

NAVSEA COVID-19 VACCINE FAQs



*Note: The FDA's website contains information about the COVID-19 vaccines authorized for emergency use and links to view the EUA fact sheet for each. ([fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/covid-19-vaccines](https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/covid-19-vaccines)).

NAVSEA COVID-19 Vaccine FAQs

Q: Are employees covered under worker's compensation if they are teleworking from home and are required by their employer to travel via a privately owned vehicle (POV) for a COVID-19 vaccination?

A: While commuting generally is not covered, if the employee is teleworking and is directed to travel for an employment reason, the travel would be considered part of performance of duty and would probably be covered. For questions in specific circumstances, supervisors should contact their servicing employee relations specialist.

Q: May an employer store in existing medical files employee information related to COVID-19, including information on immunizations, the results of taking an employee's temperature, or the employee's self-identification as having this disease? Or must the employer create a new medical file system solely for this information?

A: The Americans with Disabilities Act (ADA) requires that all medical information about a particular employee be stored separately from the employee's personnel file, thus limiting access to this confidential information. An employer may store all medical information related to COVID-19 in existing medical files. This includes any vaccination information, an employee's statement that he has the disease or suspects he has the disease, or the employer's notes or other documentation from questioning an employee about symptoms.

Q: May an employer maintain records regarding which employees have been vaccinated for COVID-19?

A: Yes. However, the employer needs to maintain the confidentiality of this information.

Q: May administrative leave be granted for employees to receive a COVID-19 vaccination?

A: Yes. However, administrative leave is not an entitlement, and agencies are not required to grant it. OPM advises that administrative leave be limited to those situations not specifically prohibited by law and satisfying one or more of the following criteria:

- The absence is directly related to the department or agency's mission;
- The absence is officially sponsored or sanctioned by the head of the department or agency;
- The absence will clearly enhance the professional development or skills of the employee in his or her current position; or
- The absence is as brief as possible under the circumstances and is determined to be in the interest of the agency.

***DON Office of Civilian Human Resources (OCHR) COVID-19
Vaccination FAQs***

Q: Are agencies required to bargain over COVID-19 vaccinations?

A: While proposals regarding the substance of agency vaccination and testing programs may be non-negotiable (i.e., whether or not the agency tests or vaccinates employees), some aspects of such programs may fall within the duty to bargain. For example, unions may advance proposals regarding procedural matters such as allowing employees administrative time to receive vaccinations provided by the agency or creating a "Continuity of Operations Plan" to be used during a health pandemic or other emergency. [OCHR FAQ]

Q: For any COVID-19 vaccine that has been approved or authorized by the Food and Drug Administration (FDA), is the administration of a COVID-19 vaccine to an employee by an employer (or by a third party with whom the employer contracts to administer a vaccine) a "medical examination" for purposes of the ADA? (EEOC - 12/16/20) [OCHR FAQ]

A: No. The vaccination itself is not a medical examination. As the Commission explained in guidance on disability-related inquiries and medical examinations, a medical examination is "a procedure or test usually given by a health care professional or in a medical setting that seeks information about an individual's physical or mental impairments or health." Examples include "vision tests; blood, urine, and breath analyses; blood pressure screening and cholesterol testing; and diagnostic procedures, such as x-rays, CAT scans, and MRIs." If a vaccine is administered to an employee by an employer for protection against contracting COVID-19, the employer is not seeking information about an individual's impairments or current health status and, therefore, it is not a medical examination.

Although the administration of a vaccination is not a medical examination, pre-screening vaccination questions may implicate the ADA's provision on disability-related inquiries, which are inquiries likely to elicit information about a disability. If the employer administers the vaccine, it must show that such pre-screening questions it asks employees are "job-related and consistent with business necessity."

Q: According to the CDC, health care providers should ask certain questions before administering a vaccine to ensure that there is no medical reason that would prevent the person from receiving the vaccination. If the employer requires an employee to receive the vaccination from the employer (or a third party with whom the employer contracts to administer a vaccine) and asks these screening questions, are these questions subject to the ADA standards for disability-related inquiries? (EEOC - 12/16/20) [OCHR FAQ]

A: Yes. Pre-vaccination medical screening questions are likely to elicit information about a disability. This means that such questions, if asked by the employer or a contractor on the employer's behalf, are "disability-related" under the ADA. Thus, if the employer requires an employee to receive the vaccination, administered by the employer, the employer must show that these disability-related screening inquiries are "job-related and consistent with business necessity." To meet this standard, an

employer would need to have a reasonable belief, based on objective evidence, that an employee who does not answer the questions and, therefore, does not receive a vaccination, will pose a direct threat to the health or safety of her or himself or others.

