

# Who Is That Masked Employee and Is She Vaccinated? Employers Wrestle with New CDC Guidelines

Article By:

John P. Rodgers

Anne R. Yuengert

---

Do you trust your employees about their vaccination status, or do you need to see proof? Since the Centers for Disease Control and Prevention's (CDC) new [mask guidance](#) came out last week, many employers have been wrestling with the question of how best to determine the COVID-19 vaccination status of their employees.

The CDC's guidance stated that – for fully vaccinated people – masks were not required in most indoor settings (with a few exceptions related to public transit, hospitals, and prisons) and not required outdoors. If you were not fully vaccinated, then the CDC advised you still need to wear a mask indoors.

The new guidance begs the question for many employers looking to modify their mask policy: How do you determine whether an employee is fully vaccinated?

## Option 1: The Honor System

One option for employers is the honor system. Basically, you would issue a new policy stating that masks are not required for fully vaccinated people, but that the unvaccinated must still wear their masks. You would not get into requiring proof or asking about employee vaccination status but would rely on your employees to be honest about their vaccination status.

Although this method does not provide certainty (or at least as much certainty as you can get) regarding vaccination status, it is easier to implement because it is effective as soon as you change your policy. Furthermore, the honor system does not require employers to get into the sometimes messy business of asking employees directly about or requiring proof of vaccination status.

## Option 2: Ask Employees If They Are Fully Vaccinated

Another option is to ask employees about whether they are fully vaccinated. The EEOC's current guidance (Section K) is that this is not a medical inquiry, and you can ask applicants or employees without running afoul of the Americans with Disabilities Act (ADA) or having to show job-relatedness.

If you do ask an employee whether he is fully vaccinated and the employee says no, then you should not ask why — as that would likely be a disability-related inquiry ([according to the EEOC](#)).

One of the pros of this option is you will get a better understanding, of course, of who actually has been fully vaccinated. If an employee who has not been fully vaccinated is not wearing a mask, then a supervisor knows to ask the employee to put one on. One of the cons of this policy is that employees may not like being asked this question, and employees, of course, may not respond truthfully. (We are sad to report that people do not always tell the truth).

### **Option 3: Requiring Actual Proof of Vaccine Status**

A third option is for employers to collect proof that employees have received the COVID-19 vaccine by requiring that they show a vaccination card or some other valid evidence. [The EEOC says](#) that employers are allowed to do this (in Section K.3). If you require vaccination cards and actually keep a copy of the cards, then you should probably keep that information confidential in a separate medical file.

For employers wanting the most assurance that an employee has been vaccinated, this is likely the best option because, of course, it would provide actual documentation of vaccination status.

### **Option 4: You Can Mandate the Vaccine, But Be Sure to Make Exceptions**

Finally, you can mandate that employees receive the vaccine, at least under federal law (there may be some state and local exceptions, depending on your location). Although some employees in many workplaces just don't want to receive the vaccine (for various reasons), there may be individuals who cannot receive the vaccine because of a disability. Or, there may be employees who will not receive the vaccine based on sincerely held religious beliefs. If you mandate the vaccine, you must consider reasonable accommodations for these employees.

## **Takeaways**

The new CDC guidance was a giant leap forward in the return to normalcy regarding the pandemic. Employers seeking to modify their masking policy to follow the CDC guidance should keep the above options in mind when trying to determine the question that the CDC guidance begs: How do you actually determine who has been fully vaccinated?

© 2025 Bradley Arant Boult Cummings LLP

---

National Law Review, Volume XI, Number 140

Source URL: <https://natlawreview.com/article/who-masked-employee-and-she-vaccinated-employers-wrestle-new-cdc-guidelines>