

President Biden's Workplace Vaccine Mandates Highlights

Path out of the Pandemic

President Biden's six-pronged strategy to combat COVID-19 includes:

- Vaccine mandates for federal contractors and many healthcare workers;
- Requires all employers with 100 or more employees to ensure their employees are vaccinated or tested weekly;
- Requires employers to provide paid time off to get vaccinated and recover post-vaccination.

Vaccine Mandate

- Biden's plan involves OSHA issuing a rule on vaccines and testing that will apply to all private employers with 100 or more employees.
- Rule will take the form of an Emergency Temporary Standard.
- Covered employers who do not comply with the rule could face OSHA citations and penalties up to \$14,000 per violation.

Unanswered Questions

- Will remote employees be covered?
 - According to comments from OSHA
 - The ETS will not apply to employees who "never" come to work.
 - But, if the employee ever comes to work, or works outside of the office with others, they will be covered.
- How will the 100-employee threshold be counted?
 - While not clear in President Biden's announcement, OSHA officials have suggested the threshold will likely be total number of employees, rather than employees at each worksite.

- Will employers be required to collect proof of vaccination?
 - It is unclear at this time.
 - Consider record retention requirements: OSHA requires record retention for length of employment +30 years.
 - Could have significant recordkeeping implications if required.

What To Be Thinking About

- Adopt procedures for determining employees' vaccination status
- Determine if you will mandate the vaccine or allow unvaccinated employees to be tested weekly.
- Develop a plan for tracking test results.
- Develop a plan for addressing non-compliance by employees.
- Develop a plan for handling accommodation requests.
- Prepare for OSHA complaints and inspections.

