



WORKPLACE POLICY GUIDANCE RELATED TO COVID-19 VACCINES

In the last few months, nearly half of adults in the United States have received at least one dose of a vaccine protecting against the SARS-COV2 virus and COVID-19. Studies suggest the vaccines offered in the U.S. are highly effective and safe. In some populations, most notably adolescents, the vaccines may approach 100% efficacy. This is great news, even as parts of the country still struggle with outbreaks.

With outbreaks persisting and vaccines on the rise, several questions are coming up with respect to our churches and vaccines. This document is meant to address the most common and pressing of questions.

Please be warned, much of this guidance falls in the realm of common sense. The Office of Finance & Administration, its Director, Rev. Nate Berneking and The Missouri Annual Conference's Chancellor, Jordan Ault, strongly encourage local churches to use good common sense and to follow the guidance of your local health department. Churches will have more latitude to adopt policies than most employers. But that doesn't mean such an action is a good idea or without risks. Even with greater protections offered by the First Amendment, common sense is almost always the best rule.

This document is NOT intended as specific legal advice for you or your congregation. Rather, we offer it for educational purposes only. If you or your church needs legal advice, you may always contact Nate Berneking (nberneking@moumethodist.org). If your church would like to explore a formal and written vaccine policy for the church staff or a preschool, you may certainly do that through Jordan Ault's firm, Husch Blackwell, though the Conference would ask that the fees related to such an endeavor be covered by the local church. You may explore that option by contacting Nate Berneking and visiting the following website: <https://www.huschblackwell.com/covid-19-vaccine-policy-generator-for-employers>.

CAN WE DISPEL MISINFORMATION ABOUT THE VACCINE?

Generally, yes, but be careful. As long as a church sticks to the information put out by recognized authorities in healthcare — such as the Centers for Disease Control, the state Department of Health and Senior Services, or even hospitals — it should be safe. But you may want to think through how much conflict and tension is actually healthy for your congregation. Most misinformation is easy to recognize: “I heard the shot implants a micro-chip in a person.” And, if you avoid creating unnecessary conflict, it's pretty easy to call such misinformation into question by highlighting established and expert resources like those just mentioned. You can simply say things like, “I don't know about that, the state's health authorities have been pretty clear that that wasn't the case.” But other misinformation is much murkier and might trigger a greater level of sensitivity: “My cousin got the shot and was sick for a week.” You may know and believe that the vaccines' risk of side-effects is low. You may even believe that the cousin got sick from something else. But, unless you are a healthcare professional, you aren't an expert. It is fine to note that the vaccines appear to be safe. You can even say you've gotten yours with no ill-effects. But you should avoid treading into the territory of healthcare advice. Instead of arguing, it is probably best to encourage people expressing skepticism to talk to their doctors and family as to whether the vaccine is a good idea for them. That's probably also the most gracious thing to say.

CAN WE HOST A VACCINE CLINIC?

Provided that professionals runs the clinic and are simply utilizing the church's parking lot or building, absolutely. We would encourage the same good building use policies and agreements be put in place with the vaccine provider, but this sort of use is exactly what the Conference leadership hopes all of our churches are willing to provide.

IS OUR CHURCH AT RISK FOR LIABILITY IF WE ENCOURAGE THE VACCINE AND SOMEONE HAS A BAD REACTION?

No. Don't misunderstand: Nothing insulates any church or person from liability entirely. Like vaccines, 100% efficacy is unheard of. But, simply encouraging vaccinations couldn't really be categorized as behavior falling into any cause of action recognized by the State of Missouri (or any other states).

CAN WE REQUIRE CHILDREN IN OUR PRESCHOOL TO HAVE THE VACCINE TO ATTEND?

