



COVID-19 Vaccine Mandate Office Hours

Friday January 21, 2022



THE NACHC MISSION

America's Voice for Community Health Care

The National Association of Community Health Centers (NACHC) was founded in 1971 to promote efficient, high quality, comprehensive health care that is accessible, culturally and linguistically competent, community directed, and patient centered for all.



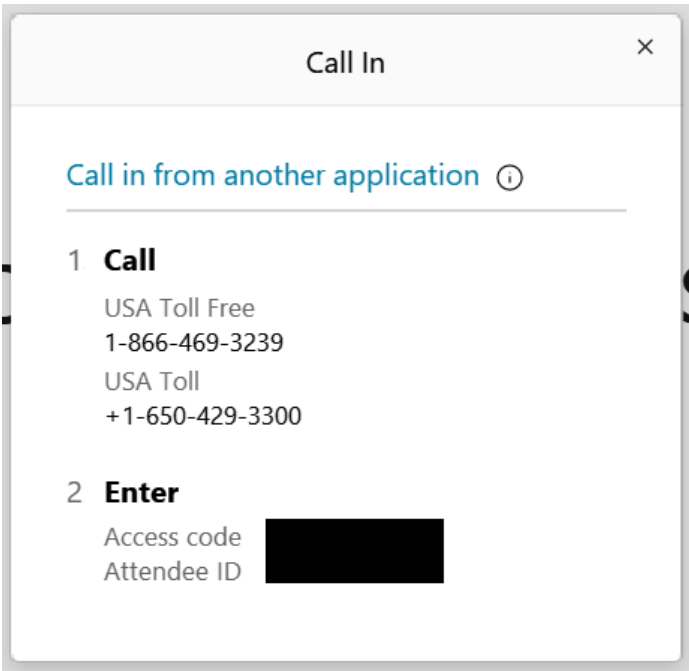
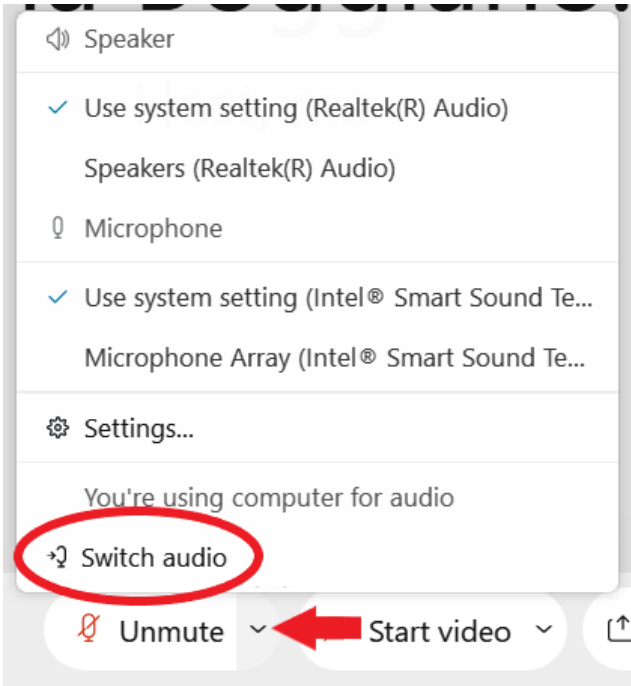
Welcome! Housekeeping

- Today's meeting is being recorded
- The recording and additional resources will be made available to all registrants.
- A copy of the slides will be sent from trainings@nachc.org after the event.
- After the webinar, you will be directed to an evaluation for this event. We value your feedback and encourage you to complete this short survey!

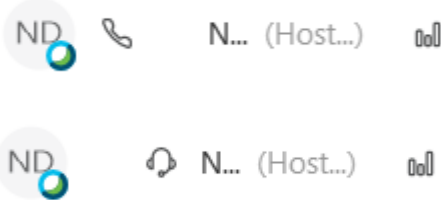
AUDIO CONNECTIONS

Having issues? Try calling in

Go to “Audio and Video” or click the arrow next to your unmute button and select “Switch audio” Follow the unique instructions on your screen.

