



Justice Centre
for Constitutional Freedoms

MANDATORY COVID VACCINE FAQS

The Justice Centre understands that some Canadians will decide the Covid shot is not right for them.

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INTRODUCTION

The Justice Centre understands that some Canadians will decide the Covid shot is not right for them.

In Canada, people have a right to decide what medical treatment they receive or do not receive. The Covid shots are new, and clinical trials will not be complete until 2023. As such, the Covid shots are experimental. Each of the shots also contain warnings from Health Canada, including warnings about pericarditis, myocarditis, and thrombosis. It is unthinkable that British Columbia is requiring these experimental injections as a condition of full participation in society, yet this is what the BC government is doing. The Justice Centre opposes this profound violation of peoples' constitutional rights. Moreover, the vaccinated and the unvaccinated both spread Covid-19 in equal measure, as members of both groups carrying the same high viral loads when infected, according to data from the Center for Disease Control (CDC).

In Iceland, where approximately 75 percent of the population has been fully vaccinated and over 90 percent of people over the age of 16 have had at least one shot, that country's Chief Epidemiologist recently stated that herd immunity from vaccination has not and cannot be achieved, as the Delta variant can be contracted easily even by those who are vaccinated, and the vaccinated spread the Delta variant to others. Similarly, in a July 2021 outbreak in Cape Cod MA, 74% of people infected were fully vaccinated. Out of five hospitalizations, four were fully vaccinated. Fully vaccinated people who get infected carry as much of the virus in their nose as unvaccinated people.

If these mandates are not challenged for violating our *Charter* rights and freedoms, or if courts side with the government, this will open the door to even greater government control over Canadians' rights and freedoms, and our bodies.

We are unaware of any previous circumstance where a pharmaceutical company has rushed a product to market and has no liability for deaths or injuries, where no long-term studies have been conducted, where governments have induced, coerced and threatened people to get it, and where Canadians may lose their jobs and civil liberties for refusing to take it. This is unprecedented.

Mandatory vaccine policies in BC and Quebec are very similar, turning the unvaccinated into second-class citizens who may not attend large events, restaurants and theatres. Manitoba has just announced that it will implement a full vaccine passport system to discriminate against the unvaccinated but the full details have not been announced yet.

The Justice Centre sees these laws as unconstitutional, full stop. Seeking exemptions to the law implies that the underlying law is valid, and it is our position that it is not. Canadians have constitutionalized protections for conscience, religious, and security of the person including bodily autonomy. Mandatory vaccine policies, and legal discrimination against the unvaccinated minority, are a blatant violation of *Charter* rights and freedoms.

While the Justice Centre is not able to sue private employers who unjustifiably terminate employment on grounds of vaccination status, we intend to challenge government policies in court. We seek to protect the rights of Canadians to informed consent, and the freedom to decide what medical interventions, drugs and/or vaccines they determine are best for them as individuals.

WHY IS THE JUSTICE CENTRE AGAINST MANDATORY VACCINES AND VACCINE PASSPORTS?

The full implications of widespread vaccine mandates put in place by the federal government are not yet known, but this much is certain: they will divide society. Those persons who cannot or choose not to be vaccinated for Covid-19—as is their fundamental right—will be excluded and denied a normal existence. They will be vilified in the media and by government, ostracized by society and ultimately persecuted. Those who defend them will be censored, silenced, and punished.

The *Canadian Charter of Rights and Freedoms* is intended to ensure a “free and democratic society”. This includes the right to choose to receive or not receive a new vaccine, the right to travel interprovincially and internationally, and the rights of citizens to criticize and voice concerns about coercive government measures.

The Justice Centre is carefully monitoring and reviewing these developments and will continue to defend the freedoms of Canadians through litigation



MY COLLEGE OR UNIVERSITY IS MANDATING VACCINES ON CAMPUS. WHAT DO I DO?

Our legal team is in the process of bringing a *Charter* application against Seneca College in Ontario for mandating vaccinations. If successful, this case could serve as a precedent to change policies at other colleges universities as well.

In the meantime, we suggest that students and staff explore whether any exemptions under human rights legislation are applicable (such as a medical condition or religious belief preventing vaccination), or if rapid non-invasive testing in lieu of vaccination is available. In some cases, unvaccinated students may be accommodated by distance or online learning.

Students and staff should express their concerns in writing to their unions, and the administration and boards of their college or university. We encourage you to join with other students in making your voices heard.



