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Some don't want the COVID-19 vaccine; employers could mandate it

By [BETH ADAMS \(/PEOPLE/BETH-ADAMS\)](/PEOPLE/BETH-ADAMS) • DEC 8, 2020

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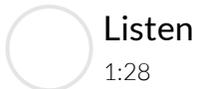
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U.S. employers will be able to require their employees to get a COVID-19 vaccine unless the employee has reasonable medical or religious objections.



(https://mediad.publicbroadcasting.net/p/wxxi/files/styles/xlarge/public/2020/12/25/vials-and-vial-1307461_1.jpg)

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According to a recent Gallup poll (<https://news.gallup.com/poll/325208/americans-willing-covid-vaccine.aspx>), 42% of adults in the U.S. say they would not get a COVID-19 vaccine when it becomes available even as health experts stress the importance of immunization against the virus that has wrought havoc across the globe and employers are eager to get back to business as usual.

But some people could be required to get the shot as a condition of their employment.

However, unless a person has a legitimate medical or religious reason to opt out, their employer could mandate the inoculation.

"I don't think an anti-vaxxer would have a good claim if they were fired for refusing to take a vaccine," said Professor Stewart Schwab, an employment law scholar at Cornell Law School.

There are legal grounds for such a mandate. Employers are required under federal law to provide a safe workplace for all their employees.

"So it's not only the one worker who's refusing to get a vaccine but all the other workers who might be exposed if they have to work with such a person," Schwab said. "The employers do have to make that balance."

Schwab said some individuals with medical conditions protected under the Americans with Disabilities Act or religious beliefs covered by the Title VII of the Civil Rights Act could refuse to submit to an employer-mandated vaccine.

Schwab said he would not be surprised to see some employers face legal challenges over whether they mandate a COVID-19 vaccine and not just from employees who object to a mandate.

"I think some employees will claim 'I don't want to come back to work where a significant number of the workers have not been vaccinated and therefore might be carrying the coronavirus,'" he said.

While employers could legally impose COVID-19 vaccine mandates and fire most employees who refuse, Schwab said they may be better off, in some cases, giving incentives to workers to get inoculated instead.

"I think the human resources professionals often say it's better motivation for a workforce to use carrots rather than sticks," he said. "This might be a good example of that. I think that's the type of decision that will be up to individual employers."

The Food and Drug Administration is nearing a decision on whether to allow emergency use of Pfizer's COVID-19 vaccine in the U.S.

On Tuesday, health regulators posted online a review which offers a detailed look at the evidence behind the shot, which was co-developed with BioNTech.

On Thursday, a panel of independent experts will scrutinize the data and vote on whether to recommend use of the vaccine.

The vote is not binding but the FDA usually follows the group's guidance.

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