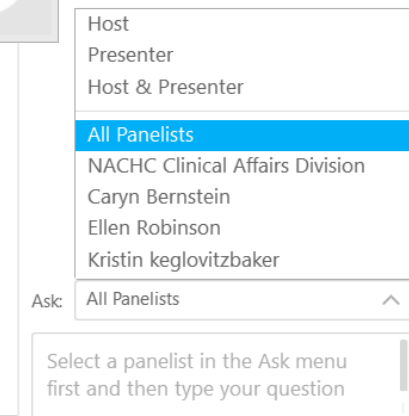
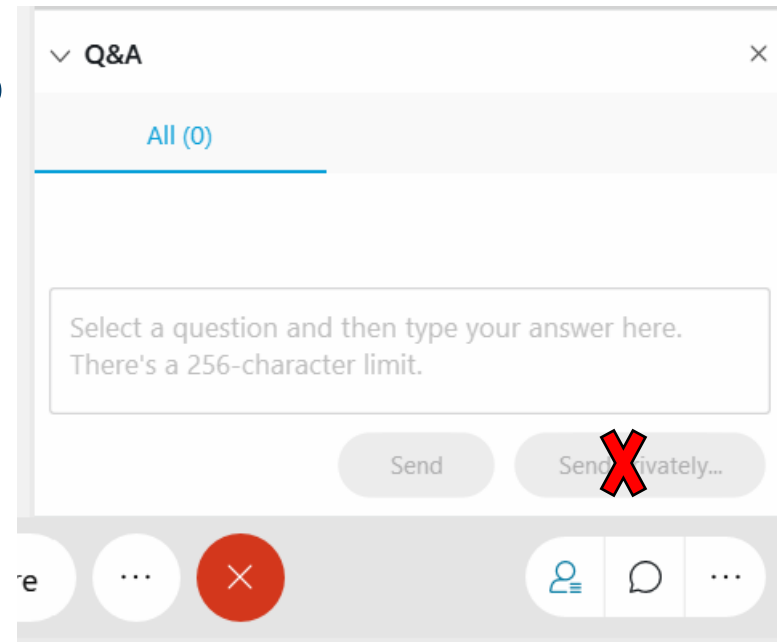


After connecting, if you don't see a phone/headset icon next to your name, please attempt to connect your audio again!



ASKING QUESTIONS VIA Q&A BOX

1. **The Q&A Box feature** is available to ask questions or make comments anytime.
2. **Click the Q&A Box button** at the bottom of the WebEx window to open the Q&A box on the bottom righthand side of the window.
3. **Select ASK ALL PANELISTS**
4. **Type your question and Click “SEND”**
- Do not click “send privately”



Overview

Policies and Procedures

Documentation Requirements

Religious Exemptions

Accommodations for Unvaccinated Staff

Survey and Compliance Guidance

Enforcement

Q&A

Regulatory Framework

- The [CMS Omnibus COVID-19 Staff Vaccination Interim Final Rule](#) applies to all CMS facilities, including FQHCs.
 - The staff vaccination requirement applies to facilities that are regulated by the CMS health and safety standards
 - FQHCs must comply with the Conditions for Coverage to qualify for Medicare reimbursement
 - Does not apply to HCCNs or PCAs.
- At [§ 491.8\(d\)](#), CMS requires FQHCs to develop and implement policies and procedures to ensure their staff are vaccinated for COVID-19 and that appropriate documentation of those vaccinations are tracked and maintained.
- This regulation takes priority above other federal vaccination requirements.
- HRSA does not have any jurisdiction over the enforcement and oversight of the CMS staff vaccination requirements.

CMS Vaccine Mandate Litigation Update

- On [January 13, 2022](#), in a 5-4 decision, the Supreme Court **upheld** the [CMS Omnibus COVID-19 Health Care Staff Vaccination Interim Final Rule](#) (CMS IFR) and **struck down** the [OSHA COVID-19 Vaccination and Testing ETS](#) (OSHA ETS).
- Leading up to the Supreme Court case, CMS issued guidance for the 25 states not under the preliminary injunctions.
- Based on the Supreme Court decision, CMS created extended compliance deadlines for the States that were legally prevented from implementing the IFR.
- There are two compliance timelines:
 - Group 1: States that were not a party to the CMS Vaccine Mandate Litigation
 - Group 2: States that were involved in the CMS Vaccine Mandate Litigation
- On January 19, 2022, the Texas CMS vaccine mandate case was dismissed, and the state's CMS facilities are now under the CMS IFR.

