

Employment attorney weighs in on rights of workers to refuse mandated vaccinations

Some businesses are requiring employees to get the shot, but some workers can legally refuse.

[Emily Holwick](#) KANSAS CITY, Mo. —

With restrictions easing and people going back to the office, there are questions about whether employers can require employees to be vaccinated. KMBC 9 spoke with an employment attorney about whether employees could take legal action.

To get hired at the Kansas City Zoo, you'll need a COVID-19 vaccine on your resume.

"It ended up over 90% of our staff wanted to be vaccinated," said Charlisa Shelly, the zoo's chief people officer.

Because of that response, the zoo is now requiring new employees to get the shot, but current employees won't be fired if they don't.

"We just wanted to keep our staff, our employees and our visitors as healthy as possible so we made that decision," Shelly said.

"The challenge we currently have is the time to market for the vaccine and the fears associated with that," said Stacy Bunck, an employment attorney at Ogletree Deakins.

She said that employers have a right to mandate vaccinations.

"People have a misconception that just the fear of the vaccine is enough to not get vaccinated in a mandatory program, and that's not enough under the law," she said.

She points out that there are exceptions, including documented health concerns.

"Certainly, that's one that comes to mind, that that might be a medical condition, an allergy that prevents someone from getting the vaccine," Bunck said.

There could also be religious exemptions. For example, "if someone has a religious reason why they don't want to use fetal cells that are in some of the vaccines," Bunck said.

She said that with a medical or religious exemption, "an employer has an obligation under the law to engage in the interactive process and determine, is there an accommodation that we can make."

Since COVID-19 vaccines were fast-tracked for emergency use, some consider them an experimental drug and say an employer shouldn't be able to mandate it.

"That remains to be seen," Bunck said. "As a general rule, I've not seen something that suggests that that concern about the experimental nature of it in and of itself would foster an ability to not take the vaccine."

She said that employers who require vaccinations could potentially be liable if an employee has a bad reaction.

"That's something to consider in deciding whether to do a mandatory vaccination program is consider the side effects," she said.

Bunck said that she believes that's part of the reason many employers are opting to encourage the vaccine and not mandate it.