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COVID-19 Vaccine and Related Bargaining Issues Under the NLRA

Does employer intend to mandate vaccine?

- Per EEOC guidance, employers can likely require the vaccine but must allow for exceptions for religious and health reasons
- NLRB case law suggests a mandatory vaccine policy is lawful under the NLRA. However, employers should consider employee morale



But will want to require employees who don't take a vaccine to follow different rules around the workplace.

- Likely will need to bargain over application of different work rules to bargaining unit members
- State/Local requirements may bolster case for requiring other safety precautions

Bargaining obligation triggered, absent ability to act unilaterally.

YES

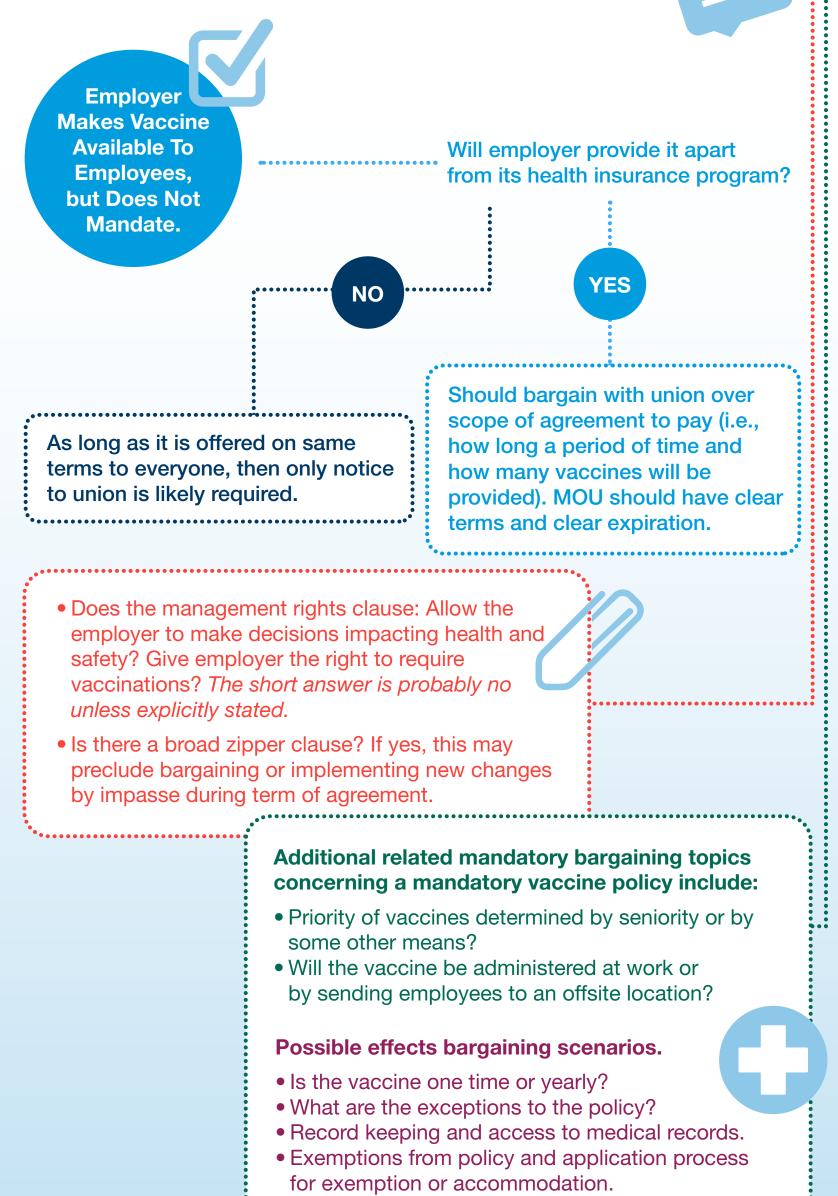
Read the CBA: Does the contract permit employer to act unilaterally? Does it bar employer from implementing this policy?

CBA does not authorize making changes but does not prevent it.

CBA authorizes unilateral change with respect to vaccine.

Effects bargaining

Employer will need to give union notice and opportunity to bargain over decision to mandate vaccine. Employer must bargain in good faith until agreement is reached or parties reach impasse.



- For those exempted/accommodated, will there be other safety measures required? If yes, then bargaining must occur over safety measures.
 Process/procedures for employees who experience side effects from vaccine.
 Consequences for employees who refuse
 - Consequences for employees who refuse to take vaccine.