

Federal Vaccine Mandate Faces Lawsuit

BLOG POST

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Arizona files legal challenge alleging President Biden's vaccine mandate is unconstitutional

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As expected, the federal vaccine mandate faces a lawsuit.

Ever since President Joe Biden's announcement on Sept. 9, 2021, that he would be implementing a vaccine mandate on private employers with 100 or more workers, there have been rumblings from different corners of the country about challenges to Biden's order.

Now, that has come to fruition, with Arizona bringing the first legal challenge.

[**COVID-19 Vaccine Mandate: What Employers Need to Know**](#)

Arizona Lawsuit Against Vaccine Mandate

Biden asked the Occupational Safety and Health Administration (OSHA) to issue an Emergency Temporary Standard regarding the vaccine mandate as soon as possible, though the details have yet to be released as of this writing.

Still, on Sept. 14, 2021, [Arizona's attorney general](#) filed a lawsuit alleging that Biden's approach is an unconstitutional policy favoring migrants entering the U.S. over actual U.S. citizens, violating the [Equal Protection Clause](#).

Arizona, which borders Mexico, has been challenged with migrants crossing the border in large numbers over the last several months. While vaccinations are offered to aliens apprehended entering the country, they are not required to be vaccinated — even if they are ultimately being released into the U.S.

Migrants are not bound by any federal vaccination requirement, yet Biden announced in his plan that all private employers with 100 or more workers impose a vaccination mandate on their employees, that all federal employees and contractors receive the COVID-19 vaccine, and that all health care providers receive the vaccine.

The lawsuit further alleges that Biden's actions violate the rights of citizens to bodily integrity, violate principles of federalism by exercising a general police power reserved solely to the states under the 10th Amendment, and has unconstitutionally subverted Congress's authority by exercising legislative powers by bypassing Congress and directing OSHA to draft the Emergency Temporary Standard.

What's an Employer to Do?

OSHA hasn't released the Emergency Temporary Standard yet and employers don't have any of the details of the law.

However, employers may implement company vaccine mandates without Biden's mandate in place if they are so interested. The [Federal Drug Administration's full approval of the Pfizer vaccine in August](#) provides employers further support should they implement a vaccine mandate for their workers.

Any employer moving toward mandating vaccines should have a plan in place to comply with accommodation requests from employees who have a medical or religious objection to being vaccinated.

Other employers may prefer to take a wait and see approach. It would be expected that employers will have some time to comply with the law once it is drafted and approved.

To be sure, this will be an interesting case to watch as it unfolds in the courts.

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