This question is a bit premature. While the vaccines appear safe and effective for children, they are only approved for distribution to individuals age 12 and older. When they do become available for children and younger youth, we will re-visit this question. We anticipate that many schools will require vaccination for students, just as they do for measles, mumps, rubella, diphtheria, pertussis and tetanus. But we would also anticipate guidance for such requirements from health care authorities like the Centers for Disease Control and the Missouri State Department of Health and Senior Services. As with our other recommendations for COVID-19 precautions, we would defer to their guidance.

CAN WE REQUIRE VACCINES OF CHURCH OR PRESCHOOL STAFF?

Yes, but this is definitely one of those issues for which we encourage common sense and restraint. Employers generally are going to be allowed to require vaccines for staff, especially those in high-risk industries like healthcare, meatpacking and even childcare. However, those employers are also subject to significant exceptions in which they would not be allowed to require a vaccine of particular individuals. Our churches have First Amendment protections and many are involved in work like childcare through their ministries. But, requiring vaccines would require extremely careful and detailed thought around the exceptions. Requiring vaccines would almost certainly necessitate a thorough and written vaccine policy adopted by the local church. For most of our churches, this simply isn't something they need or should even consider. Instead, we recommend that church staff be encouraged, but not required, to obtain the vaccine.

CAN WE REQUIRE LAITY TO GET THE VACCINE TO PARTICIPATE IN CERTAIN MINISTRIES AS VOLUNTEERS OR ATTENDEES?

Again, the answer may well be "yes," but this would also require great care. For some ministries like worship, Conference leadership would simply ask whether such requirements are the mark of the sort of hospitality and acceptance we want to express. Many people may well be advised not to obtain the vaccine for valid reasons. Getting into whether those apply to any individual isn't likely to be helpful for the church or its ministries. And even with higher risk activities and ministries, it's probably best to simply encourage laity to get the vaccine as it becomes available. If your church leaders believe requiring the vaccine for a certain ministry is necessary (i.e. working with senior adults or serving among the homeless), we encourage you to reach out and explore a more in-depth policy. Before adopting such requirements, the Conference would want you and your church's leadership to be very well-informed.

WHEN SOMEONE ASKS, CAN WE DISCLOSE WHETHER OR NOT A CHURCH STAFF MEMBER OR PRESCHOOL TEACHER HAS RECEIVED THE VACCINE?

This one is tough, but we would strongly discourage any such disclosure. Churches are not generally subject to the Health Insurance Portability and Accountability Act (commonly referred to as "HIPAA") because they typically don't collect or hold healthcare information. HIPAA might well apply if your church is running a medical clinic or similar ministry, but generally, the primary law protecting patient privacy just doesn't apply to what churches do or do not disclose. Still, some laws might come into play when a local church discloses information that most people would consider private. And, nothing is more sensitive than a person's healthcare information. Receiving a vaccine or having COVID would be precisely the sort of information to trigger these other laws and personal sensitivities. We live in an age in which people expect a level of privacy. For that reason, we strongly recommend that churches do not disclose which if any employees or volunteers have or have not had the vaccine. If a parent of a child in the children's ministry or a local church's preschool asks if a teacher has been vaccinated, the best answer will be to simply say something like, "We understand your concern, but we simply do not disclose information like that about our teachers. We can say that we are taking steps to ensure the safety of all children, families and staff." It is possible that church staff or volunteers may be asked directly about their vaccination status, and they are free to share their own information should they feel comfortable doing so, but not information about other staff members or volunteers.

SHOULD WE COLLECT INFORMATION AS TO WHAT STAFF MEMBERS HAVE BEEN VACCINATED?

This question probably pulls more on common sense than on any law. As more people get vaccinated, church leaders will likely learn who has received the vaccine. But, formally collecting the information may well impose greater responsibility on a church than is desirable. For this reason, we recommend that a church avoid formally collecting the information and keeping a tally of who has been or has not been vaccinated. The expectations of privacy around such information are significant, and even if a church has some legal protections in engaging in the behavior, it's probably wisest for the health of the ministry to avoid the issue, if possible.