

# **GOP governors threaten to sue over mandates; Biden says, 'have at it'**

Republican leaders are blasting President Biden's sweeping new coronavirus vaccine mandates for businesses and federal workers, decrying them as unconstitutional infringements on personal liberties and promising to sue.

## **Biden disappointed in GOP governors' 'cavalier' attitudes toward kids**

Biden [took not-so-thinly-veiled swipes at Republican politicians](#) in his address Thursday outlining his plan to mandate immunization for federal employees and contractors, as well as health-care workers in facilities that treat patients on Medicare or Medicaid. Biden aims to require businesses with more than 100 employees to mandate vaccinations or test their employees weekly.

[Millions of workers, businesses to face Biden's new coronavirus vaccine and testing rules](#)

Republican governors from [Texas](#) to [Missouri](#) and [Georgia](#) threatened to fight back. Texas Gov. Greg Abbott called the mandates "an assault on private businesses" and said the state is "already working to halt this power grab."

## **Biden outlines his plan to increase covid-19 vaccination rates**

Wyoming Gov. [Mark Gordon \(R\)](#) [said](#) he asked his state's attorney general "to stand prepared to take all actions to oppose this administration's unconstitutional overreach of executive power," and South Dakota Gov. [Kristi L. Noem \(R\)](#) [said](#) "see you in court." Gov. Brian Kemp (R) [pledged to](#) "pursue every legal option available to the state of Georgia to stop this blatantly unlawful overreach by the Biden

administration."

Republican National Committee Chairwoman [Ronna McDaniel](#) described the new measures as "unconstitutional" and said the group "will sue the administration to protect Americans and their liberties."

It wasn't immediately clear how those lawsuits would unfold. "Our lawyers are reviewing President Biden's plans," Ian Fury, Noem's communications director, said in an email to The Washington Post. "The President's statement yesterday raises serious questions about the legality of his approach. We plan to file our lawsuit when the Biden Administration's rules or executive orders are finally unveiled and will address the specifics of these unprecedented mandates in our brief to the court."

Biden on Friday expressed deep frustration and disappointment with Republican governors who he argued have looked to politics more than science when responding to the issue of vaccines and masks in the country's schools.

"I am so disappointed that particularly some Republican governors have been so cavalier with the health of these kids, so cavalier with the health of their communities," [he said after touring a D.C. school](#). "This is what this is. We're playing for real here. This isn't a game. And I don't know of any scientist out there in this field that doesn't think it makes

considerable sense to do the six things I've suggested."

Asked about the GOP counter-effort, Biden said Friday, "Have at it."

Even as vaccine mandates become the latest flash point in the coronavirus culture wars, the Supreme Court has ruled in favor of them before.

In the lead-up to a 1905 case, a man named Henning Jacobson refused to get vaccinated against smallpox during an outbreak of the disease and after the health board of Cambridge, Mass., ordered residents to get vaccinated. He was fined and charged under Massachusetts law. He pleaded "not guilty" and argued the mandate violated his constitutional rights. The Supreme Court, in [\*Jacobson v. Massachusetts\*](#), ruled that wasn't the case.

In 1922, the Supreme Court ruled in favor of a school district that excluded a student who refused vaccinations, in [\*Zucht v. King\*](#).

Jamal Greene, an expert on constitutional law at Columbia Law School, points out that Biden's vaccine mandate is less restrictive than the one Massachusetts put in place in 1905, in that U.S. workers who are not vaccinated can instead get tested weekly.

[What legal ground do Republican governors have to push](#)

## [back on vaccine mandates?](#)

However, “the new Supreme Court majority evidently disfavors and may be primed to limit — or even overturn” these precedents, [according to a post on Lawfare by](#) Lindsay F. Wiley, a professor of law at the American University Washington College of Law, and Steve Vladeck, a professor of law at the University of Texas School of Law.

“Moreover, some coronavirus vaccination laws differ in significant ways from the typical vaccination requirements previously upheld by courts,” they write.

Still, they argue that “carefully crafted coronavirus vaccination laws, with appropriate exemptions and penalties, are likely to survive constitutional challenges.”

Meanwhile, many Democratic leaders took to social media to praise the president’s announcements and point out the effectiveness and protection that immunization offers. Oregon Gov. Kate Brown (D) tweeted that the new measures would set the United States “on the path out of this pandemic.”

Biden, for his part, seemed unconcerned about escalating political tensions. “A distinct minority of Americans — supported by a distinct minority of elected officials — are keeping us from turning the corner,” he said. “These

pandemic politics ... are making people sick, causing unvaccinated people to die. ... If these governors won't help us beat the pandemic, I'll use my power as president to get them out of the way."

[Republicans risk becoming face of delta surge as key GOP governors oppose anti-covid measures](#)

*Eugene Scott contributed to this report.*