By contrast, there are two circumstances in which disability-related screening questions can be asked without needing to satisfy the “job-related and consistent with business necessity” requirement. First, if an employer has ordered a vaccination to employees on a voluntary basis (i.e. employees choose whether to be vaccinated), the ADA requires that the employee’s decision to answer prescreening, disability-related questions also must be voluntary. 42 U.S.C. 12112(d)(4)(B); 29 C.F.R. 1630.14(d). If an employee chooses not to answer these questions, the employer may decline to administer the vaccine but may not retaliate against, intimidate, or threaten the employee for refusing to answer any questions. Second, if an employee receives an employer-required vaccination from a third party that does not have a contract with the employer, such as a pharmacy or other health care provider, the ADA “job-related and consistent with business necessity” restrictions on disability-related inquiries would not apply to the pre-vaccination medical screening questions.

The ADA requires employers to keep any employee medical information obtained in the course of the vaccination program confidential.

Q: Is asking or requiring an employee to show proof of receipt of a COVID-19 vaccination a disability-related inquiry? (EEOC - 12/16/20)

A: No. There are many reasons that may explain why an employee has not been vaccinated, which may or may not be disability related. Simply requesting proof of receipt of a COVID-19 vaccination is not likely to elicit information about a disability and, therefore, is not a disability-related inquiry. However, subsequent employer questions, such as asking why an individual did not receive a vaccination, may elicit information about a disability and would be subject to the pertinent ADA standard that they be “job-related and consistent with business necessity.” If an employer requires employees to provide proof that they have received a COVID-19 vaccination from a pharmacy or their own health care provider, the employer may want to warn the employee not to provide any medical information as part of the proof in order to avoid implicating the ADA. [OCHR FAQ]

Q: Where can employers learn more about Emergency Use Authorizations (EUA) of COVID-19 vaccines? (EEOC - 12/16/20)

A: Some COVID-19 vaccines may only be available to the public for the foreseeable future under EUA granted by the FDA, which is different than approval under FDA vaccine licensure. [OCHR FAQ]

The FDA has an obligation to:

Ensure that recipients of the vaccine under an EUA are informed, to the extent practicable under the applicable circumstances, that FDA has authorized the emergency use of the vaccine, of the known and potential benefits and risks, the extent to which such benefits and risks are unknown, that they have the option to accept or refuse the vaccine, and of any available alternatives to the product.

The FDA says that this information is typically conveyed in a patient fact sheet that is provided at the time of the vaccine administration and that it posts the fact sheets on its website. More information about EUA vaccines is available on the FDA's EUA page.

Q: If an employer requires vaccinations when they are available, how should it respond to an employee who indicates that he or she is unable to receive a COVID-19 vaccination because of a disability? (EEOC - 12/16/20)

A: The ADA allows an employer to have a qualification standard that includes “a requirement that an individual shall not pose a direct threat to the health or safety of individuals in the workplace.” However, if a safety-based qualification standard, such as a vaccination requirement, screens out or tends to screen out an individual with a disability, the employer must show that an unvaccinated employee would pose a direct threat due to a “significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.” 29 C.F.R. 1630.2(r). Employers should conduct an individualized assessment of four factors in determining whether a direct threat exists: the duration of the risk; the nature and severity of the potential harm; the likelihood that the potential harm will occur; and the imminence of the potential harm. A conclusion that there is a direct threat would include a determination that an unvaccinated individual will expose others to the virus at the worksite. If an employer determines that an individual who cannot be vaccinated due to disability poses a direct threat at the worksite, the employer cannot exclude the employee from the workplace—or take any other action—unless there is no way to provide a reasonable accommodation (absent undue hardship) that would eliminate or reduce this risk, so the unvaccinated employee does not pose a direct threat.

If there is a direct threat that cannot be reduced to an acceptable level, the employer can exclude the employee from physically entering the workplace, but this does not mean the employer may automatically terminate the worker. Employers will need to determine if any other rights apply under the EEO laws or other federal, state, and local authorities. For example, if an employer excludes an employee based on an inability to accommodate a request to be exempt from a vaccination requirement, the employee may be entitled to accommodations such as performing the current position remotely. This is the same step that employers take when physically excluding employees from a worksite due to a current COVID-19 diagnosis or symptoms; some workers may be entitled to telework or, if not, may be eligible to take leave under the Families First Coronavirus Response Act, under the FMLA, or under the employer's policies.

