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New OSHA Guidance Calls for Recordkeeping If COVID-19 Vaccines Are Mandatory

By Glenn S. Grindlinger

In a [February 2021 alert](#), we addressed many of the employment issues surrounding COVID-19 vaccines, including when it may be permissible to require the vaccine, the duty to allow for exceptions to such a rule and considerations involving religious beliefs and union contracts.

Recently, the Occupational Safety and Health Administration (OSHA) issued additional guidance on this issue.

Employers who **require** employees to receive the COVID-19 vaccination as a condition of employment must record an employee's adverse reaction to the vaccination in their OSHA 300 workplace illness logs if the employee's reaction is "a new case" and results in (a) an absence from work of more than one day, (b) medical treatment beyond first aid, or (c) restricted work or transfer to another job.

These are the same conditions that trigger mandatory recordkeeping of other types of work-related injuries and illnesses, but OSHA's guidance extends an employer's recordkeeping requirements to those adverse reactions resulting from the COVID-19 vaccination.

Employers who simply offer or recommend the COVID-19 vaccine, but do not mandate it are not required to record an employee's adverse reactions to the vaccination.

Learn more about OSHA's guidance on its [COVID-19 FAQ page](#).

For more information about this Alert, please contact Glenn S. Grindlinger at ggrindlinger@foxrothschild.com or 212.905.2305, or any member of Fox Rothschild's [Labor & Employment Department](#). Visit us on the web at www.foxrothschild.com.

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