

|  |  |
|--|--|
| <b>Policy Title:</b> COVID-19 Vaccination Program Policy | <br><b>North Central Health Care</b><br>Person centered. Outcome focused. |
| <b>Policy #:</b> 205                                     | <b>Program:</b> Human Resources 205  |
| <b>Date Issued:</b> 11/16/2021                           | <b>Policy Contact:</b> Jarret Nickel   |

## Related Forms

Request for Religious Accommodation

Request for Medical Exemption

## 1. Purpose

This policy is applicable to all direct care providers and staff working at NCHC, including students, interns, volunteers, and contracted staff. The standards of this procedure are to be complied with by staff while they are employed in any NCHC facility during regularly scheduled work times.

## 2. Definitions

- **COVID-19:** Coronavirus disease 2019 (COVID-19) is a highly contagious respiratory illness that can spread from person to person. The virus that causes COVID-19 or SARS-CoV-2 virus is a novel coronavirus that was first identified during an investigation into an outbreak in Wuhan, China.
- **COVID-19 Vaccine** – NCHC uses the Moderna vaccine. Pfizer and Johnson & Johnson are also approved vaccines which staff can get from an external source.
- **Direct Threat:** means a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation. The determination that an individual poses a “direct threat” shall be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job. This assessment shall be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include:
  - The duration of the risk;
  - The nature and severity of the potential harm;
  - The likelihood that the potential harm will occur; and
  - The imminence of the potential harm.

Should also take into account the work environment, including whether the employee works alone or with others, inside or outside, the employee's amount of direct interaction with others; the number of fully vaccinated people in the workplace; available ventilation; the space available for social distancing and more.

- **Fully Vaccinated**-staff are considered fully vaccinated if it has been two weeks or more since they completed a primary vaccination series for COVID-19. The completion of a primary vaccination series for COVID-19 is defined as the administration of a single-dose vaccine or the administration of all required doses of a multi-dose vaccine.
- **Undue Hardship:**
  - **Medical Exemption (ADA):** In general, with respect to the provision of an accommodation, significant difficulty or expense incurred by a covered entity, when considered in light of the following factors and should be considered in determining whether an accommodation would impose an undue hardship on a covered entity:

**Policy Title:** COVID-19 Vaccination Policy

**Author(s):**

**Owner:** Employee Health/ HR

**Next Review Date:** November 2021

**Approver:** Incident Command

- The nature and net cost of the accommodation needed under this part, taking into consideration the availability of tax credits and deductions, and/or outside funding;
  - The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, and the effect on expenses and resources;
  - The overall financial resources of the covered entity, the overall size of the business of the covered entity with respect to the number of its employees, and the number, type and location of its facilities;
  - The type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the covered entity; and
  - The impact of the accommodation upon the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.
- **Religious Accommodation** (Title VII): if the accommodation would impose more than a minimal (de minimis) burden on the employer and thus create an “undue hardship.” The EEOC lists six factors to evaluate:
- Whether the accommodation is too costly
  - Whether it would decrease workplace efficiency
  - Whether it would infringe on the rights of other employees
  - Whether it requires other employees to do more hazardous or burdensome work
  - Whether the accommodation conflicts with another law; and
  - Whether it compromises workplace safety

### 3. Policy

**3.1 NCHC Employee Responsibility:** North Central Health Care (NCHC) will comply with the Center for Disease Control (CDC), state, federal, including Centers for Medicare & Medicaid Services (CMS), and public health department recommendations and guidelines for the management and prevention of COVID-19. NCHC requires all employees to participate in vaccination program. Staff are permitted to receive their vaccination outside of NCHC but are required to provide documentation of the vaccination and will be deemed compliant with NCHC’s vaccination program.

**3.2 Exemptions/Accommodations:** Staff with recognized medical conditions for which vaccines are contraindicated or for religious beliefs, observances, or practices will be allowed to request an exemption/accommodation. All requests must be tracked, documented, and secured including the decision on the request and any accommodations that are provided in accordance with federal law. Staff that have previously had COVID-19 will not be considered exempt from this policy as per the CMS [Omnibus COVID-19 Health Care Staff Vaccination Interim Final Rule](#). In addition, employees who are not vaccinated because of pregnancy may be entitled (under Title VII) to adjustments to keep working if the employer makes modifications or exceptions for other employees. These can be the same as the accommodations made for an employee based on disability or religion.

- Religious Accommodation: Using the provided form, staff must include in written format all of the following:
  - The nature of their sincerely held religious beliefs or religious practice or observance that conflict with the COVID-19 vaccination.
  - The accommodation or modification requested.

