

CHICAGO EMPLOYERS MUST PERMIT TIME OFF FOR COVID-19 VACCINATION, INCLUDING PAID TIME OFF FOR MANDATORY VACCINATIONS

Apr 29, 2021

Pursuant to the Chicago Vaccine Anti-Retaliation [Ordinance](#) that took effect on April 21, 2021, Chicago workers – including both employees and independent contractors – now have certain protections designed to safeguard access to a COVID-19 vaccination. Under the Ordinance, an employer, defined as any person or entity that engages the services of one or more individual for payment:

- May not take adverse action against any worker for taking time during scheduled work time to obtain a COVID-19 vaccination;
- May not require a worker to get vaccinated only during non-working (non-shift) hours; and
- Must permit workers to use accrued or available paid time off, including but not limited to paid sick leave, for the purpose of getting vaccinated (as discussed [here](#), the Illinois Department of Labor has more broadly encouraged all Illinois employers to permit employees to use available paid time off for this purpose).

In addition, if an employer has made vaccination *mandatory* for workers, then the employer:

- Must compensate the worker for time, up to 4 hours per vaccine dose (one or two doses, as required based on the type of COVID-19 vaccine received), that the worker takes to get the vaccine, if the vaccine appointment is during scheduled work time (compensation should be at the worker's regular rate of pay); and
- May not require the worker to use paid time off (including but not limited to paid sick leave) to fund the hours of scheduled work time missed to get the vaccine.

Violations of any of the above provisions will be considered retaliation and may result in: (a) fines of \$1,000 - \$5,000; and (b) reinstatement for the employee, plus 3x wages lost and any other actual damages, including costs and attorneys' fees.

The Chicago Commissioner of Public Health is tasked with determining when the threat to public health posed by COVID-19 has diminished to the point that the Ordinance is no longer necessary.

Recommended Actions – Chicago employers should:

- Watch for additional rules relating to the Ordinance to be promulgated by the Commissioner of Public Health;
- Consider adopting a written vaccination policy in order to ensure employee awareness and consistent practices;
- Evaluate these issues discussed in our three-part blog post when deciding whether to make vaccination mandatory;
- Prohibit retaliation against employees for taking time to get the vaccine and provide training to HR personnel and managers to ensure compliance with the Ordinance; and
- Continue to comply with the Chicago COVID-19 Anti-Retaliation Ordinance, which prohibits retaliation against employees for taking leave for other COVID-19 related reasons.

RELATED PRACTICE AREAS

- Employment & Labor

MEET THE TEAM



Christy E. Phanthavong

Chicago

[christy.phanthavong@bclplaw.co](mailto:christy.phanthavong@bclplaw.com)

[m](#)

[+1 312 602 5185](tel:+13126025185)



Patrick DePoy

Chicago

patrick.depoy@bclplaw.com

[+1 312 602 5040](tel:+13126025040)

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