Group 1

California

Colorado

Connecticut

Delaware

Florida

Hawaii

Illinois

Maine

Maryland

Massachusetts

Michigan

Minnesota

Nevada

New Jersey

New Mexico

New York

North Carolina

Oregon

Pennsylvania

Rhode Island

Tennessee

Vermont

Virginia

Washington

Wisconsin

Group 1 Compliance Timeline

- Guidance released on [December 28, 2021](#)
- **Phase 1 Deadline: January 27, 2022**
 - 100% of staff receive the first dose of a COVID-19 vaccine or request a qualifying exemption; **and**
 - Facilities required to have appropriate policies and procedures developed and implemented
 - A facility that is above 80% **and** has a *plan* to achieve a 100% staff vaccination rate within 30 days (by February 28, 2022) **would not** be subject to additional enforcement action.
- **Phase 2 Deadline: February 28, 2022**
 - 100% of staff must have completed a primary vaccination series for COVID-19 or granted religious/medical exemptions; **and**
 - Facilities required to have appropriate policies and procedures developed and implemented, including a **contingency plan** for unvaccinated staff
 - A facility that is above 90% **and** has a *plan* to achieve a 100% staff vaccination rate within 30 days (March 30, 2022) **would not** be subject to additional enforcement action.

By March 28, 2022, facilities failing to maintain compliance with the 100% standard may be subject to enforcement action.

Group 2 (appealed to Supreme Court)

Alabama

Kentucky

New Hampshire

Wyoming

Alaska

Kansas

North Dakota

Arizona

Kentucky

Ohio

Arkansas

Louisiana

Oklahoma

Georgia

Mississippi

South Carolina

Idaho

Missouri

South Dakota

Indiana

Montana

Utah

Iowa

Nebraska

West Virginia

Group 2 Compliance Timeline

- Guidance released on [January 14, 2022](#)
- **Phase 1 Deadline: February 14, 2022**
 - 100% of staff receive the first dose of a COVID-19 vaccine or request a qualifying exemption; **and**
 - Facilities required to have appropriate policies and procedures developed and implemented
 - A facility that is above 80% **and** has a *plan* to achieve a 100% staff vaccination rate within 30 days (by March 15, 2022) **would not** be subject to additional enforcement action.
- **Phase 2 Deadline: March 15, 2022**
 - 100% of staff must have completed a primary vaccination series for COVID-19 or granted religious/medical exemptions; **and**
 - Facilities required to have appropriate policies and procedures developed and implemented, including a **contingency plan** for unvaccinated staff
 - A facility that is above 90% **and** has a *plan* to achieve a 100% staff vaccination rate within 30 days (April 14, 2022) **would not** be subject to additional enforcement action.

By April 14, 2022, facilities failing to maintain compliance with the 100% standard may be subject to enforcement action.

Texas Compliance Timeline

- Guidance released on [January 20, 2022](#)
- **Phase 1 Deadline: February 22, 2022**
 - 100% of staff receive the first dose of a COVID-19 vaccine or request a qualifying exemption; **and**
 - Facilities required to have appropriate policies and procedures developed and implemented
 - A facility that is above 80% **and** has a *plan* to achieve a 100% staff vaccination rate within 30 days (by March 21, 2022) **would not** be subject to additional enforcement action.
- **Phase 2 Deadline: March 21, 2022**
 - 100% of staff must have completed a primary vaccination series for COVID-19 or granted religious/medical exemptions; **and**
 - Facilities required to have appropriate policies and procedures developed and implemented, including a **contingency plan** for unvaccinated staff
 - A facility that is above 90% **and** has a *plan* to achieve a 100% staff vaccination rate within 30 days (April 21, 2022) **would not** be subject to additional enforcement action.