Managers and supervisors responsible for communicating with employees about compliance with the employer's vaccination requirement should know how to recognize an accommodation request from an employee with a disability and know to whom the request should be referred for consideration. Employers and employees should engage in a flexible, interactive process to identify workplace accommodation options that do not constitute an undue hardship (significant difficulty or expense). This process should include determining whether it is necessary to obtain supporting documentation about the employee's disability and considering the possible options for accommodation given the nature of the workforce and the employee's position. The prevalence in the workplace of employees who already

have received a COVID-19 vaccination and the amount of contact with others, whose vaccination status could be unknown, may impact the undue hardship consideration. In discussing accommodation requests, employers and employees also may find it helpful to consult the Job Accommodation Network (JAN) website as a resource for different types of accommodations, www.askjan.org. JAN's materials specific to COVID-19 are at <https://askjan.org/topics/COVID-19.cfm>.

Employers may rely on CDC recommendations when deciding whether an effective accommodation that would not pose an undue hardship is available, but there may be situations where an accommodation is not possible. When an employer makes this decision, the facts about particular job duties and workplaces may be relevant. Employers also should consult applicable Occupational Safety and Health Administration standards and guidance. Employers can find OSHA COVID-specific resources at: www.osha.gov/SLTC/covid-19/.

Managers and supervisors are reminded that it is unlawful to disclose that an employee is receiving a reasonable accommodation or retaliate against an employee for requesting an accommodation. [OCHR FAQ]

Q: If an employer requires vaccinations when they are available, how should it respond to an employee who indicates that he or she is unable to receive a COVID-19 vaccination because of a sincerely held religious practice or belief? (EEOC - 12/16/20)

A: Once an employer is on notice that an employee's sincerely held religious belief, practice, or observance prevents the employee from receiving the vaccination, the employer must provide a reasonable accommodation for the religious belief, practice, or observance unless it would pose an undue hardship under Title VII of the Civil Rights Act. Courts have defined "undue hardship" under Title VII as having more than a de minimis cost or burden on the employer. EEOC guidance explains that because the definition of religion is broad and protects beliefs, practices, and observances with which the employer may be unfamiliar, the employer should ordinarily assume that an employee's request for religious accommodation is based on a sincerely held religious belief. If, however, an employee requests a religious accommodation, and an employer has an objective basis for questioning either the religious nature or the sincerity of a particular belief, practice, or observance, the employer would be justified in requesting additional supporting information. [OCHR FAQ]

Q: What happens if an employer cannot exempt or provide a reasonable accommodation to an employee who cannot comply with a mandatory vaccine policy because of a disability or sincerely held religious practice or belief? (EEOC - 12/16/20)

A: If an employee cannot get vaccinated for COVID-19 because of a disability or sincerely held religious belief, practice, or observance, and there is no reasonable accommodation possible, then it would be lawful for the employer to exclude the employee from the workplace. This does not mean the employer may automatically terminate the worker. Employers will need to determine if any other rights apply under the EEO laws or other federal, state, and local authorities. [OCHR FAQ]

Q: Is Title II of GINA implicated when an employer administers a COVID-19 vaccine to employees or requires employees to provide proof that they have received a COVID-19 vaccination? (EEOC - 12/16/20)

A: No. Administering a COVID-19 vaccination to employees or requiring employees to provide proof that they have received a COVID-19 vaccination does not implicate Title II of GINA because it does not involve the use of genetic information to make employment decisions, or the acquisition or disclosure of “genetic information” as defined by the statute. This includes vaccinations that use messenger RNA (mRNA) technology, which will be discussed more below. However, if administration of the vaccine requires pre-screening questions that ask about genetic information, the inquiries seeking genetic information, such as family members’ medical histories, may violate GINA.

Under Title II of GINA, employers may not (1) use genetic information to make decisions related to the terms, conditions, and privileges of employment, (2) acquire genetic information except in six narrow circumstances, or (3) disclose genetic information except in six narrow circumstances.

Certain COVID-19 vaccines use mRNA technology. This raises questions about genetics and, specifically, about whether such vaccines modify a recipient’s genetic makeup and, therefore, whether requiring an employee to get the vaccine as a condition of employment is an unlawful use of genetic information. The CDC has explained that the mRNA COVID-19 vaccines “do not interact with our DNA in any way” and “mRNA never enters the nucleus of the cell, which is where our DNA (genetic material) is kept.” (See <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/differentvaccines/mrna.html> for a detailed discussion about how mRNA vaccines work). Thus, requiring employees to get the vaccine, whether it uses mRNA technology or not, does not violate GINA’s prohibitions on using, acquiring, or disclosing genetic information. [OCHR FAQ]

