
July 21, 2021

BULLETIN

**BC HUMAN RIGHTS COMMISSIONER ISSUES
GUIDANCE ON PROOF OF VACCINATION REQUIREMENTS**

As COVID-19 vaccination rates continue to increase and BC has entered Step 3 of its re-start plan, the BC Human Rights Commissioner has issued guidance to clarify human rights considerations for employers when developing rules about vaccination status, such as proof-of-vaccination requirements.

The Commissioner advises that there are limited circumstances in which employers may implement vaccination status policies. Specifically, employers may implement such a policy *only* where no other less intrusive means of preventing COVID-19 transmission is possible, and if due consideration is given to everyone involved. Additionally, employers are reminded to remain mindful of human rights laws where their policies treat employees differently based on whether or not they have been vaccinated.

Employers must consider the following six principles when developing vaccine status policies:

- **Equitable access:** employers should be mindful of barriers to accessing vaccines that exist for some employees. These include employees with language barriers, disabilities or other medical conditions, care-giving responsibilities, or those who work at multiple jobs;
- **Be based on scientific evidence** relevant to the specific context;
- **Limited** to the shortest length of time possible;
- **Proportional** to the health and safety risks they address;
- **Necessary** in that no other less intrusive measures are possible; and
- **Privacy:** any collection, use or disclosure of vaccination status must follow applicable privacy laws.

In carrying out a vaccination policy pursuant to the above principles, employers are reminded of their duty to accommodate employees who cannot receive a vaccine due to a *Human Rights Code*-protected ground, such as disability. These employees must be accommodated to the point of undue hardship. On the other hand, employees who choose not to get vaccinated as a matter of personal preference will not have the grounds to make a human rights complaint against an employer's vaccination status policy.

Local governments may wish to obtain legal advice before implementing policies requiring notification by employees and the public of their vaccine status or provide for differential treatment of vaccinated and un-vaccinated employees.

The Commissioner's guidance can be found here:

https://bchumanrights.ca/wp-content/uploads/BCOHRC_Jul2021_Vaccination-Policy-Guidance_FINAL.pdf

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