

VA**U.S. Department of Veterans Affairs**

Office of the Chief Human Capital Officer

VA Central Office
Washington, D.C.

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OFFICE OF THE CHIEF HUMAN CAPITAL OFFICER (OCHCO) BULLETIN**SUBJECT: Authorized Absence for Individuals and Family Members who Receive the COVID-19 Vaccine – Version 5**

This OCHCO Bulletin provides updated guidance to Human Resources (HR) offices regarding the nationwide injunction on the President's Executive Order, 14043, requiring that all Federal employees get the COVID-19 vaccine. This bulletin clarifies the available leave options for employees requesting leave to receive the COVID-19 vaccine, booster, or additional primary series doses effective January 21, 2022. This version of the bulletin does not change available leave options for employees accompanying family members receiving the COVID-19 vaccine.

On January 21, 2022, a Federal court issued a nationwide injunction on Executive Order (EO) 14043 *Requiring Coronavirus Disease 2019 Vaccination for Federal Employees*. The injunction does not impact the Department of Veterans Affairs' (VA) authority to require and enforce that Veterans Health Administration (VHA) health care personnel be fully vaccinated or have an approved exception. For employees who are not VHA health care personnel, VA will pause implementing and enforcing EO 14043. Safer Federal Workforce Task Force guidance on other agency safety protocols based on vaccination status – including guidance on protocols related to masking, distancing, travel, testing and quarantine – remain in effect at VA.

COVID-19 Vaccination for VA Employees other than VHA HCP. For VA employees who are not VHA HCP, VA will pause implementing and enforcing Executive Order 14043. This means all VA employees other than VHA HCP and applicants for non-VHA HCP positions will not be required to be fully vaccinated against COVID-19 or obtain an approved exception at this time.

COVID-19 Vaccination Mandate for VHA HCP. VHA published VHA Directive 1193.01, *Coronavirus Disease 2019 Vaccination Program for Veterans Health Administration Health Care Personnel*, on January 27, 2022. VHA Directive 1193.01 reinstates and updates the prior version of VHA Directive 1193, published on August 13, 2021, and requires all VHA HCP covered by the policy to be vaccinated against COVID-19 or obtain an approved accommodation/exception.

VHA HCP refers to all paid and unpaid persons who work in or travel to VHA locations who have the potential for direct or indirect exposure to patients or infectious materials, including

body substances (e.g., blood, tissue, and specific body fluids); contaminated medical supplies, devices, and equipment; contaminated environmental surfaces; or contaminated air. These HCP may include, but are not limited to, emergency medical service personnel, nurses, nursing assistants, physicians, technicians, therapists, phlebotomists, pharmacists, health professions trainees (HPTs), and persons (e.g., clerical, dietary, environmental services, laundry, security, maintenance, engineering and facilities management, administrative, billing, and volunteer personnel) not directly involved in patient care but potentially exposed to infectious agents that can be transmitted from HCP and patients. HCP include all VA licensed and unlicensed, clinical and administrative, paid and without compensation, full- and part-time, intermittent, fee basis employees who are expected to perform any or all of their work at these locations. HCP also includes VHA personnel providing home-based care to Veterans and drivers and other personnel whose duties put them in contact with patients outside VA medical facilities.

NOTE: VHA HCPs do not include remote workers who only infrequently enter VHA locations. VA employees who work in VHA locations but are not part of VHA are not covered by VHA Directive 1193.01.

Requesting Leave to Receive the COVID-19 Vaccine. Employees **must receive approval** from their supervisor in advance of leaving the worksite to receive the vaccine, booster, and/or additional dose. Employees may receive the COVID-19 vaccine through the VHA employee occupational health service, through VA as a Veteran patient, or through a non-VA source.

- **VHA HCP Receiving the COVID-19 Vaccine** will remain in an official duty status for the time it takes to be vaccinated. No leave requests should be entered.
- **All Other VA Employees (non-VHA HCP) Receiving the COVID-19 Vaccine** may request authorized absence (AA) for the time it takes to be vaccinated. Leave requests should be entered as followed:
 - Code: LN – Administrative
 - Special note: Taking Examinations

In most cases, employees may receive up to four (4) hours to travel to the vaccination site, complete a vaccination dose and return to work. If an employee needs to spend less time getting the vaccine, only the needed amount of duty time shall be granted. Employees receiving a two-dose vaccine may receive up to eight (8) hours to be vaccinated. Employees taking longer than four hours to receive the vaccine must document the reasons for the additional time (e.g., they may need to travel long distances to get the vaccine).

If, due to unforeseen circumstances, the employee is unable to obtain the vaccine during basic tour of duty hours, the normal overtime hours of work rules apply. Employees requesting overtime to receive the COVID-19 vaccine must provide an explanation why the vaccine could not be obtained during duty hours.

Leave for Employees to Receive a Booster or Additional Dose of the COVID-19 Vaccine. Employees who meet the criteria to receive a booster or additional dose of the COVID-19

vaccine and receive it from either VA or from a provider other than VA may use up to four (4) hours of AA¹ (timekeeping code “LN – Administrative”, with the special note Taking Examinations”) to travel to the vaccination site, complete a vaccination dose and return to work. If an employee needs to spend less time getting the vaccine, only the needed amount of AA shall be granted.

