



JANUARY 13, 2022 UPDATE: COVID-19 VACCINE REQUIREMENTS

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On January 13, 2022 the United States Supreme Court issued an [opinion](#) reinstating the stay against the implementation of OSHA's "COVID-19 Vaccination and Testing" Mandate pending the outcome of the cases challenging the Mandate.

This means that Districts do not need to take any action with respect to this OSHA Mandate at this time.

It is worth noting that, in the Supreme Court's opinion, the challenges to the Mandate "are likely to prevail." It should also be noted that Arizona had not yet implemented the Mandate for employers in Arizona, and with today's ruling it is very unlikely that Arizona plans to impose its own vaccine-or-test mandate.

On November 5, 2021, the Occupational Safety and Health Administration ("OSHA") issued an Emergency Temporary Standard ("ETS" or "Mandate") imposing vaccination, testing, and masking requirements on employers with at least 100 employees. Multiple states, businesses and nonprofits around the U.S. immediately filed lawsuits challenging the Mandate.

On November 6, 2021, the 5th Circuit U.S. Court of Appeals stayed the Mandate. Thereafter, all cases throughout the country were consolidated into the 6th U.S. Circuit Court of Appeals.

On December 17, 2021, the 6th Circuit lifted the stay, resulting in a January 10, 2022 vaccine compliance deadline and a February 9, 2022 testing compliance deadline.

The 6th Circuit's lift of the stay was promptly challenged in the U.S. Supreme Court and oral arguments were scheduled to be held. On January 7, 2022 the oral arguments were heard and in a 6-3 decision on January 13, 2022, the Supreme Court reinstated the stay, ordering:

Many States, businesses, and nonprofit organizations challenged OSHA's rule in Courts of Appeals across the country. The Fifth Circuit initially entered a stay. But when the cases were consolidated before the Sixth Circuit, that



court lifted the stay and allowed OSHA’s rule to take effect. Applicants now seek emergency relief from this Court, arguing that OSHA’s mandate exceeds its statutory authority and is otherwise unlawful. Agreeing that applicants are likely to prevail, we grant their applications and stay the rule.

...
OSHA’s COVID–19 Vaccination and Testing; Emergency Temporary Standard, 86 Fed. Reg. 61402, is stayed pending disposition of the applicants’ petitions for review in the United States Court of Appeals for the Sixth Circuit and disposition of the applicants’ petitions for writs of certiorari, if such writs are timely sought. Should the petitions for writs of certiorari be denied, this order shall terminate automatically. In the event the petitions for writs of certiorari are granted, the order shall terminate upon the sending down of the judgment of this Court.

The Mandate will not apply to School Districts *unless* the Mandate is ultimately upheld in the 6th Circuit Court of Appeals *and* the Arizona Department of Occupational Safety and Health (“ADOSH”) then amends Arizona’s State OSHA plan in a manner that imposes the Mandate’s rules and applies them to public employers including schools.

Again, districts do not need to take any action on the OSHA Mandate at this time.

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