

# COVID Vaccine Mandates: If I Don't Want the Job, What Are My Options?

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Katie Kern, R.N., was a front-line nurse during the COVID crisis in 2020. She did not ask to be called a hero, but her personal sacrifice and dedication to her patients earned her that consideration. In 2021 Katie went from hero to zero in the eyes of her employer, Henry Ford Health System. Choking back tears and trembling as she recalled the incident, Katie reports, "In June 2021, I received an email from Henry Ford threatening termination of employment ... for non-compliance with their Covid vaccine mandate." This ultimatum was delivered after months of oppressive bullying, threats, and suspensions.

American workers, or at least those who continued working through the pandemic, are by the thousands and perhaps millions now being faced with the same dramatic quandary: Do I take the COVID vaccination or lose my job? This situation is made even more unfair as your employer would incur no liability in the event of vaccine injury, nor do they even have to report the injury. As stated on the OSHA website, "OSHA will not enforce 29 CFR 1904's recording requirements to require any employers to record worker side effects from COVID-19 vaccination through May 2022."

Federal law, and in most jurisdictions, state law, has an effective mechanism to allow you to both refuse the COVID vaccine and keep your job. But there are critical steps that you must follow, and time is of the essence in following them. Moreover, strict adherence to appropriate process and procedure of documentation is essential.

## Steps to Follow

First, don't quit or abandon your post.

Second, put your refusal to get the job in writing and submit it to your employer. Include the reason for your refusal. Be precise.

Third, keep a copy of your documentation, including the method and date of your submittal.

Fourth, understand the deadlines associated the process, from submitting your refusal to responding to a denial.

In every instance seeking local legal counsel for specific advice on the application of the law to your facts is recommended, especially if the consequences of these matters impact your ability to provide for your family.

Federal law applies in all 50 states and every American territory and possession. Title VII of the Civil Rights Act and Title I of the Americans with Disabilities Act requires employers to make reasonable accommodations for 1) sincerely held religious beliefs and 2) medical exemptions. This legal process applies without regard to whether the Covid vaccination is subject to an Emergency Use Authorization (EUA) or full approval by the Food and Drug Administration.

## Sincerely Held Religious Beliefs

42 U.S. Code § 2000e-2 defines "Unlawful employment practices" as follows:

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It shall be an unlawful employment practice for an employer— (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, [religion](#), sex, or national origin; or (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

In a practical sense as applied to this topic, this means that employers must respect your "sincerely held religious beliefs" with regard to

the COVID vaccination with a reasonable accommodation. The sincerely held religious belief need only be yours alone and there is no requirement that such belief be generally accepted theological dogma.

Written documentation of your sincerely held religious belief is mandatory, as is specifically using the key words "sincerely held religious belief." Be certain to retain copies of your request and take photos if your employer has an electronic portal system that does not otherwise provide you a written copy. Secure your copy of the request in a safe and readily accessible spot outside of your place of employment.

Pay close attention to how your employer requests that you document this exemption. If there are specific people who need to receive the documented request, make sure they get it. If you are required to enter it into a specific communications portal, follow those instructions with immaculate precision. If there is a specific form to fill out, make sure to do so completely. Attach an addendum if the space provided on any specified form is inadequate for the substance of your request. Do not let a technicality invalidate your efforts. Attention to detail in this respect cannot be overstated.

The sum and substance of your sincerely held religious belief need not be lengthy. There are many suggested templates for such a letter, but it is strongly recommended that you do not merely "clip and paste" such templates. So long as you include the key language "sincerely held religious belief," make the letter uniquely yours. Suggestions for content would include citations to scripture and there are many to consider. 1 Corinthians 3:16-17, 6:19, and 8:7 are relevant, as is 2 Corinthians 7:1. More broadly, the New Testament requires of Christians that we, "Render to Caesar the things that are Caesar's, and to God the things that are God's" (Mark 12:17). When it comes to consuming things into our own bodies, as opposed to making payments to government, compliance with God's law is required. Liberty Counsel has [many template letter options for different faiths](#): Christian, Jewish, Greek Orthodox, and Russian Orthodox. There is also a letter specifically for students that is geared to educational institutions.

Pro-Life advocates have a specific reason for a sincerely held religious objection related to the COVID vaccines. It is well documented that the COVID vaccines all involved use of cell lines from aborted fetuses in either the research and development stage, or in the manufacturing stage. According to the University of Nebraska Medical Center, "to make the Johnson & Johnson vaccine, scientists infect PER.C6 fetal cell lines to grow the adenovirus vector. All PER.C6 cells used to manufacture the Johnson & Johnson vaccine are descended from tissue taken from a 1985 abortion that took place in the Netherlands." Further, "When it comes to the Pfizer and Moderna COVID-19 vaccines, fetal cell line HEK 293 was used during the research and development phase. All HEK 293 cells are descended from tissue taken from a 1973 abortion." Although the cells in question were grown in a laboratory and were not harvested directly from a newly aborted preborn baby, they are descended from tissue from an abortion.

