



DOL Investigating Legality of Vaccine Mandates, WA and Denver Mandate Vaccines on Certain Private Employers

While courts have thus far backed a hospital and a university having vaccine mandates (with legally required accommodations that don't create undue hardship), private employers have been watching carefully to determine where the line might be drawn for other employers. The EEOC has said it's federally acceptable under equal employment opportunity (EEO) laws but has warned many times their jurisdiction does not cover other federal laws or state/local laws. The Department of Justice issued a [memorandum](#) agreeing that employers should be able to mandate vaccines which only have emergency use authorization (EUA) approval, but the memorandum does not carry the force of law, is not binding on the courts, and doesn't speak to other federal or state/local concerns.

On Monday, August 9, 2021, the Biden administration [announced](#) it's looking into the legality of vaccine mandates among private employers. "We are looking at that just to see how far employers can go when it comes to vaccines and asking their employees to be vaccinated," U.S. Labor Secretary Marty Walsh told Reuters. "It's on the radar."

The federal government itself is requiring employees and contractors to either be vaccinated or tested weekly, with the employer paying for mandatory testing. Littler has been maintaining a [list](#) of state-wide vaccine mandates, which was recently updated with Washington state [announcing](#) vaccine mandates on private employers in health care and long-term care.

In addition, some municipalities are implementing their own vaccine mandates, such as Denver [announcing](#) a mandate which includes "workers in congregate-care settings such as nursing homes, shelters for people experiencing homelessness, hospitals, and correctional facilities, as well as teachers and staff in schools and post-secondary institutions." For these private employers in targeted industries, an [employer toolkit](#) has been provided to help with employee communications.

IMA will continue to monitor regulator guidance and offer meaningful, practical, timely information.

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