WHAT SHOULD FEDERAL EMPLOYEES DO ABOUT MANDATORY VACCINATION REQUIREMENTS?

Unionized federal employees opposed to mandatory vaccinations should contact their union to make their voices heard. They should express your concerns in writing to their government officials, the provincial and federal health ministers, Premier, MLAs, MPs and the Prime Minister. Whether unionized or not, federal employees should band together with other employees as a group to stand up and advocate for their bodily integrity and right to make informed consent on any vaccine. There is strength in numbers as employees act as a unified group.

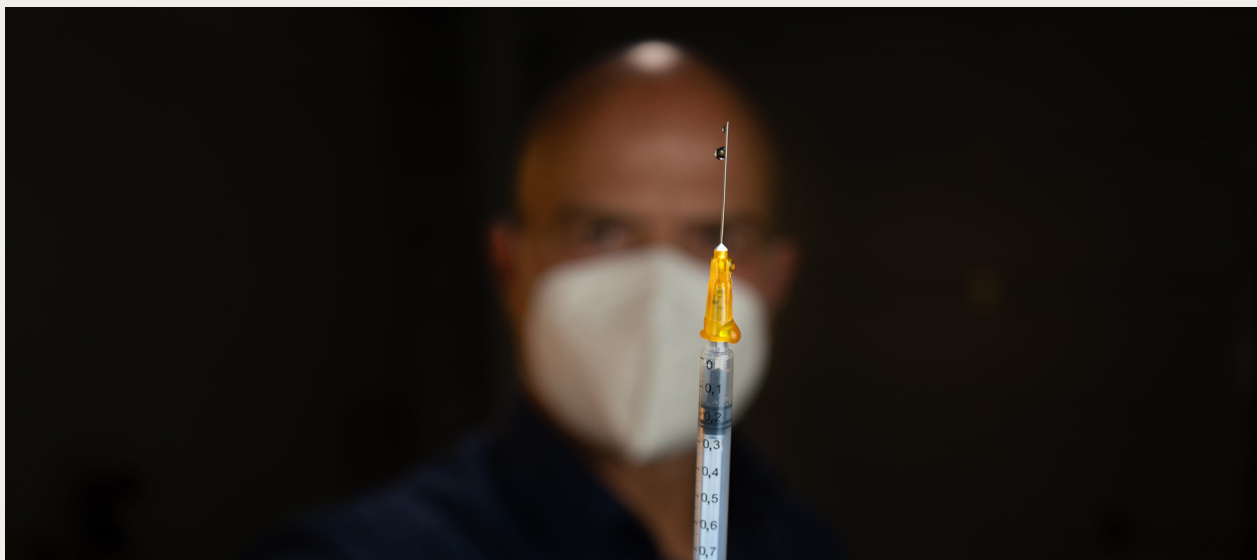
Some employees may be able to claim an exemption from a vaccination requirement under the federal human rights code, based on a medical condition or religious belief preventing vaccination. Potential options for unvaccinated employees could be PPE use or rapid testing. Unvaccinated employees may also be able to rely on their natural immunity from a previous Covid infection, which could be proven by an anti-body test.

These kinds of situations are very complicated, because many federal employees are union represented.

The Justice Centre is unlikely to assist a government employee who belongs to a union, as it restricts our ability to directly represent them before a court. Consequently, it will be very important for you to work through your union in seeking to prevent further vaccine mandates upon you and your co-workers. Barring that, the union has a duty to fairly represent you in grieving any adverse action taken against an employee.

Unions can have a great deal of power and influence. A nurses' union got mandatory masking stopped in 2019: <https://www.cbc.ca/news/canada/british-columbia/b-c-nurses-no-longer-required-to-get-flu-vaccine-or-wear-mask-1.5384902>

Unionized employees need to get their union to fight for them. If you are a non-unionized employee, we may be able to assist you if we have capacity.



MY UNION IS CALLING FOR MANDATORY VACCINATION IN ORDER TO DO MY JOB OR I WILL HAVE CERTAIN LIMITATIONS AND CONSEQUENCES. I AM WONDERING WHAT MY RIGHTS ARE AND/OR IF I CAN TAKE LEGAL ACTION AGAINST THEM.

We encourage all unionized employees to urge their union to advocate for workers' rights and their freedom to make individual medical choices without coercion or discrimination from their employer.

If adverse action is taken against a unionized employee, the union has a duty to provide fair representation to that employee. In a union fails to provide fair representation, a complaint can be made to the labour relations board against the union. If you have a union, it is unlikely the Justice Centre will be able to act for you.

