

# COVID-19 Task Force Issues FAQs on Vaccine Mandate for Federal Workers

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**F**ederal employees—including remote workers—will need to be fully vaccinated against the coronavirus by Nov. 22, according to recently released FAQs (<https://www.saferfederalworkforce.gov/faq/vaccinations/>) from the Safer Federal Workforce Task Force.

The FAQs address President Joe Biden's executive order requiring federal employees and contractors to be vaccinated ([www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/federal-vaccine-mandate.aspx](http://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/federal-vaccine-mandate.aspx)) against the coronavirus. "President Biden's executive order requires that federal workers and contractors get vaccinated. Period. They will not have the option to test weekly as an alternative to the vaccine," noted Stephanie Gaston, an attorney with Bradley Arant Boult Cummings in Houston.

The mandate covers remote workers, unless they fall under an exemption, according to the FAQs. "To protect the health and safety of the federal workforce and to promote the efficiency of the civil service, all federal employees covered by Executive Order 14043 (<https://www.federalregister.gov/documents/2021/09/14/2021-19927/requiring-coronavirus-disease-2019-vaccination-for-federal-employees>) and without a legally required exception need to be fully vaccinated (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html>) by November 22, 2021, regardless of where they are working," the task force said. "Employees who are on maximum telework or working remotely are not excused from this requirement."

The task force noted that employees who work offsite may interact with the public as part of their duties, or they may need to be recalled from remote work.

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COVID-19 Vaccination Resources ([www.shrm.org/hr-today/news/hr-news/Pages/COVID-19-Vaccination-Resources.aspx](http://www.shrm.org/hr-today/news/hr-news/Pages/COVID-19-Vaccination-Resources.aspx))

## Start Planning Now

"The Biden administration's mandate comes as private employers and government agencies are trying to bring workers back to the physical workplace, even as infection and hospitalization rates are on the rise across the country, due largely to the spread of the COVID-19 delta variant," said Patricia Anderson Pryor, an attorney with Jackson Lewis in Cincinnati, and Leslie Stout-Tabackman, an attorney with Jackson Lewis in Washington, D.C., in a joint statement.

Compliance will take some planning. Under the FAQs, federal employees must receive the final dose of an authorized vaccine in enough time to be considered "fully vaccinated" by Nov. 22.

"Fully vaccinated" means two weeks have passed since someone received a single-shot vaccine or the second dose of a two-shot vaccine, so the last dose must be administered by Nov. 8.

The two-dose Pfizer-BioNTech shots are generally administered three weeks apart, so workers will need to get their first shot by Oct. 18. Doses of the Moderna vaccine are given four weeks apart, so the first dose is needed by Oct. 11. Covered workers have until Nov. 8 to get the single-dose Johnson & Johnson vaccine.

The task force cautioned that availability is limited in some locations, so workers may not be able to get the vaccine of their choice. "Agencies should encourage employees to plan ahead and allow enough time to receive all required vaccine doses before the Nov. 8 deadline to have their second shot," the task force said.

New hires who start on Nov. 22 or later must be fully vaccinated when their employment begins unless an accommodation is legally required. Limited exceptions may also be available if an agency has an "urgent, mission-critical" hiring need.

### **Federal Contractor Compliance**

"Most federal contractors—regardless of whether they have employees working on federal property—will soon be required to follow new vaccine mandate requirements," said Cheryl Behymer, an attorney with Fisher Phillips in Columbia, S.C., and Hannah Sweiss, an attorney with Fisher Phillips in Los Angeles, in a joint statement. Contracts with pending solicitations and those entered into on or after Oct. 15 will be covered by the new mandate.

For now, the Safer Federal Workforce Task Force said federal agencies should ask about the vaccination status of onsite contractor employees. "Prior to contractor employees being subject to a contractual requirement to be vaccinated, agencies need to ask about the vaccination status of those onsite contractor employees."

Contractors will need to "attest to the truthfulness of the response they provide," and if they choose not to respond, they will be treated as though they are not fully vaccinated.

The task force reminded federal agencies that they still must comply with applicable federal laws—including privacy and collective bargaining obligations—when requesting vaccination information.

Prior to the vaccine mandate's effective date, onsite contractors who are not fully vaccinated must show proof of a negative COVID-19 test taken no more than three days before entering a federal building.

"Prior to being subject to a contractual requirement to be vaccinated, onsite contractor employees should be provided with the Certification of Vaccination form (<https://www.saferfederalworkforce.gov/downloads/CertificationVaccinationPRAv7.pdf>) when they enter a federal building or federally controlled indoor worksite," according to the FAQs.

*[SHRM members-only Q&A: New Vaccination Requirements for Employers ([www.shrm.org/ResourcesAndTools/tools-and-samples/hr-qa/Pages/What-do-the-mandatory-COVID-19-vaccination-requirements-under-the-Path-Out-of-the-Pandemic-plan-mean-for-employers.aspx](http://www.shrm.org/ResourcesAndTools/tools-and-samples/hr-qa/Pages/What-do-the-mandatory-COVID-19-vaccination-requirements-under-the-Path-Out-of-the-Pandemic-plan-mean-for-employers.aspx))]*

### **Reasonable Accommodations**

"Federal employees must be fully vaccinated other than in limited circumstances where the law requires an exception," the task force said.

Vaccine mandates must comply with federal anti-discrimination laws enforced by the Equal Employment Opportunity Commission. An employee with a religious objection or disability may need to be accommodated.

The task force said federal agencies should consider the following factors to determine whether an exception is legally required:

- The basis for the claim.
- The nature of the employee's job responsibilities.
- The reasonably foreseeable effects on the agency's operations, including protecting other agency employees and the public from COVID-19.

"Additional guidance on legally required exceptions will be forthcoming," the task force said.

### Requirements for Employers in the Private Sector

Businesses with at least 100 employees should note that they will soon be required to mandate that employees get vaccinated against the coronavirus or submit to weekly testing under Biden's Path Out of the Pandemic (<https://www.whitehouse.gov/covidplan/>) plan. However, employers are still waiting for the Occupational Safety and Health Administration to issue an emergency temporary standard ([www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/what-to-expect-from-osha-on-covid-19-vaccine-and-testing-rules.aspx](http://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/what-to-expect-from-osha-on-covid-19-vaccine-and-testing-rules.aspx)) (ETS).

Ashley Brightwell, an attorney with Alston & Bird in Atlanta, suggested that covered employers start encouraging all employees to get vaccinated to make compliance easier once the rule goes into effect.

"Although the timing of when the ETS requirement will go into effect is not clear, it will likely not be a long wait," said Keith Wilkes, an attorney with Hall Estill in Tulsa, Okla. The rule is expected to impact more than 80 million private-sector workers.

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