

***Request for Exemption/Accommodation Related to COVID-19 Vaccine***

Date this Request Form Received in Human Resources:

Interactive Discussion By Date:

Does employee potentially qualify for a disability or religious exemption from the vaccination policy?

Yes \_\_\_\_\_ No \_\_\_\_\_

Where the employee potentially qualifies for an exemption, does the exemption pose a direct threat to the health and safety of the employee or others in the workplace?

Yes \_\_\_\_\_ No \_\_\_\_\_

In addition to COVID-19 testing and face covering requirements set forth under OSHA’s Vaccination and Testing Emergency Temporary Standard (“ETS”), 29 C.F.R. Section 1910.501, identify any reasonable accommodations and safeguards that can eliminate or reduce the direct threat, if applicable:

Has the employee been informed in writing?

Yes \_\_\_\_\_ No \_\_\_\_\_

Name of Representative: \_\_\_\_\_

Signature of Representative: \_\_\_\_\_ Date: \_\_\_\_\_



**ATTORNEY-CLIENT COMMUNICATION – PRIVILEGED AND CONFIDENTIAL**

**Step-By Step Process for Evaluating Vaccination Exemption Requests (Internal HR Use Only)**

**Step 1:** *Where an employee requests a disability or religious exemption to the vaccination policy, have the employee complete the application exemption form.*

**Step 2:** *Engage in an interactive process with the employee and whether the employee qualifies for a disability or religious exemption.*

**Disability Exemption:** Ask employee to provide appropriate documentation from his or her health care provider regarding the nature of any impairment(s), the duration of the need for accommodation and the extent to which the impairment(s) conflict with the employer's vaccination requirement. Should you need to consult with the employee's health care provider, only do so in writing and obtain the employee's written medical authorization in advance.

**Religious Exemption:** If necessary, ask for appropriate documentation from employee's religious leader regarding the religious belief that conflicts with the employer's vaccination requirement. You must obtain approval from the Vice President of Human Resources to make that request. Because the definition of religion is broad and protects beliefs, practices, and observances with which the employer may be unfamiliar, ***you should ordinarily assume that an employee's request for religious accommodation is based on a sincerely held religious belief, practice, or observance.*** However, if an employee requests a religious accommodation, and the employer is aware of facts that provide 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.

**Step 3:** *Determine if the accommodation request poses a direct threat to the health and safety of the employee or others in the workplace.*

The Americans with Disabilities Act (ADA) requires employers to grant an accommodation request, unless the accommodation poses a direct threat to the health and safety of the employee or others in the workplace.

When evaluating the existence of a direct threat, conduct an individualized assessment of the following factors in determining whether a direct threat exists (including that an unvaccinated individual will expose others to the virus at the workplace):

1. the duration of the risk;
2. the nature and severity of the potential harm;
3. the likelihood that the potential harm will occur; and
4. the imminence of the potential harm.

The determination that a particular employee poses a direct threat should be based on a reasonable medical judgment that relies on the most current medical knowledge about COVID-19. Such medical knowledge may include, for example, the level of community spread at the time of the assessment. Statements from the CDC and state/local health departments provide an important source of current medical knowledge about COVID-19, and the employee's health care provider, with the employee's consent, also may provide useful information about the employee.

Additionally, the assessment of direct threat should take account of the type of work environment, such as whether the employee works alone or with others or works inside or outside; the available ventilation; the frequency and duration of direct interaction the employee typically will have with other employees and/or residents; the number of partially or fully vaccinated individuals already in the workplace; whether other employees are wearing masks or undergoing routine screening testing; and the space available for social distancing.

**Step 4:** *Determine if one or more accommodations or safeguards can eliminate or reduce the direct threat.*

If an employer determines that an individual who cannot be vaccinated 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 that would eliminate or reduce this risk so the unvaccinated employee does not pose a direct threat.

In addition to COVID-19 testing and face covering requirements set forth under OSHA's Vaccination and Testing Emergency Temporary Standard ("ETS"), 29 C.F.R. Section 1910.501, potential reasonable accommodations could include requiring the employee to wear an N95 respirator, work a staggered shift, making changes in the work environment (such as limiting contact with other employees and residents), permitting telework if feasible, or reassigning the employee to a vacant position in a different workspace.

Seek input from the community's management that has knowledge about the duties of the position and the worksite to help determine the feasibility of what may be a reasonable accommodation, including alternative accommodations to the one requested by the employee.

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, the employer may employer to exclude the employee from the workplace.

**Step 5:** *Notify employee in writing whether he or she qualifies for a vaccination exemption and, if an exemption is recognized, communicate and document any available accommodations.*

Maintain all copies of accommodation requests, supporting information and documentation, including denials, in a file separate from the employee personnel file.