

Canada Post's Mandatory Vaccination Practice

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Agenda

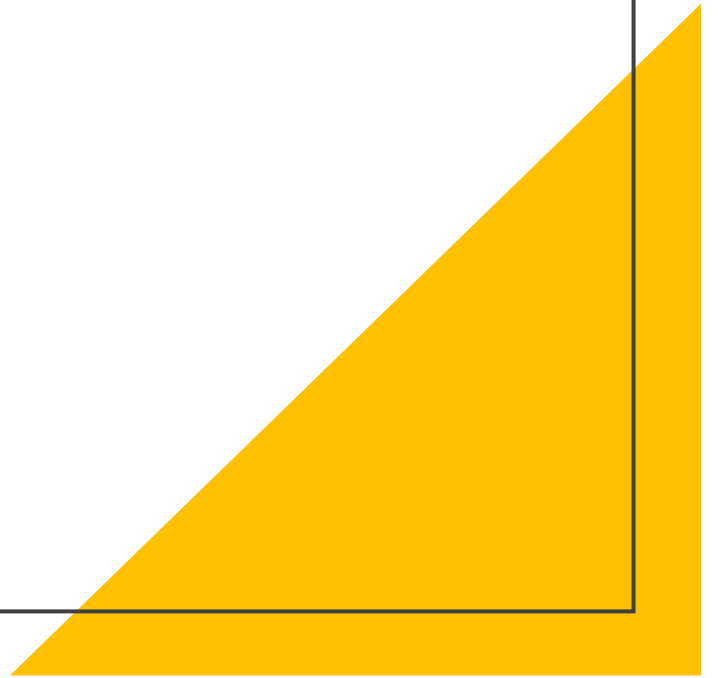
1. Legal Background
2. Summary of Canada Post's Practice
3. Purolator
4. Violations of the Practice
5. Reasonableness of the Practice
6. Privacy Concerns
7. Supporting your Members

Any questions? Consult the PSAC
[Frequently Asked Questions](#)

Part 1: Legal Background

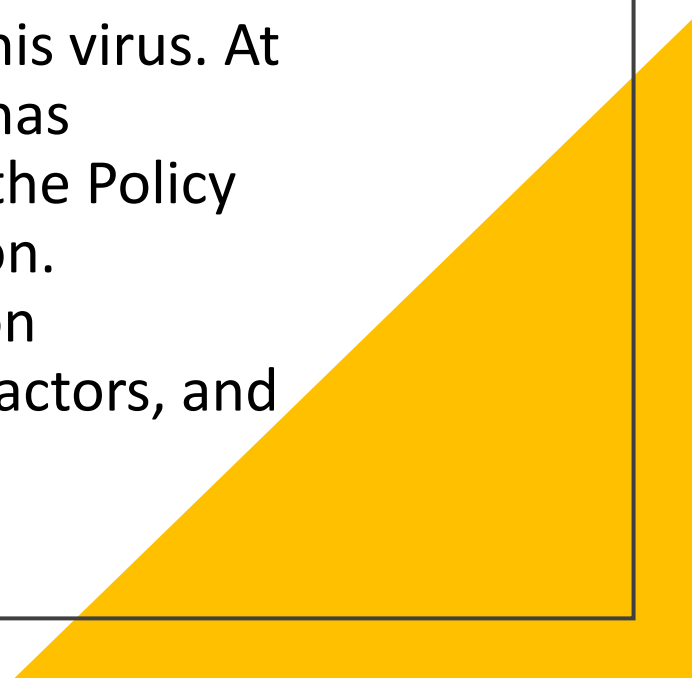
- Letter from the Minister of Public Services and Procurement
 - Federal government [Policy on COVID-19 Vaccination for the Core Public Administration](#)
 - Duty of fair representation
 - Unprecedented issues
 - Constantly evolving
- 
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Part 2: Summary of Canada Post's Practice



