condition of their employment, are adverse reactions to the vaccine recordable?

If you require your employees to be vaccinated as a condition of employment (i.e., for work-related reasons), then any adverse reaction to the COVID-19 vaccine is work-related. The adverse reaction is recordable if it is a new case under 29 CFR 1904.6 and meets one or more of the general recording criteria in 29 CFR 1904.7.

3. I do not require my employees to get the COVID-19 vaccine. However, I do recommend that they receive and provide it to them or make arrangements for them to receive it offsite. If an employee has an adverse reaction to the vaccine, am I required to record it?

No. Although adverse reactions to **recommended** COVID-19 vaccines may be recordable under 29 CFR 1904.4(a) if the reaction is: (1) work-related, (2) a new case, and (3) meets one or more of the general recording criteria in 29 CFR 1904.7, OSHA is exercising its enforcement discretion to only require the recording of adverse effects to **required** vaccines at this time. Therefore, you do not need to record adverse effects from COVID-19 vaccines that you **recommend**, but do not require.

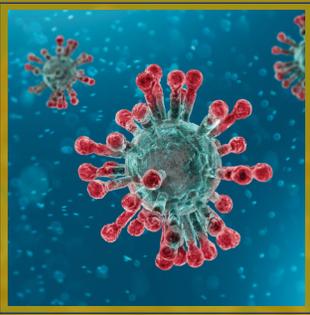
Note that for this discretion to apply, the vaccine must be truly voluntary. For example, an employee's choice to accept or reject the vaccine cannot affect their performance rating or



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professional advancement. An employee who chooses not to receive the vaccine cannot suffer any repercussions from this choice. If employees are not free to choose whether or not to receive the vaccine without fearing adverse action, then the vaccine is not merely “recommended” and employers should consult the above FAQ regarding COVID-19 vaccines that are a condition of employment.

Note also that the exercise of this discretion is intended only to provide clarity to the public regarding OSHA’s expectations as to the recording of adverse effects during the health emergency; it does not change any of employers’ other responsibilities under OSHA’s recordkeeping regulations or any of OSHA’s interpretations of those regulations.

Finally, note that this answer applies to a variety of scenarios where employers **recommend**, but do not **require** vaccines, including where the employer makes the COVID-19 vaccine available to employees at work, where the employer makes arrangements for employees to receive the vaccine at an offsite location (e.g., pharmacy, hospital, local health department, etc.), and where the employer offer the vaccine as part of a voluntary health and wellness program at my workplace. In other words, the method by which employees might receive a recommended vaccine does not matter for the sake of this question.

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