Leave for Adverse Reactions to the COVID-19 Vaccine. Employees who receive the vaccine (whether within or outside the VA) who subsequently experience a severe, adverse reaction and are unable to work may be granted up to two days of AA² with supervisory approval (timekeeping code “LN – Administrative” with the special note “Taking Examinations”) after each dose (including the booster or additional dose) in which they experience a severe, adverse reaction.

Employees must follow proper leave requesting procedures if the need to request AA is required. AA may not exceed two consecutive and scheduled tours of duty and may be approved even in the absence of medical certification. AA may be approved immediately following each dose of the vaccine when an employee becomes ill and is unable to work. If the employee is incapacitated for more than two days, sick leave may be requested.

If an employee files a workers’ compensation claim (CA-1 form) for adverse reactions to the vaccinations required under Executive Order, they may be eligible for up to 45 days of Continuation of Pay, if all criteria are met. The Executive Order does not cover or mandate booster vaccinations. Additional information may be found in “Worker’s Compensation Claims for Compensable Injury or Illness” below.

Leave for Employees Accompanying a Family Member to Receive the Vaccine.

Employees are eligible to receive up to four (4) hours of AA per dose — for a potential maximum total of eight (8) hours of leave to accompany a family member receiving two doses. Additionally, employees may be granted up to four (4) hours of AA to accompany a family member to receive an additional dose of the COVID-19 vaccine. If an employee needs to spend less time accompanying a family member who is receiving the COVID-19 vaccine, only the needed amount of AA should be granted.

- Employees should obtain advance approval from their supervisor before being permitted to use AA for COVID-19 vaccination purposes.
- Employees may not be credited with AA or overtime work for time spent helping a family member get vaccinated.

¹ Employees receiving the booster shot may have AA applied retroactively to the time when authorized booster shots became available (i.e., no earlier than September 22, 2021). In the case of additional doses, AA may be applied retroactively to the time when authorized additional doses became available (i.e., no earlier than August 12, 2021, when the FDA amended the emergency use authorization for the Pfizer-BioNTech and Moderna COVID-19 vaccines to allow for the use of an additional dose in certain immunocompromised individuals).

² Employees who experience a severe, adverse reaction during the same workday in which they receive the vaccine may request AA for that workday as well as the next day (if it is a workday), if needed. Employees who experience a severe, adverse reaction the day after administration of the vaccine are eligible for AA for the two days following receipt of the vaccine (if they are workdays), if needed.

- For this purpose, “family member” means an individual with any of the following relationships to the employee (see 5 C.F.R. § 630.201):
 - 1) Spouse and parents.
 - 2) Sons, daughters³ and spouses.
 - 3) Parents and spouses.
 - 4) Brothers, sisters and spouses.
 - 5) Grandparents, grandchildren and spouses.
 - 6) Domestic partner, parents, including domestic partners of any individual in bullets 2 through 5 of this definition.
 - 7) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

The employee shall be granted AA (recorded as “LN – Administrative” with the special note “Taking Examinations”) for the time required for the family member to be vaccinated (including time to travel to the vaccination site, waiting times and other factors).

Sick leave may be requested to care for a family member who is sick or injured, including if a family member has an adverse reaction to the COVID-19 vaccine (sick leave general family care purposes is limited to 104 hours per leave year). AA may not be used to care for a family member.

Worker’s Compensation Claims for Compensable Injury or Illness. Employees suffering from an injury following receipt of a mandatory COVID-19 vaccine may file a workers’ compensation claim under the Federal Employees Compensation Act. Employees who receive the vaccine on or after the date of executive order, September 9, 2021, may be afforded coverage under the Federal Employees Compensation Act (FECA) for any adverse reactions to the vaccine itself, injuries sustained as the direct result of an employee receiving their mandated vaccination.

Because COVID-19 vaccination is a specific event occurring during a single day or work shift, any adverse reactions or injuries should be reported on Form CA-1, Notice of Traumatic Injury and Claim for Continuation of Pay / Compensation. Where two vaccinations are required several weeks apart, reactions to each are considered separate claims.

The executive order does not cover or mandate booster vaccinations. Should there be any changes regarding approved vaccination brands or mandated vaccination frequencies, the FECA program will publish additional guidance.

Compensable Injury or Illness due to Booster or Additional Dose. Compensation for serious physical injury related to the booster or additional dose of the COVID-19 vaccine is likely available only through the Countermeasures Injury Compensation Program as authorized by the Public Readiness and Emergency Preparedness Act, 42 U.S.C. § 247d-6d, and its implementing Declarations (up through and including the 9th Amended Declaration, 86

³ A son or daughter is defined as (1) a biological, adopted, step or foster child of the employee; (2) a legal ward of the employee; (3) a person for whom the employee stands *in loco parentis*; or (4) a child of the employee’s spouse or domestic partner under the terms described in conditions (1)-(3).

Fed. Reg. 51160 (Sept. 14, 2021)).

Employees with questions regarding this guidance should contact their HR office. HR offices with questions regarding the Veterans Health Administration COVID-19 vaccination program should review the information on the [VHA COVID-19 Vaccine SharePoint](#) and may submit questions regarding the COVID-19 vaccination to the [COVID-19 Resource Room](#).

HR offices with questions regarding this bulletin should contact the Worklife and Benefits Service at: vaco058worklife@va.gov.

Issued by: VA OCHCO/Worklife and Benefits Service

Attachment:

Duty Status for Employees Receiving or Assisting a Family Member with COVID-19 Vaccination