
Guidance for CASA / GAL Programs



COVID-19 VACCINATION CONSIDERATIONS

We are providing guidance on a number of program and volunteer functions in light of the coronavirus (COVID – 19). This document discusses the impact of COVID-19 vaccinations on working with volunteers, children and families, and staff. This document present general considerations and does not convey legal advice for any particular individual or organization.

PROGRAMS SHOULD ALWAYS FOLLOW LOCAL AND STATE GUIDELINES REGARDING STAY AT HOME AND SHELTER IN PLACE ORDERS.

COVID-19 Vaccination Basics. For foundational information about the COVID-19 vaccination refer to materials put out by Johns Hopkins Medicine ([English](#), [Spanish](#)), and [U.S. Chamber of Commerce](#). The U.S. Centers for Disease Control's COVID-19 vaccine discussion guide ([English](#), [Spanish](#), [Chinese](#), [Vietnamese](#), [Korean](#)) provides pointers on having constructive conversations about COVID-19 vaccinations.

Employment Law Considerations. In December 2020, the U.S. Equal Employment Opportunity Commission updated its [COVID-19 guidance](#) to address issues relating to vaccination, including mandates and incentives. The U.S. Chamber of Commerce led business groups in sending a [letter](#) to the EEOC requesting clarification on legal issues relating to offering incentives to employees to obtain the vaccination, but the EEOC did not respond and it does not seem likely that it will.

Rather than providing incentives to employees for them to get the vaccination, [some](#) have suggested trying other motivation and encouragement tactics.

In-Person Child Visits. The availability of the COVID-19 vaccination has prompted new discussions about what activities may resume and what should remain off limits. CASA/GAL programs continue to face difficult choices about how to balance the need to communicate with and support the children they serve with taking appropriate steps to ensure the health and safety of everyone involved.

Programs should consider the following points in deciding whether and how to conduct in-person visits.

Standards

The 2020 Standards for Local CASA/GAL Programs, like the 2012 Standards, require that each volunteer meet in-person with the child once every 30 days at a minimum. (Standard 8.F.5.g. of both the Non-profit and Publically Administered versions.) However, the 2020 Standards, like the 2012 Standards, allow for exceptions to that requirement. Namely, each program should have a written exception policy in place and document and retain those exceptions “in the program’s case record as to the justification for and reasonableness of the exception.” Depending on the structure of the local program, the written documentation of the exception could take a variety of forms. Examples of acceptable

documentation include an order from the government agency housing a publicly-administered CASA/GAL program or a motion approved by the board of a non-profit CASA/GAL program.

National CASA/GAL has not issued a blanket exception to the requirement for in-person child visits during COVID-19. Each program will make the determination to grant the exception – or not – based on the circumstances in its own area, taking into account factors like the public health situation, government orders, and the positions of the court and child welfare agency with respect to visits. Some programs will balance the safety interests with the benefits of in-person visits and decide not to permit in-person visits. In particular, low uptake of vaccinations and continuing high rates of infection in a particular community or government orders restricting in-person contact would rule out in-person visits. Another program might decide to permit in-person visits, at least in cases where the volunteer has received the vaccination and all participants in the visit agree to certain safety precautions. Once the exigent circumstances of the pandemic pass (hopefully soon, but we do not know when that will happen), COVID-19 will no longer provide a justification for excusing advocates from making in-person visits.

Liability Questions

In deciding whether to permit and how to approach in-person visits, CASA/GAL programs will want to consider the liability they might face from a COVID-19 infection that arises from the visits. The liability assessment will depend on the particular situation of each program. For example, some states (e.g., [Alabama](#), [Arkansas](#), [Florida](#), [Georgia](#), [Idaho](#), [Indiana](#), [Iowa](#), [Louisiana](#), [Michigan](#), [Mississippi](#), [Montana](#), [Nevada](#), [North Carolina](#), [Oklahoma](#), [Ohio](#), [Tennessee](#), [Utah](#), [West Virginia](#), [Wisconsin](#), and [Wyoming](#)) have enacted legislation or executive orders limiting liability associated with COVID-19. Additionally, insurance policies might cover certain COVID-19 claims, but not others, and perhaps only if the program takes particular preventative steps.

National CASA/GAL does not require that programs have volunteers sign liability waivers and releases, but doing so can mitigate the risks associated with the volunteer's role, particularly during the COVID-19 pandemic. At the request of programs, National CASA/GAL has prepared a template release, available in the [Reopening Resources \(Operational Considerations\)](#) section of the Member Portal. If CASA/GAL programs opt to use a volunteer release, they do not need to use this specific form, but they may use it as is or edit it to meet their needs. While a liability waiver and release can mitigate risk, it works best as one component of volunteer readiness. Thoughtful safety protocols and clear communications with volunteers about the risks inherent in the role and ways they can protect themselves and others will enable a successful volunteer risk mitigation strategy.

Volunteer Vaccine Mandates

Before requiring vaccination of volunteers, programs should consider the following issues: (1) vaccine passport bans, (2) discrimination claims, and (3) special requirements for public agencies.

- First, certain states, including [Florida](#) and [Texas](#) have issued bans on vaccine passports, meaning that state agencies or businesses that receive public funds cannot demand to see proof of vaccination. The Florida and Texas executive orders do not prohibit an organization from asking patrons (or volunteers) to certify that they have gotten the COVID-19 vaccine, only from requiring proof of vaccination.
- Second, an organization could face a discrimination claim arising from a vaccine mandate. While non-profit organizations do not have the same non-discrimination obligations to volunteers as they would to employees, their funders may impose non-discrimination requirements that extend to volunteers. A discrimination claim may come through legal action, although volunteers would have

questionable grounds for such a claim. A volunteer could also take to social media or the press to complain about the program. The discrimination claim could take two different forms.

- First, if a vaccine mandate results in excluding certain people who all share a characteristic other than vaccine status (such as gender, race, religion, disability, or sexual orientation). In this case, the excluded individuals could argue that the organization imposed the vaccine requirement as a proxy for the characteristic shared by those excluded from the organization.
- Second, a discrimination claim may also arise if the organization applies the vaccine mandate inconsistently. If the organization only asks some people about their vaccination status, but not others, that may demonstrate a desire to include certain individuals and exclude others.
- Third, public agencies have additional legal obligations for non-discrimination and public health and safety. The United States Supreme Court has taken an active role striking down COVID-19 restrictions that it viewed as burdening religious expression. As a full analysis of these issues exceeds the scope of this guidance, counsel for publicly administered programs should consider the legality of each program's proposed volunteer vaccine mandate.

Preparing for Visits

Engaging volunteers and staff in the decisions about in-person visits will likely lead to better adoption of whatever approach is taken by the CASA/GAL program. Volunteers uncomfortable with in-person visits may leave the program if required to meet in person before they feel ready.

If the program decides to move forward with in-person visits, programs might consider taking the following steps to increase comfort with in-person visits:

- Joint development with the child welfare agency of written protocols that set expectations for all people involved with in-person visits
- Joint training sessions facilitated or led by the CASA/GAL program and the child welfare agency prior to in-person visits, addressing the following topics:
 - Safety expectations (e.g., masks and social distancing)
 - Communications best practices
- De-brief with the advocate after the session to review the following points:
 - how the visit went overall
 - whether everyone followed the safety protocols
 - whether the advocate recommends any changes to the safety protocols