By April 21, 2022, facilities failing to maintain compliance with the 100% standard may be subject to enforcement action.

Compliance Requirement Definitions

- “Primary Vaccination Series” refers to staff who have received a single-dose vaccine or all required doses of a multi-dose vaccine for COVID-19
- “Temporarily delayed vaccination” refers to vaccination that must be temporarily postponed, as recommended by CDC, due to clinical precautions and considerations, including, but not limited to, individuals with acute illness secondary to COVID-19, or individuals who received monoclonal antibodies or convalescent plasma for COVID-19 treatment in the last 90 days.

Who Does this Regulation Apply to?

- Under the Interim Final Rule, CMS defines staff to include individuals who provide services directly, on a regular basis, under contract or arrangement. This includes:
 - Facility employees
 - Licensed practitioners
 - Students.
 - Trainees
 - Volunteers
 - Board members
 - Individuals who provide care, treatment, or other services for the facility and/or its patients, under contract or other arrangement
- The COVID-19 vaccination requirement does not apply to **100% fully remote staff** that do not have contact with patients and other staff.
- When determining whether to require COVID-19 vaccination of an individual who does not fall into the categories established by this Interim Final rule, facilities **should consider frequency of presence, services provided, and proximity to patients and staff.**

When Does the Staff Vaccination Requirement Apply?

- Staff as defined by the Interim Final Rule
- Individuals that use shared facilities (restrooms, cafeteria, break rooms) during breaks
- Individuals that use the same common areas used by staff, patients, and visitors.
- Individuals that perform their duties at any site of care or has the potential to have contact with patients or staff at that site of care.

When Doesn't the Staff Vaccination Requirement Apply?

- Individuals that provide **infrequent services** and tasks performed in or for a health care facility are conducted by “one off” vendors, volunteers, and professionals.
- Individuals who **infrequently** provide ad hoc non-health care services (such as annual elevator inspection), or services that are performed **exclusively off-site**, not at or adjacent to any site of patient care, such as accounting services
- Individuals who may infrequently enter a facility or site of care for specific **limited purposes** and for a **limited amount of time**, but do not provide services by contract or under arrangement, may include delivery and repair personnel

What about Construction or Repair Staff?

“When determining whether to require COVID-19 vaccination of an individual who does not fall into the categories established by this IFC, facilities should consider frequency of presence, services provided, and proximity to patients and staff. For example, a plumber who makes an emergency repair in an empty restroom or service area and correctly wears a mask for the entirety of the visit may not be an appropriate candidate for mandatory vaccination. On the other hand, a crew working on a construction project whose members use shared facilities (restrooms, cafeteria, break rooms) during their breaks would be subject to these requirements due to the fact that they are using the same common areas used by staff, patients, and visitors. Again, we strongly encourage facilities, when the opportunity exists and resources allow, to facilitate the vaccination of all individuals who provide services infrequently and are not otherwise subject to the requirements of this IFC. “

86 Fed. Reg. 61571

What about Board Members?

- The Interim Final Rule includes volunteer and fiduciary board members under the definition of “staff”
- When evaluating board member vaccination requirement, Health centers should apply the same standard to consumer board members and non-consumer board members.
- Health centers should consider board member obligations and expectations, not including if that board member is also a patient of the health center.

Resources for Health Center Boards

NACHC has **over 50** resources (including many in Spanish) to support health center boards addressing:

- Governance Fundamentals
- COVID-19 Response and Recovery
- Strategic Planning
- Justice, Diversity, Equity, and Inclusion
- And more!



Short Videos and E-learning Modules are available to support new board member orientation and ongoing board education.