Practice Statement

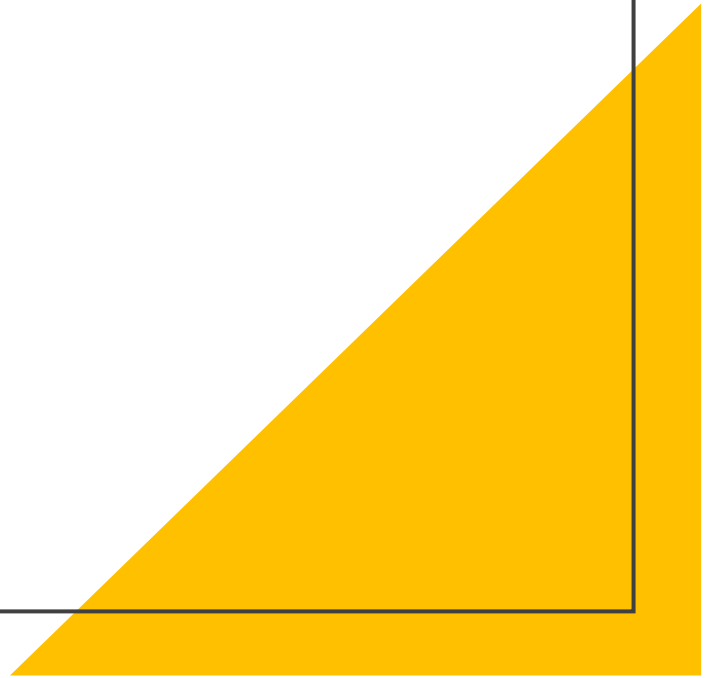
“ Further to the Health and Safety Policy, Canada Post is committed to creating and maintaining a healthy and safe environment for all employees, contractors, visitors, and customers. Vaccination has been shown to be effective in reducing the transmission of COVID-19 and protecting individuals from severe consequences of this virus. At the direction of the Government of Canada, Canada Post has prepared this COVID-19 Vaccination Practice that mirrors the Policy on COVID-19 Vaccination for the Core Public Administration. Accordingly, this Practice sets out the COVID-19 vaccination requirements applicable to Canada Post employees, contractors, and visitors to protect against the spread of COVID-19.”



Application

This Practice applies nationally to:

- all Canada Post employees;
- contractors, while providing a service to Canada Post in Canada Post Facilities;
- visitors while in Canada Post Facilities.



Attestation

Employees will have to attest to being:

- Fully vaccinated
- Partially vaccinated
- Unable to be vaccinated
- Unwilling to be fully vaccinated

All employees who are “**actively at work**” will have to provide an attestation. This includes employees who are working remotely.

Consequences for not being vaccinated

Employees who:

- Attest to being “unwilling to be fully vaccinated”
- Do not submit an attestation by November 26, 2021
- Attest to being “partially vaccinated” but do not get their 2nd dose by the deadline

Will be placed on leave without pay (LWOP)

Privacy considerations

The Canada Post practice indicates that proof of vaccination may be required and may be collected by a “National audit team” or via an electronic application. Similarly, negative COVID-19 test results may be collected by Disability Management, a national audit team, or via an electronic application.

The practice states that the data will be “handled and protected in accordance with Canada’s *Privacy Act* and Canada Post’s *Employee Privacy Policy* and *Customer Privacy Policy*.” It also states that Canada Post will retain the information collected while the policy is in effect, unless either an employee requests that it be retained for longer or it is required by law.

Part 3: Purolator

- Broad strokes of the policy are similar
- The same legal analysis applies

Part 4: Violations of Canada Post's Practice

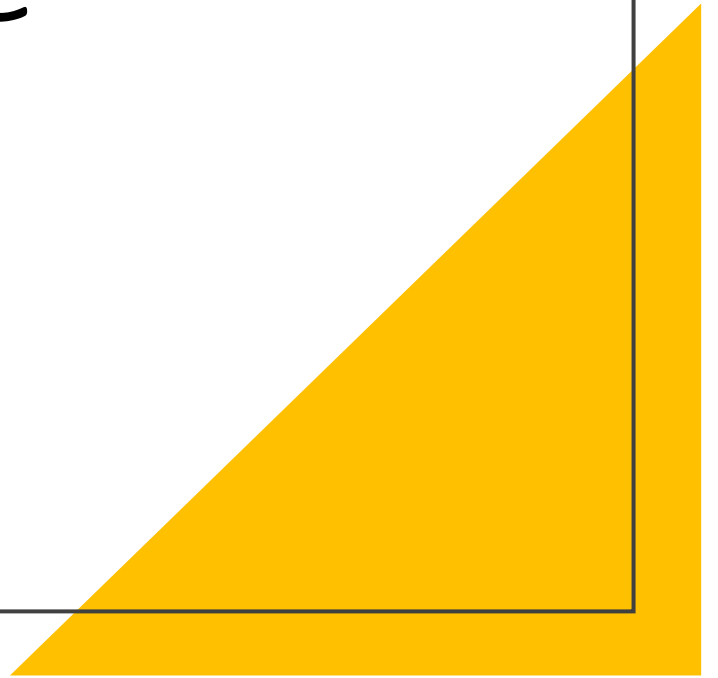


What is a breach of the practice?

