

Federal Contractor Vaccine Mandate: Federal Appeals Court Says Its Unlawful But You Might Have to Comply Anyway

September 2, 2022 – Dorsey Health Law

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Lately, litigation news related to public and private workplace COVID-19 vaccine mandates has quieted. That changed last Friday, when the Eleventh Circuit Court of Appeals narrowed a nationwide injunction against the Biden Administration's federal contractor vaccination mandate (the "GovCon Vax Mandate"). Because the Court concluded that the GovCon Vax Mandate was likely an unlawful exercise of authority, it kept in place a lower court preliminary injunction against enforcement of the mandate. But, the decision reversed the lower court's *nationwide* injunction, substantially narrowing the injunction's affect. That means federal contractors that were not parties to the Eleventh Circuit litigation are potentially *subject* to the GovCon Vax Mandate. For those contractors, the focus now turns back to the federal government—and whether the Biden Administration will start to enforce the mandate piecemeal. The Safer Federal Workforce Task Force issued the GovCon Vax Mandate. As of this eUpdate, the Task Force's website still indicates that, in light of various court orders and preliminary injunctions, the Government will take no action to enforce the GovCon Vax Mandate. Whether that will change in light of the Eleventh Circuit's decision remains unknown, creating significant operational uncertainty for organizations with federal contracts or subcontracts.

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