Learn more at <https://www.nachc.org/trainings-and-conferences/governance>

Questions? Please contact Emily Heard at trainings@nachc.com



Implications for Board Member Recruitment and Onboarding



- Resources are available to support boards:
 - [Recruiting and Retaining Board Members](#)
 - [Governance Guide for Health Center Boards](#)
 - [New Board Member Orientation: PowerPoint Template & Facilitator Guide](#)
 - [Orienting New Health Center Board Members During the COVID-19 Pandemic](#)

- Update practices:
 - Proactively communicate the requirement to potential board members
 - Update documentation regarding board member responsibilities
 - Incorporate steps to secure documentation during orientation

Board Approved Policies

NACHC's COVID-19 Vaccine Mandate Operational Resource Guide

VACCINATE with CONFIDENCE TIPS TO IMPLEMENT EMPLOYEE VACCINE MANDATES AT COMMUNITY HEALTH CENTERS

Protect your CHC Community & Stop Myths

Vaccines protect patients and your community from preventable hospitalization and serious illness from COVID-19 and new variants.

- Ensure vaccines are available, affordable, and easy to get.
- Acknowledge concerns and aim to diffuse myths. Leverage localized data to talk with employees about the ways FDA approved vaccines reduce the spread of disease, hospitalization, and death in your community, save costs, and reduce employee burnout.

○ Key things to Know About COVID-19 Vaccines | CDC
○ COVID-19 vaccine myths, debunked | Mayo Clinic

Establish Policy & Procedures

Board approved policies and associated procedures for employee vaccine mandates can be clear, concise, and easy to follow.

EXAMPLES:

POLICY: Mandatory immunization at [health center name] is effective, reasonable, and legally required to create an environment that protects patients, employees, and the community from severe illness, hospitalization, and death due to COVID-19.

PROCEDURE: COVID-19 vaccines will be available free of charge to all employees. Proof of vaccination by a third party must be provided to [employee title] of [health center name] by [date range]. It must include record of vaccine, dates administered, the lot number, and location. [health center name] employees are also expected to comply with safety requirements as indicated by [health center name] management and CDC guidelines including the use of personal protective equipment (PPE).

Find more detailed health center samples linked here:*

- Delta Health Center, Inc. (MS) | Policy on Employee Mandatory COVID-19 Vaccine
- Family Health Care Clinic, Inc. (MS) | COVID-19 Mandatory Vaccine Policy
- Eagle View Community Health Systems, Inc. (IL) | COVID and Influenza Policy
- HealthLinc (IN) | Employee Immunization Policy and FAQs on COVID-19 Vaccination as a Condition of Employment

*Thank you to the health centers with Policy and Procedures listed here. These organizations offered their information to assist other health

Required Policies and Procedures

Under the CMS IFR, all facilities must have policies:

- ✓ Ensuring all staff complete the required vaccination series **prior** to staff providing any care, treatment, or other services for the clinic or center and/or its patients
- ✓ Reflecting the nationally recognized infection prevention and control guidelines
- ✓ Creating additional precautions for staff not fully vaccinated
- ✓ Allowing staff to request vaccination exemption based on medical, religious, or temporarily delays
- ✓ For verifying documentation provided for medication exemptions
- ✓ Creating a contingency plan for staff who are not fully vaccinated

Documentation Requirements

Under the CMS IFR, all facilities must track and securely document:

- ✓ Each staff member's vaccination status (this should include the specific vaccine received, and the dates of each dose received, or the date of the next scheduled dose for a multidose vaccine)
- ✓ The percentage of unvaccinated staff, excluding those staff that have approved exemptions
- ✓ Any staff member who has obtained any booster doses (this should include the specific vaccine booster received and the date of the administration of the booster)
- ✓ Staff who have been granted an exemption from vaccination (this should include the type of exemption and supporting documentation)
- ✓ Staff for whom COVID-19 vaccination must be temporarily delayed and should track when the identified staff can safely resume their vaccination.

Documentation Requirements

- This extends beyond the full-time health center staff, but all individuals that fall under the Interim Final Rule's definition of staff.
- Examples of appropriate places for vaccine documentation include:
 - facilities immunization record
 - health information files
 - other relevant documents

Acceptable Forms of Proof of Vaccination

- Attestation is **NOT** acceptable under the IFR
- Examples of acceptable forms of proof of vaccination include:
 - CDC COVID-19 vaccination record card (or a legible photo of the card)
 - Documentation of vaccination from a health care provider or electronic health record
 - State immunization information system record