Breach of the practice (e.g., providing a false attestation, harassing someone based on their vaccination status) will result in discipline up to and including termination.

Being unwilling to be fully vaccinated is not breach of the practice.

Part 5: Reasonableness of Canada Post's Practice



Is the
practice
reasonable?

Two categories:

- A) Members with human rights exemptions
- B) Members without human rights exemptions

Human Rights Exemptions

The Practice states:

Unable to be Vaccinated means an individual who cannot be Fully Vaccinated due to a prohibited ground of discrimination as defined in the Canadian Human Rights Act.

Employees who attest to being Unable to be Fully Vaccinated will be required to:

- provide complete and accurate information as required by Canada Post to evaluate their accommodation request and identify appropriate accommodation;
- cooperate in the accommodation process; and
- notify their team leader if their accommodation needs change.

Employees are responsible for:

- informing CP of the need for accommodation based on any of the prohibited grounds of discrimination as defined under the Canadian Human Rights Act
- providing complete and accurate information required by CP to support their accommodation request and identify appropriate accommodation

Grounds for Human Rights Exemptions

Medical Reasons	Religious Beliefs
<ul style="list-style-type: none">• Very limited medical grounds• E.g., severe allergies to vaccination or diagnosed episode of myocarditis/pericarditis after receipt of the first mRNA dose	<ul style="list-style-type: none">• Sincerely held belief• There must be a religious observance that prevents believers from being vaccinated• Philosophical beliefs or disagreements will not qualify

If there is a valid Human Rights ground, employers have an obligation to accommodate to the point of **undue hardship**.

The Canadian Human Rights Commission

[Vaccination policies and human rights: Frequently asked questions for employers and employees \(chrc-ccdp.gc.ca\)](https://chrc-ccdp.gc.ca)

Do vaccination requirements violate human rights principles?

No. Rights are not absolute. Reasonable limits can be placed on our rights when it applies to public health and safety.

Is requiring vaccination for federally-regulated employers and employees a discriminatory practice?

No. Requiring that an individual be vaccinated to work or travel is not a discriminatory practice under the Canadian Human Rights Act.

Vaccination requirements are not a discriminatory practice because they are intended (and are necessary) to protect public health and safety.

Is there a Duty to Accommodate requirement for people who cannot receive a vaccine?

Employers have a duty to accommodate only those people who are unable to receive a vaccine for reasons relating to a prohibited ground of discrimination under the Canadian Human Rights Act.

Employers and service providers will need to explore reasonable options for accommodating such people, unless doing so would cause undue hardship to the employer or service provider considering health, safety and cost.

For complaints or more information

Public servants can discuss concerns about vaccination and masking requirements with their manager or union representative. Complaints should be made through their unions

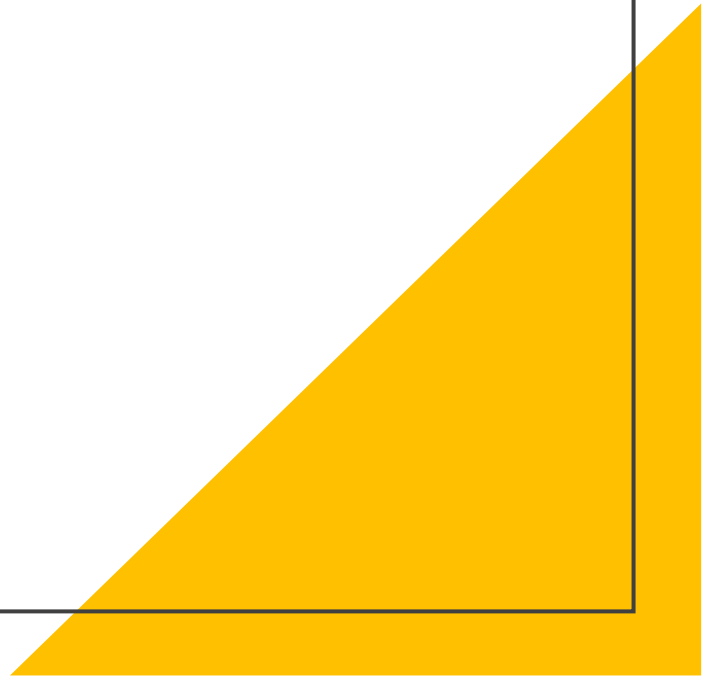
If no Human Rights exemptions

Test for reasonableness:

A) Does the employer have the authority to implement the practice?

