



OSHA's Vaccination/Testing Rule

As expected, the Occupational Safety and Health Administration (OSHA) issued its new regulation requiring staff at clubs with 100 or more employees to be vaccinated or take weekly COVID tests. This new regulation takes effect 11/5/21 and failure to comply with it could subject a club to a \$13,653 penalty per violation.

Under OSHA's rule, clubs must create either a policy requiring employees be fully vaccinated or a policy allowing employees to choose whether to get the shot or be tested weekly and wear a face covering/mask. The club's policy must be established by 12/5/21. The club must also determine the vaccination status of all employees by that date.

If the club chooses a vaccination policy, an employee must be given 4 hours of PTO to get the shot. Should the employee need time to recover from the effects of the shot, he or she may take sick leave/PTO to do so. However, if he or she does not have any sick leave/PTO then the club is to provide up to 2 days of PTO. Unfortunately, the club will not get a tax credit for paying the employee for this time off.

If the club chooses a testing policy, the club is not required to pay for such tests under this rule, but it may be required to do so under other applicable law. All testing is to begin 1/4/22.

This regulation applies to clubs with 100 or more full-time or part-time workers employed on 11/5/21. Additionally, a club that meets this employee threshold must continue to comply even after reducing its number of employees. Clubs with less than that number on 11/5/21 do not have to comply; however, they'll have to comply if and when they hit that magic number. This definition of employees includes seasonal workers.

At this time, 24 states have indicated that they will be suing to stop this rule, which could cause a delay in its implementation. As that litigation plays out, club leaders should still begin determining how many employees could be impacted, what costs the club may incur and which route the club will take – mandating the vaccine or allowing employees to be tested.

Naturally, there are a significant number of legal issues to unpack here. To help club leaders understand what to do next, I'll be providing a webinar for CMAA tomorrow, Nov. 5, at 12:00 ET to go over the details of this new rule. I hope to see you then!

As always, if you, your Board and/or your CMAA Chapter have any questions on specific implementation issues, employee exemptions or anything else, please just let me know.