Q: Does asking an employee the pre-vaccination screening questions before administering a COVID-19 vaccine implicate Title II of GINA? (EEOC - 12/16/20) [OCHR FAQ]

A: Pre-vaccination medical screening questions are likely to elicit information about disability, and may elicit information about genetic information, such as questions regarding the immune systems of family members. It is not yet clear what screening checklists for contraindications will be provided with COVID-19 vaccinations. [OCHR FAQ]

GINA defines “genetic information” to mean:

- Information about an individual’s genetic tests;
- Information about the genetic tests of a family member;
- Information about the manifestation of disease or disorder in a family member (i.e., family medical history);
- Information about requests for, or receipt of, genetic services or the participation in clinical research that includes genetic services by the an individual or a family member of the individual; and

- Genetic information about a fetus carried by an individual or family member or of an embryo legally held by an individual or family member using assisted reproductive technology. 29 C.F.R. § 1635.3(c).

If the pre-vaccination questions do not include any questions about genetic information (including family medical history), then asking them does not implicate GINA. However, if the pre-vaccination questions do include questions about genetic information, then employers who want to ensure that employees have been vaccinated may want to request proof of vaccination instead of administering the vaccine themselves.

GINA does not prohibit an individual employee's own health care provider from asking questions about genetic information, but it does prohibit an employer or a doctor working for the employer from asking questions about genetic information. If an employer requires employees to provide proof that they have received a COVID-19 vaccination from their own health care provider, the employer may want to warn the employee not to provide genetic information as part of the proof. As long as this warning is provided, any genetic information the employer receives in response to its request for proof of vaccination will be considered inadvertent and therefore not unlawful under GINA. See 29 CFR 1635.8

OCHR COVID-19 Vaccination Federal Employees' Compensation Act (FECA) FAQ

Q: Would a workers comp claim be allowed if an employee suffered an adverse reaction to the vaccine?

A: A negative reaction or medical condition that resulted from an agency-sponsored inoculation is compensable under the Federal Employees' Compensation Act (FECA). The Office of Workers' Compensation Programs (OWCP) would process and adjudicate the claim in the same manner as all federal workers' compensation claims. The employee would be required to submit factual evidence to support that the vaccination was administered at work (i.e. agency-sponsored) and medical evidence establishing the diagnosis of the medical condition(s) caused, aggravated, or affected by the vaccine and a well-reasoned medical opinion explaining how the vaccine caused or contributed to the claimed condition(s).

DOD COVID-19 Vaccination FAQs

Q. Why is only one manufacturer's vaccine available at my location?

A. COVID-19 vaccines require unique shipping, storage, and handling conditions, which inform DoD planning to distribute vaccines to Military Treatment Facilities around the globe. Both vaccines currently authorized for emergency use have equivalent effectiveness rates, but each vaccine ships in different quantities. The Pfizer vaccine ships in quantities of 975 doses, which DoD distributes to MTFs with larger, local DoD populations. The Moderna vaccine ships in quantities of 100 doses, which permits DoD to distribute it to smaller, geographically dispersed DoD populations. (DOD FAQ)

Q. How many vaccine doses has DoD received?

A. The Centers for Disease Control and Prevention releases data on doses distributed and doses administered for each jurisdiction, based on reporting from each jurisdiction. (DOD FAQ)

Q. Is DoD receiving vaccine allocations in expected numbers?

A. Like other jurisdictions and federal entities, DoD is using the Tiberius platform to stay informed of our COVID-19 vaccine allocation. Adjustments to orders will be made as we receive allocation information. The Department is currently in a pilot phase to validate our processes to ensure a safe and effective vaccination of our population. (DOD FAQ)

Eligibility

Q. How will DoD track personnel who receive a COVID vaccine?

A. DoD will track COVID vaccine administration through existing medical record reporting systems. (DOD FAQ)

Q. If I already had COVID-19, should I still get a vaccine?

A. Yes, because duration of immunity following COVID-19 infection is unknown, and the vaccine may be effective in protecting previously infected people. (DOD FAQ)

Q. Who will be the first to get the vaccines?

A. Vaccination distribution prioritization will focus on those providing direct medical care, maintaining essential national security and installation functions, deploying forces, and those at the highest risk for developing severe illness from COVID-19, before other members of the DoD population. (DOD FAQ)

Q. Should I defer receiving a vaccine to provide available doses for other people?

A. Though available vaccines are offered on a voluntary basis, early vaccination is highly encouraged for priority personnel. Initial Department guidance for COVID-19 vaccination eligibility, released on Dec. 7, 2020, prioritizes DoD personnel based on both CDC guidance and on the DoD COVID Task Force's assessment of unique DoD mission requirements. DoD vaccine allocations make it possible for the

Department to protect both our vulnerable populations and those personnel who serve in important roles. Receiving a vaccination in accordance with Department guidance enhances the DoD's response to the pandemic. (DOD FAQ)

Q: Do I need to wear a mask and avoid close contact with others if I have received 2 doses of the vaccine?