It is not lawful for your employer to mandate that you get a letter from a religious leader or mandate documentation that your place of worship has a long-standing history of teaching against taking vaccines. Don't waste your time arguing why the Pope or the Southern Baptist Convention is wrong as it's not relevant to your personal beliefs. However, if you can readily obtain a letter from a religious leader, taking the path of least resistance is a good idea. Over-documentation will not hurt you.

Members of the U.S. Armed Forces may also avail themselves of a religious belief exemption. Again, close attention to detail in the documentation and process of transmittal of documentation is essential. For example, members of the U.S. Navy must follow the policy outlined in MILPERSMAN 1730-020 adopted August 15, 2020. The request must be made to the designated authority through the serviceman's commanding officer or immediate supervisor in command.

However, there is a great deal of concern for members of the military. As reported in an August 25, 2021 article in *Army Times*, "As the regulations currently stand, religious exemptions may be a high bar to meet. According to AR 600-20, the service's surgeon general, Lt. Gen. R. Scott Dingle, is the approval authority for all religious accommodation requests. And before such requests reach Dingle's level, unit chaplains must interview requesters and 'provide a memorandum that summarizes this interview and addresses the religious basis and sincerity of the Soldier's request....' In addition to the religious sincerity interview, 'a licensed healthcare provider' must counsel religious objectors as well. Finally the soldier's 'immediate commander' must sit down with them and explain 'that noncompliance with immunization requirements may adversely impact deployability, assignment, or international travel, and that the exemption may be revoked under imminent risk conditions....' Even if the surgeon general approves the request, 'religious exemptions may be revoked in



the case of an imminent risk of exposure to a disease for which an immunization is available.”

Title VII of the Civil Rights Act of 1964 does not apply to colleges and universities as to their student bodies. Therefore, private (as opposed to public) colleges and universities need not, as a matter of federal law, grant religious exemptions. However, many states have applied Federal employment standards to university settings. For example, Title 77 of the Illinois Administrative Code, Chapter 1, Subchapter i, Part 665, Section 665.510 provides for religious exemptions both as to K-12 and “institutions of higher learning.”

A religious exemption letter should be focused only on your personal beliefs. This is not the time to argue over the science or efficacy of the vaccine. The issue is your personal sincerely held religious beliefs and not safety studies or vaccine injuries. Stay on point. Lastly, if your employer has a deadline to get the documentation submitted, get it done, and sooner is better than later. Don't just wait for the deadline as the more time there is to deal with any potential denials and get them resolved prior to termination, the better.

### **Medical Exemption**

Employees may obtain a medical exemption to the Covid vaccine pursuant to the Americans with Disabilities Act. 42 U.S. Code § 12112 states in part: “No covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application

procedures, the hiring, advancement, or discharge of [employees](#), [employee](#) compensation, job training, and other terms, conditions, and privileges of employment.” Both public and private colleges and universities are subject to the requirements of the Americans with Disabilities Act (ADA) and/or its sister statute the Rehabilitation Act of 1973.

Unlike a religious belief exemption, you can't write your own medical exemption letter. You will need documentation signed by a medical professional. The most robust and defensible documentation will indicate that you have a medical condition that is listed as a known potential hazard related to the Covid vaccine. Some common conditions listed by the Centers for Disease Control (CDC) include weakened immune systems, autoimmune conditions, cancer, chronic lung diseases, including COPD, asthma, interstitial lung disease, cystic fibrosis, and pulmonary hypertension, dementia or other neurological conditions, diabetes (type 1 or type 2), heart conditions, liver disease, overweight or obesity, pregnancy and a history of smoking either in the past or currently, to name just a few.

In the matter of *Ruggiero v. Mount Nittany Med. Ctr.*, the court upheld a medical exemption to mandatory vaccination (not related to Covid). In that case, the employee provided a doctor note stating she had a history of allergies, suffered from “severe anxiety,” and had eosinophilic esophagitis, which limits her ability to perform certain life activities such as eating, sleeping and engaging in social interactions.

You can and should feel free to “shop around” for a medical professional if your current physician will not supply the necessary document. Doctors routinely have differences of opinions and getting a second opinion on this issue is clearly within your rights. You need not disclose to your employer that a different doctor declined to write a medical exemption letter for you. Physician consultations via zoom has become quite commonplace and one would suspect that amenable physicians for this purpose would pop up quite like they did for writing prescriptions for medical marijuana.

Members of the Armed Forces may also consider a medical exemption. The Department of the Army uses directorate 40-562 which states at section 2-6: “Medical exemptions. A medical exemption includes any medical contraindication relevant to a specific vaccine or other medication. Health care providers will determine a medical exemption based on the health of the vaccine candidate and the nature of the immunization under consideration. Medical exemptions may be temporary (up to 365 days) or permanent.” Further, personnel separating or retiring from the Army within 180 days are exempt from mandatory vaccines if they contact their commanders, produce an approved separation or retirement order, and request exemption; however, again, exceptions may exist to this policy.

