

Blog (<https://redballoon.work/blog/>) > Vaccinations (<https://redballoon.work/blog/vaccinations/>)

Ask the Labor Lawyer #5 (Leaving Your Employer – Over Vaccines)

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Question: *My employer is requiring all employees to take the COVID vaccine. I have decided to refuse. Now what? Should I quit, or should I force them to fire me?*

Response: You are in a difficult situation, especially if you are the breadwinner for your family. But take heart, you are not alone! I have heard from many employees facing the same challenge. Here are some thoughts to help you evaluate your options.

1. Request a waiver. I have written previously (<https://redballoon.work/blog/ask-the-labor-lawyer-2-what-to-do-about-a-vaccine-mandate/>) about requesting a waiver based on medical disability or

religious belief. This is one way to fight back, even if the waiver is ultimately denied. My denomination has issued a statement (<https://crechurches.org/statements/CREC-Statement-Religious-Medical-Exemption.php>) that members can use when requesting a waiver, and here (<https://www.truthandfire.com/exemptionresources>) is another resource for religious exemptions.

2. Be patient in the process. It can take time for your employer to evaluate your request for a waiver. Stay calm and answer their questions as best you can. Don't let your attitude or behavior distract from the true issue.

3. Quit – if you are ready. I don't recommend quitting if you are financially dependent on your job. But if you have found a new opportunity (for example, through RedBalloon.work), feel free to quit. Quitting leaves you in control, and can reduce your anxiety. Note that it is polite to give two weeks' notice, although your employer may accept your resignation immediately. In addition, I encourage you to research how your timing might impact your health insurance – for example, if you quit at the beginning of the month, you will generally have insurance for the entire month.

4. Explore a leave of absence. It is possible your employer will place you on a leave of absence while they consider your waiver. Or, you may ask for a leave of absence to buy more time before termination. Most leaves are unpaid, which is a bummer. However, a leave will allow you to remain an employee on the books, which is good for your resume while you are job-seeking. Most leaves will also allow you to retain health insurance benefits.

5. Stay until termination. There are advantages to staying until the bitter end. Most employers do not enjoy firing their employees, especially over an issue as contentious as vaccines. You can use their angst as leverage. For example, you could negotiate an exit with your employer where they characterize the termination as a layoff, so you remain eligible for

unemployment benefits. (Depending on the state, termination for refusing the vaccine may make you ineligible). Some employers might even provide a severance package in exchange for your agreement not to pursue legal action.

6. What about legal action? The current federal administration is not sympathetic to individual choice over the vaccine. At the same time, the EEOC has issued detailed guidance (<https://www.eeoc.gov/newsroom/eeoc-issues-updated-covid-19-technical-assistance>) on employers and COVID prevention. It is possible that your employer has committed a technical violation, or that you have remedies under the laws of your particular state. If you are interested in taking legal action, you should consult with an attorney in your state about the pros and cons. But beware of any attorney who tells you that litigation is cheap or easy. It may be better for you and your family – emotionally and financially – to shake the dust off your feet and move on.

May God grant you wisdom and new opportunities,

Laura, the Labor Lawyer

Please note that this post does not constitute legal advice on your specific situation, and you do not have an attorney-client relationship with Laura. If you have questions for Laura, please send to laura@redballoon.work. Such questions may be used for general edification in this column.

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