

# RONALD V. MCGUCKIN AND ASSOCIATES

Post Office Box 2126  
Bristol, Pennsylvania 19007  
Office (215) 785-3400 Fax (215) 785-3401  
Childproviderlaw.com

**ATTORNEY AT LAW**  
Ronald V. McGuckin, JD

**HR & CHILD CARE SPECIALIST**  
Dawn K. Martini BS Ed.

**CHILD CARE SPECIALIST**  
Janice A. Nielwocki, BS

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## COVID19 Vaccine Policy

- ❖ Model Policy after long standing Influenza Vaccine Policies across Healthcare and Medical Industry. There is significant SCOTUS precedent for employment Policies requiring employees to receive the Influenza Vaccine.
- ❖ At-Will Employment: Employers can set policies for their employees and employee's can choose to work under those policies or not work for the employer. There are exceptions to what At-Will employers can enact as policies. Employment policies can not contradict or go against Public Policy, Laws and Regulations. Specifically, policies can not be adopted that treat employee's in protected classes differently and must recognize an employee's rights as part of those same protected classes.
- ❖ Federally Protected Classes in Employment: race, color, religion, age, gender (including sexual orientation/gender identity), national origin, pregnancy, disability, veteran status, and genetic information (including family medical history).
- ❖ Also requiring consideration are State and local protected classes that may be adopted in addition to the federal protections. Commonly added protections include Marital or Familial Status, specific reference to LGBTQ protections, creed/strong personal conviction, high school diploma versus GED etc.
- ❖ Vaccine Policy must allow for employees to decline for protected class reasons. Employee's may be asked to provide documentation and/or certification of their reason for declination and should be kept on file.
- ❖ Encouraging versus requiring vaccinations: Bonuses/payments for receiving the vaccine, making vaccines available to employees through contracting with a vaccine distribution program/clinic to get secure appointments for your staff.
- ❖ Things to consider:
  - initially getting vaccine may be difficult,
  - there may not be choice between the various vaccines approved (Pfizer, Moderna etc),
  - all mitigation policies and procedures will likely remain in effect for a considerable period of time as vaccines are distributed,
  - children under 16 years of age are not yet approved to receive any of the approved COVID19 vaccinations.
  - OSHA obligations to create a safe work environment for employees