The rights you have will depend in part on whether your employer is a government entity or not. Only government employers are required to respect employees' *Charter* rights. All employers however are required to respect employees' rights under human rights legislation. Additional protections may also be present under employment law and privacy law.

What rights an individual employee has in a particular employment situation will necessarily be affected by the particular facts and circumstances of that employment. Further, given the novel requirements being imposed by employers, many of these circumstances will likely require legal adjudication before the nature of protection provided by individual rights can be determined with much certainty. In other words, ultimately the decision may be made by a court.

MY JOB REQUIRES ME TO TRAVEL TO DIFFERENT PARTS OF CANADA. I HAD COVID AND BELIEVE I HAVE NATURAL IMMUNITY. IS IT LEGAL FOR THE FEDERAL GOVERNMENT TO BAN DOMESTIC AIR TRAVELLERS WHO ARE NOT VACCINATED?

Canadians have the right travel within Canada pursuant to section 6 of the *Charter*. Any restriction on this right imposed by the government must be justified by evidence in order to be constitutional.

The Justice Centre views a mandatory vaccination requirement for interprovincial travel as an unjustified violation of Canadians' *Charter* rights.

In particular, with regard to individuals who have natural immunity from a previous Covid infection, there is significant scientific evidence indicating that these individuals may in fact have more protection from Covid than those who have been vaccinated. In these circumstances, it is difficult to see how forcing such individuals to take a Covid vaccination in order to travel could be justified and found to be constitutional.



THE ONTARIO GOVERNMENT HAS DECLARED MANDATORY VACCINATION FOR ALL HEALTH CARE WORKERS. DOES THE PAST RULING AGAINST MANDATORY VACCINES/MASKING FOR NURSES HAVE ANY BEARING ON THIS CASE?

The past rulings of an Ontario labour arbitrators in 2015 and 2018 finding that “Vaccine or Mask” policy in regard to the flu vaccine is a relevant and potentially helpful precedent.

These decisions show a very careful to the medical and scientific evidence for or against these policies. The labour arbitrators’ careful attention to this evidence in finding the vaccinate or mask policies unjustified could be used to urge other decision makers to carefully review the medical and scientific evidence about vaccine mandates.

To possibly repeat these successes for workers’ rights, unions would need to be motivated to engage the arbitration process against Covid vaccination mandates. Further, unions would need to successfully marshal the relevant evidence in regard to Covid vaccination and concerns about vaccine efficacy, transmission, asymptomatic spread, etc.

The outcome of such proceedings in regard to mandatory Covid vaccines for health care workers would be influenced, but not determined, by the prior decisions of the arbitrators.

MY EMPLOYER IS INSISTING I MUST DISCLOSE MY VACCINE STATUS. DO I HAVE TO?

Canadian law generally regards individuals’ personal medical information as private and confidential. Employers however can request medical information that is necessary for legitimate employment purposes. Helpful general information can be found in an article entitled Privacy and Medical Information in the Workplace.

Whether a request for employees to disclose their vaccination status is justified in a particular employment context will depend on the circumstances and whether the request is deemed to be necessary for legitimate employment purposes. For example, requesting the vaccination status of an employee who works exclusively from home could not likely be justified as required for legitimate employment purposes.

The Justice Centre’s mandates is limited acting against government employers which are required to respect the *Charter* rights of employees. We cannot assist employees of private companies. For legal advice on your particular circumstances, please contact an employment law lawyer.



MY EMPLOYER IS INSISTING THAT IF I DON'T DISCLOSE MY VACCINE STATUS, I FACE MANDATORY TESTING FOR AN INDEFINITE PERIOD OF TIME? IS THAT LEGAL? WHAT IF I DO NOT AGREE WITH THE TEST WHICH IS INVASIVE?

Generally, individuals have the right to decide whether they want to receive testing, medical care, or health procedures. Whether mandatory testing in a workplace is justified will depend on whether the requirement is found to be reasonable in the specific circumstances of the workplace and employment. For legal advice on your particular circumstances, please contact an employment law lawyer.

DO I HAVE TO SIT THROUGH VACCINE “EDUCATION” SESSIONS REQUIRED IF I CHOOSE NOT TO BE VACCINATED?

It is arguably an infringement of individuals' liberty and their right to choose what they want to listen to (protected by their freedom of expression) for government to require that people who have chosen not to be vaccinated must attend “education” sessions about vaccines.

