

Chicago City Council Passes Vaccine Anti-Retaliation Ordinance

By Alison B. Crane and Elliot R. Slowiczek

April 23, 2021

All Chicago workers, whether employees or independent contractors, have been granted additional legal protections under a [new ordinance](#) that makes it easier for them to receive the COVID-19 vaccine.

Whether vaccination is voluntarily sought by the worker or required by the employer, effective April 21, 2021, the new ordinance prohibits employers in Chicago from requiring workers to receive vaccines only during non-work hours. In addition, employers cannot take adverse action against workers for receiving vaccines during their scheduled work hours. If workers have paid sick leave or paid time off accrued and request to use that time to obtain a vaccine, employers must allow workers to use that time for that purpose.

Employers that require that a worker be vaccinated must compensate the worker for the time, up to four hours per dose, paid at the worker's regular rate of pay, if the worker's vaccination appointment is during the worker's work hours. Such employers cannot require the worker to use paid time off or paid sick leave to cover the work hours missed in order to receive the vaccine.

Building upon Chicago's other [COVID-19 anti-retaliation requirements](#) (on workers obeying public health orders or orders of a healthcare provider to stay at home), the new ordinance also prohibits an employer from taking adverse action against a worker for utilizing time during work hours to obtain a vaccine. The Commissioner of Business Affairs and Consumer Protection or the Director of Labor Standards may initiate action related to alleged violations through an administrative hearing or in court.

An employer found in violation of the ordinance will be subject to a fine of between \$1,000 and \$5,000 per offense. Additionally, the ordinance gives an aggrieved worker a private right of action to seek reinstatement to the same or equivalent position, damages equal to triple the wages that would have been owed if not for the retaliatory action, any other actual damages directly caused by the retaliatory action, and costs and reasonable attorney's fees.

This ordinance will be repealed of its own accord when the Commissioner of Public Health makes a written determination that the threat to public health posed by COVID-19 has diminished to the point that the ordinance can safely be repealed.

If you have questions or need assistance, please reach out to the Jackson Lewis attorney with whom you regularly work, or any member of our [COVID-19 team](#).

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