Contingency Plan

- The health center must develop contingency plans for staff who have not completed the primary vaccination series for COVID-19. This includes staff who:
 - Have indicated they will not get vaccinated **and** do not qualify for an exemption.
 - Are not fully vaccinated due to an **exemption** or **temporary delay** in vaccination.
- Health centers should **prioritize** contingency plans for those staff that have obtained no doses of any vaccine **over** staff that have received a single dose of a multi-dose vaccine.
- Contingency plans should include:
 - Deadlines for unvaccinated staff to have receive the required dose(s) of the COVID-19 vaccine
 - Educational outreach for unvaccinated staff
 - Actions taken by the health center if the deadlines are not met
- If staff do not meet the deadlines, health centers could consider seeking replacement staff through advertising or obtaining temporary vaccinated staff until permanent vaccinated replacements can be found.

Religious and Medical Exemptions

- Under the CMS IFR, health centers **must** have an effective process for staff to request an exemption for medical conditions or sincerely held religious beliefs.
- Covered under the Americans with Disabilities Act and Title VII of the Civil Rights Act of 1964.
- This process **should** include:
 - How to request an exemption and to whom should it be submitted
 - Collecting and evaluating such requests
 - Must track and document:
 - Staff that have requested
 - The facility determination of the requests
 - Any accommodations granted
- Staff who are unable to furnish proper exemption documentation must be vaccinated or the facility must follow the actions for unvaccinated staff.
- Surveyors will **not evaluate the details of the request** for religious exemption nor the **rationale** for the health center's acceptance or denial of the request.
- Rather, surveyors will review to ensure the health center has an **effective process** for staff to request a religious exemption for a sincerely held religious belief.
- Review NACHC's Vaccine Mandate Operational [Resource Guide](#) for sample P&Ps.

Recommended Accommodations

This includes staff who are not yet fully vaccinated, or who have been granted an exemption or accommodation, or who have a temporary delay:

- ✓ Reassign staff to non-patient care areas, telework, or duties which limit exposure to those most at risk
- ✓ Requiring unvaccinated staff to adhere to universal source control and social distancing in areas restricted from patient access (staff meeting rooms, kitchen)
- ✓ Requiring at least weekly testing
- ✓ Requiring staff to use a N95 or equivalent
- ✓ Consult with your local health department requirements

What Happens If I Have a Survey??



What Happens If I Have a Survey??

- Survey process compliance will be assessed through observation, interview, and record review as part of the survey process.
- Surveyors will ask health centers to provide vaccination policies and procedures (P&Ps) to ensure all components are present.
- Surveyors could conduct follow-up interviews with staff and administration if any discrepancies are identified.
- Questions to consider:
 - Did you need board approval to implement the appropriate P&Ps?
 - Do your P&Ps reflect any recent updates or changes?
 - Do you have all required documentation related to staff medical and religious exemptions?

Survey Guidelines

- Health centers will be required to provide a list of all staff and their vaccine status.
 - Including the percentage of unvaccinated staff, excluding those staff that have approved exemptions
 - If any concerns are identified with the staff vaccine status list, surveyors will verify the percentage of vaccinated staff.
 - Health centers must identify any staff member remaining unvaccinated because it's medically contraindicated or has a religious exemption.
 - Health centers must also identify newly hired staff (hired in the last 60 days).
 - Health centers must indicate the position or role of each staff member
- Surveyors will select a sample of staff based on current staff sample selection guidelines. The sample should include (as applicable):
 - Direct care staff (vaccinated and unvaccinated)
 - Contracted staff
 - Direct care staff with an exemption

Survey Guidelines

- For each individual identified by the health center as **unvaccinated**, surveyors will:
 - Review health center records
 - Determine, if the staff member has been educated and offered vaccination
 - Interview staff and ask if they plan to get vaccinated, if they have declined to get vaccinated, and if they have a medical contraindication or religious exemption.
 - Request and review documentation of medical contraindication.
 - Request to see employee record of the staff education of the RHC/FQHC policy and procedure regarding unvaccinated individuals.
 - Observe staff providing care to determine compliance with current standards of practice with infection control and prevention.
- For each individual identified by the health center as **unvaccinated due to a medical contraindication**:
 - Review and verify all required documentation.
 - Signed and dated by physician or advanced practice provider
 - States the specific vaccine that is contraindicated
 - The recognized clinical reason for the contraindication with a statement recommending exemption