Whether a court would find the requirement to attend “education” sessions to be justified is unclear and will likely require a legal challenge to determine.



DO YOU HAVE A TEMPLATE I CAN USE FOR RELIGIOUS EXEMPTION? DO I NEED A LETTER FROM A CLERGY MEMBER?

The religious objections individuals may have to specific vaccines vary significantly. The Justice Centre does not have a standard template to address such individual beliefs. Canadian law grants protection to an individual's personal religious beliefs which are sincerely held, regardless of whether those beliefs are adhered to by others or even by the faith community to which the individual belongs.

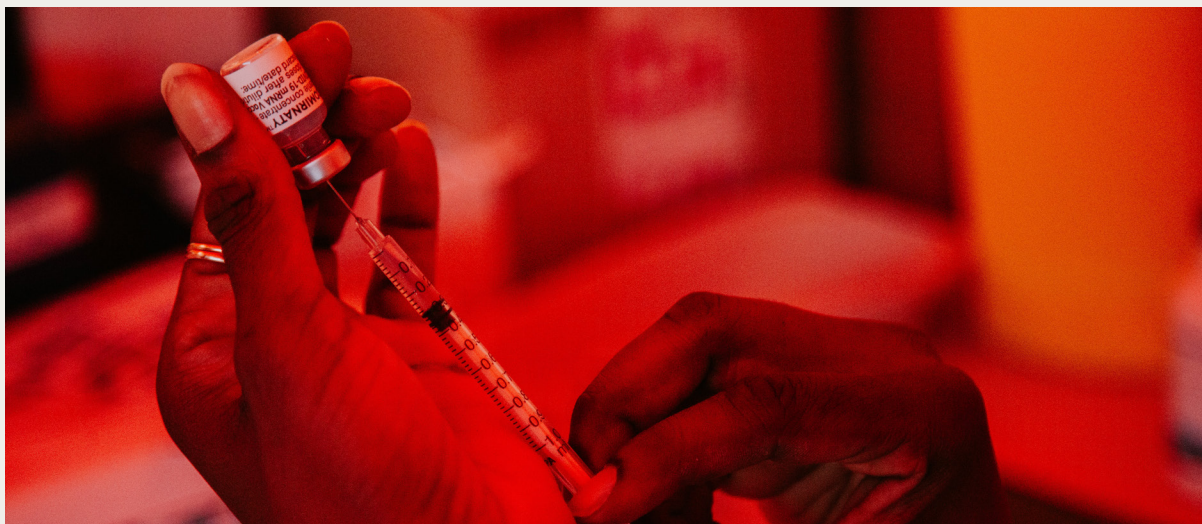
In order to establish the existence of a religious objection, it will be necessary for the individual to have specific religious beliefs which would be violated in a non-trivial way by receiving a particular vaccine. These beliefs must be sincerely held, and an individual's pattern of conduct consistent with those beliefs will help to prove that they are sincerely held.

Once a religious objection to taking a vaccine is established, and employer has a duty to accommodate that religious belief up to the point of undue hardship. The extent to which an employer must accommodate an employee's religious objection to taking a vaccine will be dependent on the specific circumstances of the employment.

IF MY EMPLOYER REFUSES MY EXEMPTION REQUEST, WHAT CAN I DO?

Employers who fail to accommodate employees' established medical conditions (disabilities) or religious beliefs to the point of undue hardship can be subject to legal proceedings at a human rights tribunal or a labour relations board (in unionized contexts). Such claims could also be utilized in a potential wrongful dismissal court action against the employer.

It is recommended that employees receive legal advice about their particular situations to determine if they have valid legal grounds for filing claims against their employers.



I'VE BEEN TOLD BY MY EMPLOYER THAT I HAVE TO BE VACCINATED IN ORDER TO RETURN TO CONTINUE WORKING: WHAT SHOULD I DO?

Employees who are being informed that they must get vaccinated by their employer may consider whether the following may be helpful or applicable in their situation:

1. Writing a letter to their employer asking:
 - a. why the employer intends to violate the confidentiality of employees' private medical information by required disclosure of vaccination status and what is the specific legal basis for doing so;
 - b. whether the employer is assuming the liability for any adverse reactions employees may receive as a result of being compelled by their employer to take the vaccine;
 - c. whether the employer has considered and incorporated into its policy a recognition for individuals who have received natural immunity via a previous Covid infection and other relevant medical and scientific data; and
 - d. whether the employer has considered less onerous requirements to achieve the goal of employee safety.
2. Urging the employees union (if unionized) to stand up for employees privacy and right to make personal medical decisions without coercion from their employer; if not unionized, organizing with other employees to pressure the employer to accommodate employees requests or face negative job action.
3. Requesting an exemption or accommodation on the basis of a personal medical condition which could be negatively affected by a Covid vaccine (a supporting physician's opinion will likely be necessary to support a medical exemption from the requirement to take a covid vaccine).

