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## OSHA'S ABRUPT CHANGE TO RECORDING ADVERSE REACTIONS TO COVID-19 VACCINES

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Fortunately, for employers, on May 21, 2021, OSHA issued updated FAQs which were inconsistent with its April 20, 2021 guidance concerning the recordation of certain adverse reactions to COVID-19 vaccines and thereby overrode its April 20<sup>th</sup> guidance.

Formerly, the April 20<sup>th</sup> guidance stated that an adverse reaction to the vaccine would be recordable if it met the definition of a recordable injury or illness under 29 C.F.R. 1904.4(a). However, OSHA then went on to distinguish between voluntary/recommended vaccine programs by employers and mandatory ones. Vaccine programs that were truly voluntary/recommended were not required to record an adverse reaction; whereas, mandatory vaccine programs were required to record such.

In an about face, the newly issued guidance provides that no reaction to the vaccine, regardless of whether it meets a recordable event, is required to be reported. Specifically, the new guidance states:

**Are adverse reactions to the COVID-19 vaccine recordable on the OSHA recordkeeping log?**

**DOL and OSHA, as well as other federal agencies, are working diligently to encourage COVID-19 vaccinations. OSHA does not wish to have any appearance of discouraging workers from receiving a COVID-19 vaccination, and also does not wish to disincentivize employers' vaccination efforts. As a result, OSHA will not enforce 29 CFR 1904's recording requirements to require any employers to record worker side effects from a COVID-19 vaccination through May 2022. We will reevaluate the agency's position at that time to determine the best course of action moving forward.**

This is obviously welcome news for employers who wish to implement a vaccine program and avoid any negative repercussions of reporting adverse reactions on their OSHA 300 logs.

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