For more information: [CDC's COVID-19 clinical considerations](#)

Levels of Deficiency Identified Through the Survey Process

Standard Level	<ul style="list-style-type: none">• 100% of staff vaccinated and all new staff have received at least one dose and one or more components of the policies and procedures were not developed and implemented OR• Did not meet the 100% staff vaccination rate standard but are making good faith efforts toward vaccine compliance
Condition Level	<ul style="list-style-type: none">• Did not meet the 100% staff vaccination rate standards and one or more components of the policies and procedures were not developed and implemented OR• 21-39% of staff remain unvaccinated creating a likelihood of serious harm
Immediate Jeopardy	<ul style="list-style-type: none">• 40% or more of staff remain unvaccinated creating a likelihood of serious harm OR• Did not meet the 100% staff vaccination rate standard; observations of noncompliant infection control practices by staff, (e.g., staff failed to properly don PPE) and one or more components of the policies and procedures were not developed or implemented.

Plan of Correction

To Qualify for Substantial Compliance and Clear the Citation	<ul style="list-style-type: none">• Meet the requirement for staff fully vaccinated (either by staff obtaining additional doses, or replacing unvaccinated staff with vaccinated staff) OR,• The combined number of staff that are vaccinated (have received a single dose of a vaccine or all of the doses in the multiple dose vaccine series or have received at least one dose of a multiple vaccine series) meet the requirement. Staff that has received at least one dose must also have their second dose scheduled.
To Qualify for Substantial Compliance, but the Citation Remains at Standard Level	<ul style="list-style-type: none">• Has not met the requirement of staff vaccinated, but has provided evidence of the unvaccinated staff that have obtained their first dose, AND the remainder of the unvaccinated staff are scheduled for their first dose.
Components of a Plan of Correction AND/OR Actions Required for Immediate Jeopardy Removal	Plans of correction or Immediate Jeopardy removal plans for noncompliance should include: <ul style="list-style-type: none">• Correcting any gaps in the facility's policies and procedures.• Implementation of the facility's contingency plan, that should include a deadline for each unvaccinated staff to have received their first dose of a vaccine.• Implementation of additional precautions to mitigate the spread of COVID-19 by unvaccinated staff.

Good-Faith Effort

Surveyors and CMS may lower the citation level and/or enforcement action if they identify that any of the following have occurred prior to the survey (note: noncompliance is still cited, only the citation level and enforcement is adjusted):

- If the health center has no or has limited access to vaccine, and the health center has documented attempts to obtain vaccine access (e.g., contact with health department and pharmacies).
- If the health center provides evidence that they have taken aggressive steps to have all staff vaccinated, such as advertising for new staff, hosting vaccine clinics, etc.

CMS Vaccine Mandate Resources

- [NACHC Employee COVID-19 Vaccine Mandate Technical Assistance Resources for Health Centers Webpage](#)
- [NACHC CMS COVID-19 Staff Vaccination Interim Final Rule FAQ](#)
- [CMS Omnibus COVID-19 Health Care Staff Vaccination Interim Final Rule FAQ](#)
- [CMS Guidance for the Interim Final Rule - Medicare and Medicaid Programs; Omnibus COVID-19 Health Care Staff Vaccination](#)
- [FQHC/RHC Supplemental Guidance and Survey Procedures for the Interim Final Rule](#)

Questions?

Thank You!

ARE YOU LOOKING FOR RESOURCES?

Please visit our website www.healthcenterinfo.org



**HEALTH CENTER
RESOURCE
CLEARINGHOUSE**



[Twitter.com/NACHC](https://twitter.com/NACHC)



[Facebook.com/nachc](https://facebook.com/nachc)



[Instagram.com/nachc](https://instagram.com/nachc)



[Linkedin.com/company/nachc](https://linkedin.com/company/nachc)



[YouTube.com/user/nachcmedia](https://youtube.com/user/nachcmedia)

