


Legal Issues Related to COVID-19
Vaccination Policies in Higher Education



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Jason Byrne



- Regularly consults with higher education institutions on issues surrounding their policies and procedures, as well as their obligations under federal law
- Jason is the chair of the firm's Higher Education Industry Group

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Lexi Woods



- Lexi is a member of the Higher Education Industry Group
- Assists higher education institutions navigate gray areas and understand various compliance obligations under applicable law.

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Overview


1. Legal Landscape of Vaccinations
2. Vaccination Policies and Alternatives
3. Transparency and Visibility



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Legal Landscape of Vaccinations

- Higher Education Institutions as Employers
- Function of local and state law
- General lack of guidance in the higher education space
- Legal precedence
- Local government requirements



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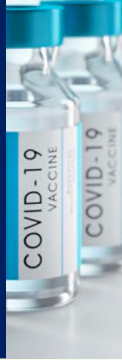
Vaccination Polices & Alternatives



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General Considerations for Vaccination Policies

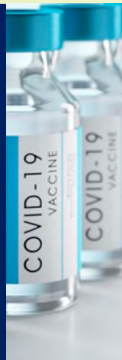
- Private v. Public Institutions
- Unchartered Territory



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Phase I - Limbo

- Even if you want to require vaccinations, this may not be reasonable for quite some time
- Upkeep and review current COVID-19 policies and strategies
- Focus on education

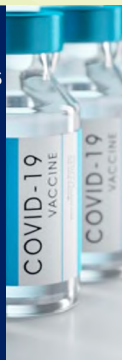


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Phase II – Vaccination Policies/Alternatives

Considerations in Developing Policy:

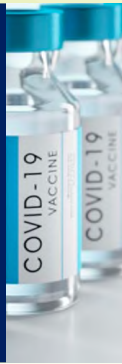
- What's the Goal of the Policy
 - Narrowly tailor to meet goal
- Little Precedent but Lots of Strongly-Held Views
 - For Vaccination
 - Against Vaccination
- Balancing Requirement and Access



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Policy Alternatives

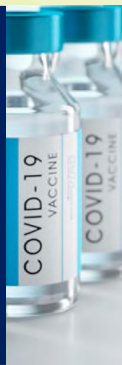
- Menu of Possible Options:
 - Broad Requirement
 - Requirement(s) for Certain Groups
 - Athletes
 - On-Campus Housing
 - Faculty and Staff
 - No Requirement But Encouragement
 - Collecting Vaccination Info / Outbreak Policy
 - No Specific Action



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Vaccination Policy Exceptions

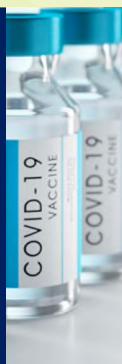
- If Policy includes some type of requirement, potential exemptions:
 - Religious (Public v Private)
 - Medical
 - Philosophical / Other
- How do you formulate in your Policy?
- Potential for Legal Challenge



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Additional Considerations

- What about community members that cannot be vaccinated?
- Incentives for vaccination:
 - Not Policy-based
 - Huge amount of possibilities:
 - Financial, Housing, Activities, Registration etc.
 - Early indications employers are following this model to start



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Transparency & Visibility

- Legal requirements
- Creating a community of trust
- Enforcement considerations



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Questions?



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Conclusion



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