- Is there a legitimate purpose?
- Does it balance workplace concerns and employees' rights?

B) Is the practice Charter-compliant?



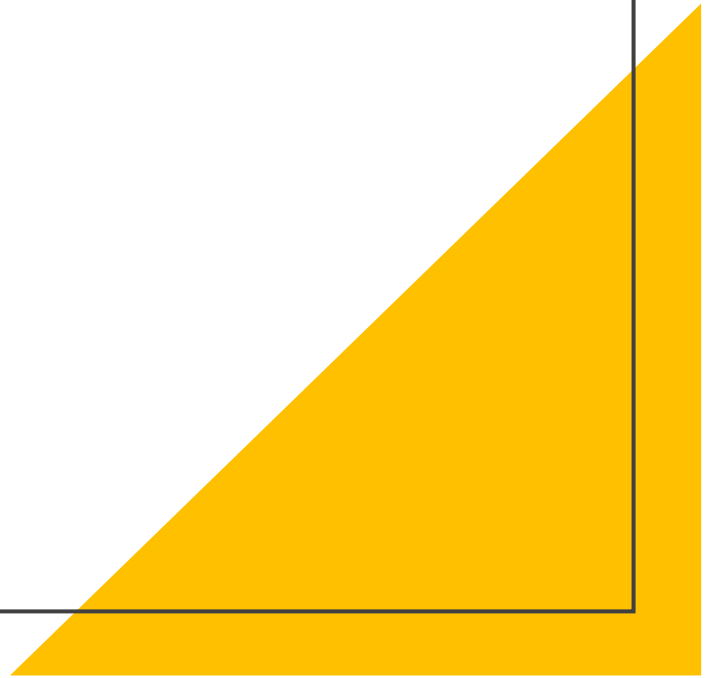
No
action
required
yet

- The practice is generally reasonable
- Potential issues:
 - Return-to-Work Policy
 - Duration of the pandemic
 - Developments in the caselaw
- Administrative vs. disciplinary
- Expedited vs. formal grievance process

Part 5: Privacy Concerns

- Canada Post is allowed to ask for this personal information
- Canada Post must respect the *Privacy Act*
- The practice is unclear on the details
- Unlikely to lead to the practice being found invalid

Part 6: Supporting your members



Frequently Asked Questions

- **Can the employer legally implement a mandatory vaccine policy?** Yes.
- **Even if it goes against my personal beliefs?** Yes.
- **Is my employer allowed to ask for my vaccination status?** Yes.
- **Is it an illegal invasion of my privacy?** No.
- **Is this practice a violation of my human rights?** No, because there are adequate human rights exemptions.
- **Is there a legitimate business reason for imposing the vaccine? Does this meet the test for a Bona Fide Occupational Requirement?** These questions are only relevant if the employee proves *prima facie* discrimination and the employer refuses to accommodate them.

More FAQs

- **Do I have a right to not get vaccinated and work from home?** Employees do not have the right to choose to work from home. We will have to see what the return-to-work policy says.
- **Is the practice coercive?** At this stage, we do not think that an arbitrator will find the practice to be coercive as a whole.
- **What about my personal economic hardship?** This might not be a convincing argument at this stage. For context, the government has stated that employees who lose their jobs for refusing the vaccination [will likely not be eligible for EI.](#)

EI information – COVID-19

[EI information for employers – COVID-19 - Canada.ca](https://www.canada.ca/en/ei/2020/04/ei-information-for-employers-covid-19.html)

*When the employee doesn't report to work because they refuse to comply with your mandatory COVID-19 vaccination policy, use **code E (quit)** or **code N (leave of absence)**.*

*When you suspend or terminate an employee for not complying with your mandatory COVID-19 vaccination policy, use **code M (dismissal)**.*

If you use these codes, we may contact you to determine:

- *if you had adopted and clearly communicated to all employees a mandatory COVID-19 vaccination policy*
- *if the employees were informed that failure to comply with the policy would result in loss of employment*
- *if the application of the policy to the employee was reasonable within the workplace context*
- *if there were any exemptions for refusing to comply with the policy*

The COVID-19 ROE Codes will not apply to those employees who are exempt from receiving a COVID-19 vaccine due to a protected human rights ground.

Takeaways

- The practice is generally reasonable
- Human Rights exemptions are narrow, but employees who qualify have a right to accommodation
- To best support UPCE members, we recommend to proceed with caution
- There are still many unknowns