

Communities of Faith and Vaccination Policies
Written by United Church of Canada, Legal Counsel
June 24, 2021

Rationale:

While various other organizations and businesses are thinking through about vaccination policies, we should also ask whether our faith tradition offers us any guidance in how to approach issues such as this one. The Bible does not offer us exact equivalents for this situation or, for that matter, for almost any social or ethical issue with which we wrestle. But the Epistles, and Paul's letters in particular, give us evidence for how early Christian congregations tried to handle the social and ethical issues of their day, living as they did in a society in which they were a tiny minority.

I Corinthians contains Paul's responses to a series of questions about such matters posed to him by the Christian community in Corinth. Especially instructive may be Paul's response in I Corinthians 8 to the question of whether it was okay for Christians to eat meat that had been sacrificed to idols. The concern was whether some people might be led astray and to believe in idols if they saw members of the Christian community eating such food. Paul's answer was that there was no harm in doing so because he and much of the community knew that the idols did not exist. But if someone (perhaps someone new to the Christian community) saw them eating in a "pagan temple" or eating food sacrificed to an idol and believed the idol was real, that person could be led astray. Paul's guidance was to ask "What would be the loving thing to do?" In Romans 14, where Paul was responding to similar concerns about whether certain foods should be avoided, he makes the point that while he considers all types of food to be okay to eat, "if your brother or sister is injured by what you eat, you are no longer walking in love." The basic principle Paul uses, when wrestling with a question, is once again, "What is the loving thing to do?" The loving thing can mean one thing for our interactions with other members of the community of faith as we gather for worship and something different in terms of our interactions with others whom we meet or who may use our sanctuary or other parts of our building. It is helpful to approach such matters by asking, "What is the loving thing to do?"

Questions and Answers Regarding Mandatory Vaccination Policies for Communities of Faith:

1. What is the current best practice on mandatory vaccinations?

The law in this area is not well-developed. Throughout Canada, there has been no declaration mandating that everyone be vaccinated, and so implementing a mandatory vaccination policy is up to the individual client-facing businesses and organizations. There are a number of issues that a Community of Faith would want to consider before implementing a mandatory vaccination policy applicable to its congregants or other users of the building.

At this time, mandatory vaccination policies are not standard practice in Canada and it is unlikely that the government would ever require mandatory vaccination of the general population. However, vaccines are mandatory in certain sectors and we may see an increased number of mandatory vaccination policies as a condition of service.

If Communities of Faith impose mandatory vaccinations, they will need to be mindful of the consequences and will need to give thought to accommodations where necessary. There are also significant privacy concerns that would need to be considered. Any policy that restricts access to a service needs to be reasoned and coherent, and would need to demonstrate why the policy is necessary and proportionate to mandatory requirements that it is imposing. In other words, if there are safe alternatives, or the requirement is not proportionate to the benefit, it may not be acceptable or advisable to have such a policy.

2. Could Communities of Faith impose a mandatory vaccination policy for in-person attendance at church services?

It may be reasonable for Communities of Faith which, in general, conduct activities indoors and in closed spaces, where there is close-contact between worshippers, to implement a mandatory vaccination policy for the safety of their employees and visitors. Communities of Faith are frequently made up of an older demographic and attending in-person worship can include rituals that involve “customer-facing” or “customer-touching” interactions. This makes indoors in-person worship a higher-risk activity.

A mandatory policy requiring congregants to be vaccinated against COVID-19 in order to attend in-person could be acceptable since the Communities of Faith have an obligation to keep their employees, congregants, and other visitors as safe as possible.

3. Could Communities of Faith impose a mandatory vaccination policy for in-person attendance at the building for reasons other than worship services?

A mandatory vaccination policy for attendance at the building for reasons other than worship would need to be very carefully considered based on the specific circumstances. For example, many Communities of Faith offer relief programs for individuals experiencing poverty or homelessness, and requiring vaccinations for individuals wishing to take advantage of those services is likely neither feasible nor reasonable.

On the other hand, it could be reasonable to require vaccinations for a bible study group composed of adult adherents who would like to resume in-person weekly meetings at the building.