- Any alternative accommodations that also would eliminate the conflict between the COVID-19 vaccination requirement and their sincerely held religious beliefs.
- This request must be signed and dated by the requestor.
- Medical exemptions must:
  - Be signed and dated by a licensed practitioner who is not the individual requesting the exemption and is acting within their respective scope of practice based on applicable state and local laws.
  - Contain all information specifying which of the authorized COVID-19 vaccines are clinically contraindicated for the staff member to receive and the recognized clinical reasons for the contraindications.
  - Include a statement by the authenticating practitioner recommending that the staff member be exempted from the facility's COVID-19 vaccination requirements.

**3.3 Request for Accommodations:** NCHC may also be required to provide appropriate accommodations, to the extent required by Federal law, for employees who request and receive exemption from vaccination because of a disability, medical condition, or sincerely held religious belief, practice, or observance that does not pose an undue hardship on the operations of NCHC. When assessing this, NCHC will consider for example the following factors:

- The type of workplace
- The nature of the employee's duties
- The number of employees who are fully vaccinated
- How many employees and non-employees physically enter the workplace
- The number for employees who will in fact need a particular accommodation

In granting such exemptions or accommodations, NCHC must ensure that they minimize the risk of transmission of COVID19 to at-risk individuals, in keeping with their obligation to protect the health and safety of patients. In addition, NCHC must also follow Federal laws protecting employees from retaliation for requesting an exemption on account of religious belief or disability status. Under the ADA, it is unlawful for an employer to disclose that an employee is receiving a reasonable accommodation or to retaliate against an employee for requesting an accommodation. A reasonable accommodation could include but not be limited to the following and must be assessed on a case-by-case basis:

- Wearing a face mask
- Work at a social distance from coworkers or non-employees
- Work a modified shift
- Get periodic tests for COVID-19
- Be given the opportunity to telework
- Accept a reassignment

**3.4 Exemption/Accommodation Decisions** will either be one of the following & documented accordingly on the request form. The approved or alternate accommodation will also be listed. If denied, the basis for the rejection must be stated. NCHC is not required to provide the accommodation preferred by an employee if there are other possible reasonable accommodations. NCHC reserves the right to later reconsider an accommodation based on changing circumstances.

- Approved as requested
- Approved but different from the original request

- Denied-for individuals who receive a denied exemption, they will be required to follow the mandatory vaccination guidelines or resign their position.

**3.5 Verification & Tracking of Vaccination Status:** All staff COVID-19 vaccines must be appropriately documented. Examples of appropriate places for vaccine documentation include a facilities immunization record, health information files, or other relevant documents. All medical records, including vaccine documentation, must be kept confidential and stored separately from an employer's personnel files, pursuant to ADA and the Rehabilitation Act. Examples of acceptable forms of proof of vaccination include:

- CDC COVID-19 vaccination record card (or a legible photo of the card),
- Documentation of vaccination from a health care provider or electronic health record
- State immunization information system record

#### 4. References:

**CMS:** [CMS Omnibus COVID-19 Health Care Staff Vaccination Interim Final Rule](#)  
[CMS Omnibus COVID-19 Health Care Staff Vaccination Interim Final Rule FAQ's](#)

**Joint Commission:** N/A

#### 5. Other:

- Americans with Disabilities Act (ADA)
- Section 504 of the Rehabilitation Act (RA)
- Title VII of Civil Rights Act of 1964
- Section 1557 of the ACA
- Pregnancy Discrimination Act
- [OSHA Emergency Temporary Standard \(ETS\)](#)
- [EEOC Compliance Manual: What You Should Know About COVID-19 and the ADA, The Rehabilitation Act, and other EEO Laws](#)
  - Section 12: [Religious Discrimination](#)
  - [Medical Exemptions](#)
- CDC COVID-19 Vaccination Program Interim Playbook for Jurisdiction Operations
- Centers for Disease Control and Prevention (CDC), MMWR, Prevention and Control of Influenza with Vaccines: Recommendations of the Advisory Committee on Immunization Practices – United States, 2013-2014, <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr6207a1.htm>, last accessed September 2014.
- US Food and Drug Administration (FDA), Vaccines, Blood and Biologics, Influenza Virus Vaccine for the 2014-2015 Season, last updated 8/27/14, <http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Post-MarketActivities/LotReleases/ucm310644.htm>, last accessed August 2014.
- <https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/moderna-covid-19-vaccine>

#### Related Policies, Procedures and Documents

Section 1557 of the ACA

**Policy Title:** COVID-19 Vaccination Policy

**Author(s):**

**Owner:** Employee Health/ HR

**Next Review Date:** November 2021

**Approver:** Incident Command