A: Yes. While experts learn more about the protection that COVID-19 vaccines provide under real-life conditions, it will be important for everyone to continue using all the tools available to us to help stop this pandemic, like covering your mouth and nose with a mask, washing hands often, and staying at least 6 feet away from others. Together, COVID-19 vaccination and following CDC's recommendations for how to protect yourself and others will offer the best protection from getting and spreading COVID-19. Experts need to understand more about the protection that COVID-19 vaccines provide before deciding to change recommendations on steps everyone should take to slow the spread of the virus that causes COVID-19. Other factors, including how many people get vaccinated and how the virus is spreading in communities, will also affect this decision. [from CDC website]

Vaccine Awareness

Q. What is an Emergency Use Authorization?

A. Drugs and vaccines have to be approved by the Food and Drug Administration to ensure that only safe and effective products are available to the American public. In situations when there is good scientific reason to believe that a product is safe and is likely to treat or prevent disease, the FDA may authorize its emergency use under specific circumstances. Vaccines authorized for emergency use are offered on a voluntary basis. (DOD FAQ)

Q: How will I be able to keep track of what vaccine I received and when I need to get a second dose?

A: All vaccine recipients will be provided a copy of the CDC COVID-19 Vaccination Record Card after receipt of the vaccine. It is recommended that the second-dose appointment be made at the time of initial vaccinations, or instructions provided on procedures for second dose follow-up. If a vaccine recipient has a smartphone, it is recommended that they take a photo of the vaccination record card as a back-up copy and set a calendar reminder for receipt of the second dose. [from MHS website]

Q: How do we know if the vaccine is safe? How will you monitor and track vaccine side effects? **A:** The DoD is confident in the stringent regulatory process and requirements of the FDA. Manufacturers are required to submit their raw data for the FDA to review. Safety, immune response, and efficacy data from the trial stages are submitted to the FDA before they are authorized for use and distribution. Per FDA requirements, DoD will be monitoring and tracking vaccine reports of vaccine side effects through various surveillance activities both internal and external to the DoD. [from MHS website]

Q: How long will protection last following vaccination?

A. We do not know how long protection will last following vaccination but it will be critically important to measure long-term protection (at least two years) in the phase 3 trials and in other groups prioritized

for early vaccination. We are still learning about the duration of protection following infection with COVID-19 and it is too early to tell how long protection will last. (DOD and MHS FAQ)

Q. Can someone get COVID-19 from the vaccine?

A. No, it is not possible to get COVID-19 from vaccines. Vaccines against COVID-19 use inactivated virus, parts of the virus, or a gene from the virus. None of these can cause COVID-19. (DOD FAQ)

Q. Should I get the vaccine for influenza (flu shot)?

A. Yes, it is very important to get the influenza vaccine, particularly this season when both influenza viruses and COVID-19 will infect people. (DOD FAQ)

Q: What kind of information will be available to me before I receive the vaccine?

A: Each potential recipient of COVID-19 vaccine will receive a vaccine-specific Emergency Use Authorization Fact Sheet for Recipients from the FDA, which will provide the following information: [from MHS website]

- Basic information on COVID-19, symptoms, and what to discuss with a health care provider before vaccination.
- Who should and should not receive the vaccine.
- That recipients have the choice to receive the vaccine.
- Dosage and vaccine series information.
- Risks and benefits of the vaccine.
- An explanation of what an EUA is and why it is issued.
- Any approved available alternatives for preventing COVID-1.
- Additional resources.

*Note: The FDA's website contains information about the COVID-19 vaccines authorized for emergency use and links to view the EUA fact sheet for each. ([fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/covid-19-vaccines](https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/covid-19-vaccines)).

Q: What percentage of the population needs to get vaccinated to have herd immunity to COVID-19?

A: Experts do not know what percentage of people would need to get vaccinated to achieve herd immunity to COVID-19. Herd immunity is a term used to describe when enough people have protection — either from previous infection or vaccination — that it is unlikely a virus or bacteria can spread and cause disease. As a result, everyone within the community is protected even if some people don't have any protection themselves. The percentage of people who need to have protection in order to achieve herd immunity varies by disease. [from CDC website]