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JANUARY 2021 **COVID-19 VACCINE/VACCINATION LEAVE GUIDANCE**

As the COVID-19 Vaccine/Vaccination rollout continues, the Office of the Labor Commissioner is providing guidance to employers about providing leave/time for employees to get vaccinated. [Nevada COVID-19 Vaccine Playbook 3.0 Brief](#)

MANDATORY VACCINATION REQUIREMENTS BY EMPLOYERS SHOULD BE COMBINED WITH LEAVE FOR EMPLOYEES TO OBTAIN THE 1ST DOSE AND 2ND DOSE OF THE COVID-19 VACCINE/VACCINATION.

Under the Fair Labor Standards Act (FLSA), if an employer is requiring employees to get vaccinated, the time off for obtaining the vaccine, even if it is non-working time, is likely to be compensable.

OPTIONAL VACCINATION REQUIREMENTS AND/OR EMPLOYEES THAT CHOOSE TO OBTAIN THE VACCINE VOLUNTARILY SHOULD BE ALLOWED TO UTILIZE LEAVE, PAID LEAVE, OR THE POSSIBILITY OF FLEX TIME TO OBTAIN THE 1ST AND 2ND DOSE OF THE COVID-19 VACCINE.

Employers should review their leave and vaccination policies and revise accordingly to provide leave/time to employees to obtain the 1st Dose and 2nd Dose of the COVID-19 Vaccine.

On January 1, 2020, Senate Bill 312 became effective and stated as follows: "Every employer in private employment in the State of Nevada with 50 or more employees in the State of Nevada shall provide paid leave that accrues at a minimum of 0.01923 hours of paid leave for each hour of work performed. An employee is eligible to use leave on the 90th day of employment." The employee does not have to provide a reason for the leave.

While the Families First Coronavirus Response Act (FFCRA) did expire on December 31, 2020, employers can still provide FFCRA leave and receive tax credits for that leave. [Families First Coronavirus Response Act: Questions and Answers | U.S. Department of Labor \(dol.gov\)](#)

Employers should consider the following related to the COVID-19 Vaccine:

- (1) Is the employer requiring employees to get vaccinated?
- (2) Is the employer going to provide employees leave and/or paid leave to get vaccinated?
- (3) Will the leave and/or paid leave be deducted from the employees leave hours?
- (4) If the employer is not going to require the vaccination for employees, the employer will need to allow employees to utilize leave, paid leave, provide flex time, or other options for employees who choose to get vaccinated.

The Labor Commissioner recommends that employers and employees visit the following websites for the most recent information on the vaccine and provide employees with leave, time, and flexibility to obtain the vaccine.

[COVID-19 Vaccine | Nevada Health Response \(nv.gov\)](#)

[What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)

[COVID-19 Vaccination | CDC](#)