

# Supreme Court Blocks Federal Vaccination Mandate for Private Employers

On January 13, 2022, the United States Supreme Court issued two key rulings regarding federal vaccination mandates. In a 6-3 decision, the Court blocked the United States Department of Labor's Occupational Safety and Health Administration's (OSHA's) emergency temporary standard which would have required employers with 100 or more employees to implement a COVID-19 vaccination policy. The OSHA standard, which was published in November, would have required covered employers to: (1) mandate COVID-19 vaccination for all workers (with limited exceptions), or (2) require workers either to vaccinate or, if unvaccinated or partially vaccinated, to test for COVID-19 weekly and wear a face covering in the workplace. Following the Court's ruling, employers are no longer obligated to implement these mandates. Under federal law, private employers may still lawfully implement their own testing or vaccination mandates, so long as they allow for medical and religious exemptions. Before they do so, however, employers should ensure compliance with any state or local laws. For example, some states and municipalities have their own requirements that certain employers require vaccinations, whereas some states have outlawed employer vaccination mandates.

In its second decision, the Supreme Court upheld the vaccination mandate for employees of hospitals, nursing homes, and other facilities that receive federal Medicare and Medicaid payments. These health care facilities must: (1) by January 27, require any staff without a pending or granted religious or medical exemption to have at least one dose of a COVID-19 vaccination, and (2) by February 28, require all staff who have not been granted an exemption to be fully vaccinated (one dose of Johnson & Johnson or two doses of Pfizer or Moderna).

In addition, the Biden administration's vaccine mandate for federal contractors has been challenged in multiple United States Circuit Courts of Appeal. While these appeals are pending, enforcement of this mandate has been stayed. Based on the current schedules in these appeals, federal contractors may not know the fate of this mandate until March or April.

**If you have questions regarding these developments, or if you would like assistance crafting a vaccine or testing policy for your company, please contact Alison Reif or Lyndsey Kruzer of the Labor & Employment team.**

## Labor & Employment Team

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