As with the sincerely held religious belief exemption, timely and proper transmittal of the medical documentation to the authorized person as designated by your employer is essential. Be sure to keep copies of your documents in a safe, accessible place outside of your employer's building. Lastly, feel free to file both a religious exemption and a medical exemption. Over-documentation of this type cannot hurt you.

### **Exemption Denied or Unreasonable Accommodation**

In the event of a denial of your request for a reasonable accommodation for your claimed exemption, you have options, but you must act quickly. Liberty Counsel advises as follows: “If your request for religious exemption at your work has been DENIED, you will need to file a Complaint with the Equal Employment Opportunity Commission (EEOC). Go the EEOC website at <https://EEOC.gov> and scroll to the bottom of the page where you will find additional links and information about submitting a complaint. The Complaint form will need to include a description of your religious accommodation request regarding your sincerely held religious beliefs to not take these Covid shots along with the employer's response and the termination date. Please note that you generally have **180 DAYS** to file a complaint against a private employer.” Liberty Counsel further notes that federal employees have a shorter deadline, generally just 45 days. Moreover, it is their recommendation that the complaint be filed with both the federal government and state government.

You must timely file an administrative complaint in response to a religious or medical exemption denial. If you fail to do so, you may be barred from filing any legal action to otherwise enforce your rights. Complaints may also be filed if the accommodation to your exemption is improper or not reasonable. This analysis may be very fact intensive and if you feel that you are being treated unfairly you should seek legal counsel immediately.

### **The “John Galt” Option**

In Ayn Rand's masterpiece *Atlas Shrugged*, John Galt is an engineer who determines society to be hopelessly lost and withdraws his talents. He recruits others who demonstrate hard work and ingenuity to join him in his "strike."

Today we see many employers at a severe loss to get employees to work. Signing bonuses and other perks have become commonplace. Accordingly, threatening to quit and convincing others to do the same may have such an effect as to get an employer to relent on vaccine mandates. This is a high-risk proposition however and going down this road merits careful consideration of the consequences.

### **Public Demonstrations Not Recommended**

As patriots, we need to be smarter than to fall into the traps laid out by Establishment insiders. The debacle on January 6 was such a trap, and the many thousands of peaceful protestors there were easily made to look like violent criminals. In the instance of vaccine mandates, good-natured people have resorted to forming protest crowds outside of prominent employers that are mandating vaccines, especially hospital systems that are threatening to terminate non-compliant medical professionals. This is a mistake.

The culmination of over 60 years of experience in the educational fight against the destruction of our heritage of liberty has produced among other things the John Birch Society publication *Tangents*. This publication was intended for leaders in the JBS (the parent organization of this magazine) as a manual of "what not to do" and how to keep your team out of the traps laid out by the enemy. One of the entries is called "Public Protest." Here we read:

Wise activists are wary of attention-seeking activities that challenge public order. Any such major activity nearly always attracts the media. Television crews and reporters hope to find strife, faction, contention and even violence at such events. News coverage of public dissent in the form of marches, demonstrations, or protests plays directly into the hands of the conspiracy. Anarchy — or virtually any form of public disorder — creates an excuse for government to show its muscle and exercise force against the dissidents, which turns out to be force against everyone. This is one of the most subtle ways by which governments assume power.

The general public wants order, and the Insiders want police power, for which the disorder is used as a pretext. Citizens must be aware of being used in demonstrations, marches, or any form of public protest that strengthens the enemy by furnishing an excuse for more laws, more government, and extreme enforcement measures.

Once a public protest is organized — for good or for ill — all it takes is one or two people planted in the crowd to provide the violence or ill manners that can be displayed on television to discredit the entire cause.

For this any other good reasons, the John Birch Society does not participate in demonstrations, marches, and other public protests. Moreover, we scrupulously stay away from areas where confrontation, clashes, or violence are likely to occur.

Public perception on the issue of vaccine mandates is quickly turning in our favor. The proof of this is found in the intense response state legislatures are feeling all over the nation to pass laws that prohibit vaccine passports and vaccine mandates.

As is evident by the saturated membership of media executives in the membership of the world-government-promoting Council on Foreign Relations (CFR), the Deep State controls the mainstream television and newspaper outlets. It would be far too easy for a small group of agent provocateurs to throw a Molotov cocktail or two from the middle of an otherwise peaceful gathering and then have media outlets nationwide blame "crazy anti-vaxers" for killing a bunch of children in a minivan leaving the hospital.

The same effort that it takes to do a demonstration should instead be focused on the statehouse to advocate for legislation like Michigan HB 4667 to prohibit government entities and businesses from mandating COVID-19 vaccinations. Widespread contacting of state legislators in support of similar legislation in all 50 states would be far more effective in advancing the mission of liberty than sporadic demonstrations that can be used against us by the media. There is a war for the heart and soul of our nation, but to be successful, we must understand the enemy and deny them their advantages.