

City of Chicago Passes COVID-19 Vaccination Ordinance

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On April 21, 2021, the City of Chicago passed an ordinance (the “Ordinance”), [here](#), prohibiting Chicago employers from: (i) retaliating against workers who receive the COVID-19 vaccine during working hours; and (ii) requiring that workers receive the COVID-19 vaccine only during non-working hours. The Ordinance takes effect immediately.

The Ordinance applies to all employers who “engage the service of at least one individual for payment.” In addition, the Ordinance defines “worker” to mean “an individual that performs work for an employer, including as an employee or as an independent contractor.”

Under the Ordinance, an employer cannot require that its workers receive the COVID-19 vaccine during non-working hours. If a worker elects to receive a COVID-19 vaccine, the employer must allow the worker to use any available paid sick leave or paid time off.

In addition, if the employer has implemented a mandatory vaccine policy under which workers are required to receive a COVID-19 vaccine, the employer must compensate the worker for time spent receiving the vaccine, up to four hours per dose, if the dose is administered during working hours. Such compensation must be at the worker’s normal rate of pay. An employer that requires workers to receive a vaccination also cannot require that the worker use paid sick leave or paid time off for the time taken to receive the vaccine.

The Ordinance has teeth: a worker subjected to an adverse employment action for taking time out of the work day to receive the COVID-19 vaccine can pursue a private right of action and recover: (i) reinstatement; (ii) damages equal to three times the full amount of wages that would have been owed had the retaliatory action not taken place; (iii) any other actual damages directly caused by the retaliatory action; and (iv) costs and reasonable attorney's fees. The Commissioner of Business Affairs and Consumer Protection or the Director of Labor Standards can also pursue violations of the Ordinance in an administrative hearing or in a court of law. A violation of the Ordinance will also result in a fine between \$1,000 and \$5,000.

We will continue to monitor and report developments relating to this Ordinance. In the meantime, employers should review their policies and practices to ensure that they are in compliance.

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