4. Requesting an exemption or accommodation on the basis of specific sincerely-held religious beliefs which would be violated in a non-trivial manner by the requirement to take a Covid vaccination.
5. Considering whether to file a human rights complaint if an established medical condition or religious belief preventing one from receiving a Covid vaccine is not accommodated by the employer.
6. Reviewing your employment contract – possibly with the services of an employment lawyer – to determine if the employer is violating the contract by requiring vaccination.
7. Securing legal advice and representation to bring a legal challenge to against the employer.



DOES THE REQUIREMENT TO BE TESTED VIOLATE THE GENETIC NON-DISCRIMINATION ACT AND WOULD CANADIAN CITIZENS BE ABLE TO USE IT AS PROTECTION FROM BEING DISCRIMINATED AGAINST BY EMPLOYERS, PUBLIC HEALTH, ARRIVECAN, ETC.?

The Genetic Non-Discrimination Act prohibits requiring people to undergo a “genetic test” as a condition of receiving goods or services or entering or continuing in contractual agreements.

A genetic test is defined as “a test that analyzes DNA, RNA or chromosomes for purposes such as the prediction of disease or vertical transmission risks, or monitoring, diagnosis or prognosis.”



HOW CAN THE GOVERNMENT MANDATE A VACCINE STILL IN HUMAN TRIALS, THAT IS UNDER EMERGENCY AUTHORIZATION USE, NOT APPROVED, AND WITH UNKNOWN LONG TERM SIDE EFFECTS?

The position of the Justice Centre, based on the Canadian *Charter* of Rights and Freedoms, is that Canadians have the right to make their own medical choice. Canadians should not be subjected to government requirements compelling or coercing them to receive any medical treatment or testing.

For the government to compel and coerce Canadians to receive particular vaccinations with unknown side effects make its violation of Canadians' rights more egregious.

WHAT ARE YOU GOING TO DO ABOUT MANDATORY VACCINES?

The Justice Centre is committed to defending the constitutional freedoms of Canadians through litigation. Government vaccination requirements are a horrifying violation of Canadians' rights to control their own body and the Justice Centre will vigorously fight against those requirements.

We are evaluating numerous vaccine requirements and selecting potential cases which we view as having the best potential to establishing legal precedents to defend Canadians' freedom.

We are already moving forward with one such case against Seneca College in Ontario for its mandatory vaccination requirement for students and will be bringing forward additional legal challenges.



WHAT SHOULD EMPLOYEES DO IF THEIR UNION FAILS TO ADVOCATE FOR THEIR INTERESTS OR TO REPRESENT THEM IF THEY RECEIVE ADVERSE EMPLOYMENT CONSEQUENCES FOR NOT COMPLYING WITH MANDATORY VACCINATION REQUIREMENTS?

Unionized employees should persistently be pressuring their unions to advocate for the right of employees to make their own, informed medical decisions, free of employer coercion or compulsion. Employees should seek to urge their unions to challenge overbroad restrictions and vaccination requirements, and insist that such requirements be subjected to scientific scrutiny at labour relations boards.

Unions have a duty to provide fair representation of each union member. If a union makes an unfair decision not to represent an employee by grieving adverse employment action imposed on the employee, this may be a basis to sue the union for failing its duty, particularly if there is evidence that the decision was made in bad faith, or in an arbitrary or discriminatory way.



THE JUSTICE CENTRE FOR CONSTITUTIONAL FREEDOMS AND OUR LEGAL WORK

Thank you for your interest in donating to the Justice Centre for Constitutional Freedoms

The Justice Centre is deeply concerned about the avalanche of government restrictions on the *Charter* rights and freedoms of Canadians. We are working diligently to bring government to account before courts, and in the public square, to defend their violations of our freedoms to move, travel, associate, worship, and assemble publicly and peacefully.

DONATE

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You can email us with any questions at info@jccf.ca

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If you prefer to send a cheque, our mailing address is:

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