4. Can Communities of Faith accommodate individuals who cannot be vaccinated?

Communities of Faith also need to consider human rights legislation which protects individuals from discrimination within the private sector, including accessing goods, services, and facilities. If a mandatory vaccination program resulted in different treatment of unvaccinated congregants or service recipients, the Communities of Faith will need to consider how to accommodate those who cannot or choose not to be vaccinated on the basis of a prohibited ground of discrimination. Any policy on mandatory vaccinations would need to take into account how those individuals may or may not be accommodated.

5. Could Communities of Faith impose a mandatory vaccination policy for their tenants?

For new tenants or occasional tenants subject to the policies of the building, it may be possible to require vaccinations for those who need to be in the building. However, as above, it may depend on the circumstances and on the specific tenant in question. There are no regulations that require mandatory vaccinations with few exceptions. See, for example, the information below about daycares in Ontario.

For existing tenants with leases already in place, the leases would need to be reviewed and assessed. New vaccination policies may or may not be permissible under the terms of existing leases.

Ontario: Daycare employees must already be vaccinated

If a Community of Faith rents space in its building to a daycare, a further mandatory vaccination policy is likely not necessary since the Ontario government has already regulated that sector and required vaccinations. Under s. 57(1) of Ontario Regulation 137/15 of the *Child Care and Early Years Act*, every employee of a child care centre is required to be immunized as directed by the local medical officer of health, and there are special rules relating to COVID-19. In those instances, Communities of Faith should be asking any daycare tenants to confirm that they are complying with the required government regulations.

6. Are there other means of mitigating risk?

Current public health guidelines provide proven strategies for mitigating the risk of infection, including maintaining physical distance; wearing masks; limiting indoor gatherings, especially in spaces with poor circulation. These measures have been shown to be effective in reducing the spread of COVID-19, and should be continued, either as an alternative, or in addition to, a mandatory vaccination policy. Other means include continuing online programming and keeping a contact list of individuals who attend at the building in person.

Communities of Faith should continue to promote and adhere to these measures, at least until the directives from their provincial/territorial government change.

7. How can Communities of Faith collect information about vaccination status?

Personal health data is sensitive

Collecting personal health information from individuals is a sensitive issue. Vaccination status is considered health information and Communities of Faith will need to be cautious if they are intending to collect that information from congregants or other users of the building. They should ensure their policies incorporate best practices to ensure the highest level of privacy protection, given the sensitivity of the personal health information collected and disclosed.

There may be no standard vaccination passport indicating status

At this point, there is no indication that the federal government will develop any standardized form of vaccination certification and although some news reports have indicated that provinces may be considering some form of digital certification, few details are currently available.

If no standard vaccination status document is available, Communities of Faith would have to develop their own collection method and standards, and they should take into account the privacy concerns discussed below.

Communities of Faith might accept an individual's personal confirmation of vaccine status, or might require email evidence of same. However, requiring and retaining emails from individuals that include personal health information could be a privacy risk, as discussed below.

Privacy concerns

On May 19, 2021 the Federal, Provincial and Territorial Privacy Commissioners issued a joint statement on vaccination passports. Their concern is that vaccination passports require disclosure of sensitive health information, and should only be implemented in such a way as to minimize the intrusion to an individual's privacy.

Some recommended best practices to address privacy concerns include:

- a) obtaining the consent to collect the vaccination status of individuals, where consent is voluntary and meaningful, based on clear and plain language;
- b) ensuring the information collected is the minimum required to meet the objective;
- c) ensuring the information collected is either not retained or is securely stored, perhaps dis-affiliated with the individual's name or other identifying information; and
- d) ensuring the policies are re-visited regularly to ensure that they continued to be reasonable given the changing health and vaccination environment.

8. Is this the final word on mandatory vaccination policies?

Please note that the situation involving COVID-19 is continuing to evolve quickly. Communities of Faith are urged to keep up to date on provincial/territorial regulations and public health guidelines and recommendations relating to COVID-19. These guidelines and recommendations will continue to evolve as:

- a) public health experts learn more about the virus and its variants of concern;
- b) rapid reliable asymptomatic testing tools become available;
- c) the vaccine rollout is completed;
- d) infection rates rise or fall; and
- e) re-opening policies and practices are developed.

Regional Councils may wish to consider hosting virtual education sessions, conducted by a public health expert, to educate their communities about the merits of accepting which ever vaccine is offered and to answer questions of those who may be hesitant.