

# Things You Need to Know About Returning to Work Now That COVID is Receding

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Massachusetts is lifting all restrictions on businesses Memorial Day weekend, moving up the state's full reopening date by two months, as the state edges back to normal after more than a year of being wracked by the coronavirus pandemic.

The swing back to normal will mean that many people will be returning to in-person work. Here are answers to some of the questions that people may be wondering about as that moment gets nearer.

## **Can my employer require me to get vaccinated?**

Yes, said Susanne Hafer, an employment lawyer at Sullivan & Worcester, though exceptions would have to be allowed for those with medical conditions that bar them from getting vaccinated or sincere religious objections. The vaccine requirement should also generally be "consistent with a business need, although given how prevalent and how broad this virus is, you'd be hard-pressed not to say it's a business necessity," she said.

The US Equal Employment Opportunity Commission has confirmed on multiple occasions that employers can mandate workers get the coronavirus vaccine because unvaccinated workers could present a "direct threat" to others in the workplace, said Elizabeth Levine, an employment lawyer at Goulston & Storrs.

"Whether employers will do that remains to be seen." she said, noting that so far not many have.

## **Can my employer require me to provide proof of vaccination?**

Yes, said Levine. "An employer can require you to provide medical documentation reflecting your vaccination status."

## **Can my employer require me to wear a mask?**

Yes, said Hafer. "It's just like any other policy. You may not like it, you may not agree with it, but an employer has a right to set their policies unless they violate a law or regulation." She noted that employers already have a right to tell workers how to dress, behave, and other things they have to do to keep their jobs.

## **What if you're vaccinated and the person at the next desk is unvaccinated?**

"Hopefully, that's a dialogue you can have with your employer and find a way to get yourself comfortable," said Hafer. "The law does not mandate an employer provide an employee a workplace that's free from any and all risk."

Levine pointed out that, according to the US Centers for Disease Control and Prevention, if you're fully vaccinated, you "don't have a lot to worry about." If the unvaccinated person is also wearing a mask and social distancing, there's "probably no reason to move," she said.

### **What if you're unvaccinated?**

The CDC has a host of recommendations on its website for unvaccinated people returning to work. It recommends, among other things, that people continue to mask, socially distance, and wash their hands. It also points out that the "more closely you interact with others and the longer that interaction, the higher the risk of COVID-19 spread" and suggests a variety of precautions, including virtual, rather than in-person, meetings.

### **What are the state rules on vaccinations and masks at work?**

Governor Charlie Baker has said he's lifting "all industry restrictions." His office says that includes mandatory safety standards issued during the pandemic, though businesses will be encouraged to follow CDC guidance for cleaning and hygiene.

At the same time, Baker has said businesses could still put their own guidelines in place, including mask requirements — and he urged people to respect those guidelines.

"Businesses are going to make decisions about what they think makes the most sense for their employees and their customers, and we should all be respectful of that," he said at a Monday news briefing.

Levine said that has left businesses wondering, "What should we continue to do? ... What's the best practice in light of everything we've gone through over the course of the past year?"

### **So what's it going to look like when people get back to work?**

Jeffrey Gilbreth, an employment lawyer at Nixon Peabody, said he expects many workplaces will adopt a "bifurcated" vaccine and mask policy, telling workers who've been vaccinated they don't have to wear masks and telling people who have not been vaccinated that they must. "I think you're going to see that for a while," he said.

He said employers will then have to decide whether to require people to simply claim they've been vaccinated and rely on the honor system, or to show proof, to doff their masks. He said it's his guess, based on anecdotal evidence, that many companies will rely on the honor system.

Difficult decisions lie ahead for employers, he said, but not like the difficult decisions of the dark days of the pandemic. "We're getting there. This is good stuff to figure out," he said.

*Jon Chesto and Travis Andersen of the Globe staff contributed to this report.*