

COVID-19



UPDATE: COURT TEMPORARILY HALTS FEDERAL CONTRACTOR VACCINE MANDATE NATIONWIDE

December 7, 2021

By: Boyd A. Byers and Morgan E. Geffre

Foulston has produced a series of issue alerts as we continue to monitor the evolving COVID-19 situation and provide additional guidance. Please find all updates and our latest resources available [here](#).

On Tuesday, December 7, 2021, the U.S. District Court for the Southern District of Georgia issued a preliminary injunction halting the enforcement of the COVID-19 vaccine mandate for federal contractors and subcontractors in all covered contracts nationwide. Though the lawsuit only included Georgia, Alabama, Idaho, Kansas, South Carolina, Utah, and West Virginia, the court issued the injunction “with nationwide applicability.” This order follows last week’s preliminary injunction by the U.S. District Court for the Eastern District of Kentucky to halt the mandate in Kentucky, Tennessee, and Ohio.

The Court’s order was based on its determination that the “Plaintiffs will likely succeed in their claim that the President exceeded the authorization given to him by Congress through the Federal Property and Administrative Services Act when issuing Executive Order 14042.” Under Executive Order 14042, certain government contracts were to include a clause stating that the contractor and subcontractor (at any tier) must comply with all guidance published by the Safer Federal Workforce Task Force. The updated Task Force guidance imposed a deadline for covered contractor employees to be fully vaccinated, unless legally entitled to an accommodation, by January 18, 2022.

This ruling follows nationwide stays to the implementation and enforcement of the Biden Administration’s two other key vaccine mandates: the Occupational Safety and Health Administration (OSHA) Emergency Temporary Standard (ETS) and the Centers for Medicare and Medicaid Services (CMS) Omnibus COVID-19 Healthcare Staff Vaccination Interim Final Rule.

All three of these injunctions remain in effect until further court order, though they are not yet permanent and do not address the final merits of the mandates. Employers should continue to monitor legal developments and consider continuing to take steps to be ready to come into compliance with the applicable vaccine mandates, should a court

FOULSTON

ATTORNEYS AT LAW

dissolve any of the injunctions.

FOR MORE INFORMATION

If you have questions or want more information regarding the temporary stay of the vaccine mandate, contact your legal counsel. If you do not have regular counsel for such matters, Foulston Siefkin LLP would welcome the opportunity to work with you to meet your specific business needs. For more information, contact **Boyd Byers** at 316.291.9716 or bbyers@foulston.com or **Morgan Geffre** at 316.291.9577 or mgeffre@foulston.com. For more information on the firm, please visit our website at www.foulston.com.

Established in 1919, Foulston is the largest Kansas-based law firm. With offices in Wichita, Kansas City, and Topeka, Foulston provides a full range of legal services to clients in the areas of administrative & regulatory; antitrust & trade regulation; appellate law; banking & financial services; business & corporate; construction; creditors' rights & bankruptcy; e-commerce; education & public entity; elder law; emerging small business; employee benefits & ERISA; employment & labor; energy; environmental; ERISA litigation; estate planning & probate; family business enterprise; franchise & distribution; government investigations & white collar defense; governmental liability; government relations & public policy; healthcare; immigration; insurance regulatory; intellectual property; litigation & disputes; long-term care; mediation/dispute resolution; mergers & acquisitions; Native American law; oil, gas & minerals; OSHA; privacy & data security; private equity & venture capital; product liability; professional malpractice; real estate; securities & corporate finance; supply chain management; tax exempt organizations; taxation; trade secret & noncompete litigation; water rights; and wind & solar energy.

RESOURCES

Sign up to receive these issue alerts straight to your inbox [here](#).

This update has been prepared by Foulston Siefkin LLP for informational purposes only. It is not a legal opinion; it does not provide legal advice for any purpose; and it neither creates nor constitutes evidence of an attorney-client relationship.

PRACTICE AREAS

- Employment & Labor
- OSHA