



Municipal Excess Liability Joint Insurance Fund

Office of the Fund Attorney
714 Main Street
P.O. Box 228
Boonton, New Jersey 07005
Tel (973) 334-1900
fsemrau@dorseysemrau.com

BULLETIN – URGENT

TO: All Members

FROM: Fred Semrau, Fund Attorney

DATED: August 25, 2021

RE: Important Information on Vaccination Policy for Employers

Recently in the news there have been several public agencies and private employers that have adopted a form of mandatory vaccination policy. Adopting such policy involves a myriad of legal issues. Some of those issues were set forth in the legal memorandum we circulated in January of 2021. Our labor expert, Matthew Giacobbe, Esquire, has reviewed the memorandum and has informed us that the analysis remains the same. [Here is a link to the memorandum.](#) None of the recent decisions you may have seen in the news impact the analysis in the memorandum. In fact, the opinions that have been in the news recently are preliminary and subject to a final decision, which may include exceptions or modifications to those policies that have been challenged.

As has been commonly reported in the press, employers are taking a variety of steps in lieu of mandatory vaccination policies to protect its workforce and the public from the spread of COVID-19 which include (1) adoption of safety protocols in the workforce that require unvaccinated employees to wear masks at all times; and/or (2) adoption of regular testing protocols of unvaccinated employees. If you consider the latter, you should consult with your benefits consultant as a health plan may not cover surveillance testing.

We recognize that these are challenging times, so to assist you, the NJ MEL continues to post all COVID-19 helpful tools at <https://njmel.org/covid-19-updates/>.

Accordingly, from the perspective of our members, it is important that as you consider whether or not to adopt a mandatory vaccination policy and/or or take employment action against an employee for violation of such policy, we strongly urge you to consult with your labor counsel at every step of the way.

The MEL will continue to monitor legislative and legal developments and provide you with updated information as it becomes available.