

LEGAL UPDATE

Illinois Issues Guidance on COVID-19 Vaccine Leave for Employees

The Illinois Department of Labor (IDOL) has issued [guidance](#) for employers on employee leave for COVID-19 vaccination. The March 2021 guidance addresses paid and unpaid leave in the context of mandatory vaccination, optional vaccination and the vaccination of family members.

Vaccination Required by Employers

The guidance says that if an employer requires employees to be vaccinated, the time employees take for vaccination is likely compensable under the Illinois Minimum Wage Law and the federal Fair Labor Standards Act. This is true even if the time employees spend to obtain a vaccine is not work time. The IDOL says employers should combine mandatory vaccination with paid leave or other compensation.

Optional Vaccination

Employers that do not require employees to be vaccinated should allow them to use sick leave, vacation time or other paid time off for that purpose, according to the guidance. Employers that are not required to provide paid time off and do not do so voluntarily should consider offering employees flex time so they may be vaccinated without having to take unpaid time off, or offer the flexibility of taking unpaid time off for vaccination.

Vaccination of Family Members

The guidance states that an appointment to receive a COVID-19 vaccine would qualify as a permissible medical appointment under the Illinois Employee Sick Leave Act (ESLA) if the employer allows the use of sick leave benefits for vaccination. The ESLA requires that sick leave be allowed for certain family medical purposes on the same terms as an employee's own illness or injury.

Highlights

Wage Laws

State and federal laws likely require payment for time spent receiving a mandatory vaccine.

Time Off Encouraged

Employers should provide paid time, flex time or unpaid time off for obtaining an optional vaccine.

Employee Sick Leave Act

Employees who are allowed to use sick leave for vaccination must be allowed the leave for the vaccination of family members.

The Illinois Department of Labor recommends employers provide leave, time and flexibility to encourage employees to obtain a COVID-19 vaccine.



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