



OSHA RULE FOR PRIVATE EMPLOYER VACCINE MANDATE ANNOUNCED

Today the White House announced that OSHA released its Emergency Temporary Standard (“ETS”) implementing the COVID-19 vaccination mandate for private employers with 100 or more employees. Although more details of the ETS will be reviewed and discussed, below is a list of the key provisions released by the White House today:

What we know about the private employer vaccine mandate

- All unvaccinated workers must begin wearing masks on December 5, 2021
- All unvaccinated workers must begin producing a negative COVID-19 test result on a weekly basis beginning January 4, 2022
- Employers are not required to pay for or provide tests unless regulated by state law or a collective bargaining agreement
- Federal Contractor Mandate has been pushed from December 8, 2021 to January 4, 2022
- The White House announced planned enforcement inspections with fines starting at \$14,000.00 and higher for willful violations
- The Center for Medicare Services also announced a rule issuing a vaccine mandate with no weekly testing option but allowing for medical and religious exemptions

What we do NOT know about the private employer vaccine mandate

- The portion of the ETS providing that employers do not have to pay for tests may conflict with Wage and Hour regulations requiring employers to pay employees for time needed to get work-mandated examinations. We will need further guidance on the issue but employers seeking to mitigate possible liability should consider compensating for time spent complying with the testing mandate or providing testing at the work site
- Multiple states and business organizations have stated that they intend to file legal challenges to the ETS, and we will watch for those developments

We will keep you updated as we receive more information about the OSHA ETS. If you have any questions in the interim, please contact ELDI Founder Kimberly L. Russell, Esquire at krussell@kaplaw.com or (610) 941-2541.

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THE NEW VACCINE MANDATE***