

September 2021

Client Advisory

President Biden Requires Private Employers Mandate COVID-19 Vaccine or Weekly Testing

On Thursday, September 9, 2021, President Biden announced that he is instructing the United States Department of Labor (“USDOL”), specifically OSHA, to issue emergency rules requiring all employers with more than 100 employees to mandate the COVID-19 vaccine or require weekly testing. OSHA has publicly stated that this requirement will affect 80 million workers in the private sector.

The emergency rules from OSHA and the USDOL are anticipated to include a requirement that these private employers offer paid time off for obtaining the vaccine and for recovering from side effects.

Additionally, federal employees, employees of US contractors, and health care workers at facilities receiving federal Medicare or Medicaid will be required to be fully vaccinated. On Thursday, President Biden signed an [Executive Order](#) requiring federal executive agencies to implement programs outlining such a requirement. The Executive Order also requires the Safer Federal Workforce Task Force (established by Executive Order 13991), within seven days, to issue guidance for these agencies to issue such programs with this mandate.

Previously, federal employees had the option to undergo various safety precautions, including testing, if they chose to not vaccinate. Exceptions for medical conditions and religion appear to remain intact. The enforceability of this measure remains to be seen.

Employers affected by these announcements should be on the watch for the rules anticipated from OSHA, the USDOL, and from the various federal agencies, as well as the guidance from the Safer Federal Workforce Task Force.

If you are an employer in one of these categories announced by President Biden, you may contact Archer’s [Labor and Employment Group](#) for guidance on vaccine mandates. Please contact [Peter Frattarelli](#) at 856-354-3012 or pfrattarelli@archerlaw.com, or [Ashley LeBrun](#) at 201-498-8533 or alebrun@archerlaw.com.

DISCLAIMER: This client advisory is for general information purposes only. It does not constitute legal or tax advice, and may not be used and relied upon as a substitute for legal or tax advice regarding a specific issue or problem. Advice should be obtained from a qualified attorney or tax practitioner licensed to practice in the jurisdiction where that advice is sought.