

***Employers, Colleges and Universities, Schools and Cities
are mandating the Flu Vaccine.
Do they have the right and what exemptions are there?***

Many employers, colleges and universities, K-12 schools and counties are requiring the flu vaccine this season, without sharing the available exemptions, or stating only a medical exemption is allowed. Some, such as the University of California, as a result of our complaints, are modifying their requirements to include religious exemptions, and/or to only apply to certain employees/students. If you are being required to get a flu vaccine, ask for a written copy of the policy and specifically ask what exemptions are allowed.

To clarify the law:

All Employees: Per the U.S. Equal Employment Opportunity Commission (EEOC) which enforces Federal laws prohibiting employment discrimination, employers **MUST** offer religious and disability accommodations to vaccine requirements.

High Exposure Employees in California: In California, according to the California Occupational Safety and Health Administration (Cal/OSHA)'s Aerosol Transmissible Diseases Standard, Title 8, California Code of Regulations (CCR) Section 5199, employees who would have occupational exposure (defined as "exposure from work activity or working conditions that is reasonably anticipated to create an elevated risk of contracting any disease caused by ATPs or ATPs-L if protective measures are not in place."), must be offered a declination statement.

College/University Students in California and other states: There is no law for college students regarding vaccinations, so this is at the discretion of the college/university. If your college/university has implemented a flu vaccine policy, please send AVFCA the policy and we will send a letter to the President and Board of Trustees, as well as set up petitions and a survey, as we did with the University of California.

Preschool and K-12 Students in California: CA statute allows the California Department of Public Health to add vaccines as a requirement for school enrollment, but they must have a personal belief exemption. Counties or individual schools CANNOT implementing a flu vaccine requirement as part of the enrollment requirement. If your CA school or county has implemented a flu vaccine policy as a requirement for school enrollment, please send AVFCA the policy and we will we will send a letter outlining California law.

Counties/Cities in California: CA statute states that during an outbreak of a communicable disease, or upon the imminent and proximate threat of a communicable disease outbreak or epidemic that threatens the public's health, a local health officer may issue orders to other governmental entities within the local health officer's jurisdiction to take any action the local health officer deems necessary to control the spread of the communicable disease. However, the flu vaccine cannot be required for a COVID outbreak as it will not control the spread of COVID. If your city or county has implemented a flu vaccine policy, please send AVFCA the policy and we will we will send a letter outlining California law.

Religious Exemptions

While organizations may just ask for a statement that vaccines are against your religious beliefs and you hold those beliefs sincerely, they have the right to ask for more a detailed explanation to determine that those statements are true. For employees, the questions must be consistent with the guidance from the U.S. Equal Employment Opportunity Commission (EEOC)

<https://www.eeoc.gov/laws/guidance/questions-and-answers-religious-discrimination-workplace>. The following are examples of what may be asked to support a religious exemption:

- Explain how receiving the flu vaccine conflicts with or violates your sincerely held religious belief, observance or practice.

- Identify the sincerely held religious belief, observance or practice that prevents you from receiving the flu vaccine (this includes moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views (29 C.F.R. §1605.1), but it does not include “social, political, or economic philosophies” or personal preferences (U.S. Equal Emp’t Opportunity Comm’n, Questions and Answers: Religious Discrimination in the Workplace, Question 1 (Jan. 31, 2011); U.S. Equal Emp’t Opportunity Comm’n, Compliance Manual, Section 12: Religious Discrimination, at 12-I (Coverage) (July 22, 2008)

While the accommodation you are requesting is an exemption to vaccination for religious reasons, you may also be asked to request other accommodations, if not getting the flu shot would make you unable to meet the required/essential functions of your job and would impose an undue hardship, including compromising safety for your organization.

Religious Exemption Wording

The First Amendment of the US and California Constitutions, guarantees every American freedom of religion which is not restricted to organized religion. The definition of your religion is your own and you cannot be judged for what it is. Per the 1964 Civil Rights act:

“Title VII protects all aspects of religious observance and practice as well as belief and defines religion very broadly for purposes of determining what the law covers. For purposes of Title VII, religion includes not only traditional, organized religions such as Christianity, Judaism, Islam, Hinduism, and Buddhism, but also religious beliefs that are new, uncommon, not part of a formal church or sect, only subscribed to by a small number of people, or that seem illogical or unreasonable to others. An employee’s belief or practice can be “religious” under Title VII even if the employee is affiliated with a religious group that does not espouse or recognize that individual’s belief or practice, or if few – or no – other people adhere to it. Title VII’s protections also extend to those who are discriminated against or need accommodation because they profess no religious beliefs.

Religious beliefs include theistic beliefs (i.e. those that include a belief in God) as well as non-theistic “moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.” Although courts generally resolve doubts about particular beliefs in favor of finding that they are religious, beliefs are not protected merely because they are strongly held. Rather, religion typically concerns “ultimate ideas” about “life, purpose, and death.” Social, political, or economic philosophies, as well as mere personal preferences, are not “religious” beliefs protected by Title VII.”

More details on what constitutes religion is outlined in these two articles:

[EOCC: Questions and Answers - Religious Discrimination in the Workplace](#)

[National Law Review: Flu Shots, Religious Beliefs, and Employee Rights: Navigating the Complex Intersection.](#)

If you are part of an organized religion, most religious texts have verses that relate to the sanctity of blood and bodily autonomy. If you need ideas, Freedom of Religion - United Solutions has letters from various religious leaders on their website: <https://forunitedsolutions.org/clergy-letters>. A Voice for Choice Advocacy put together the image below which outlines the animal ingredients in vaccines and how they relate to various religions.

If you need help with writing a religious exemption or would like us to review your religious exemption before you submit it, we would be happy to. Please send the written vaccine policy, including exemption options, a description of your religious beliefs and any other information about the accommodations you are requesting, to info@avoiceforchoiceadvocacy.org.

Some organizations, such as the University of California, have added a third question, which asks if you can provide further documentation to support your need for a religious accommodation. Our recommendation is that you answer yes specifically that you can provide more documentation, but that you do not agree for them to discuss your religion with outside parties, if this is part of their statement. If they then follow up with you, feel free to reach out to AVCFA for our thoughts on how to respond.

If you use this information and get your religious exemption approved, we would love to hear about your success.

If you found this information helpful and appreciate the work A Voice for Choice Advocacy is doing, please support us by making a donation today.