

Vaccine Mandate Litigation
Compiled by Will Aitchison
will@pslglawyers.com

Total Cases	Mandate Upheld	Mandate Rejected
45	41	4

Cases where mandate rejected:

- * Employer/school had no religious exemption (2)
- Failure to comply with Louisiana statutes requiring exemptions for students filing “dissents” (1)
- * Employer failed to offer any evidence in support of mandate (1)

- * [contrary authority in table]

Case	Where	Claim	Employer/School Win?	Employee/Student Win?
<i>A. v. Hochul</i> (N.D.N.Y., Oct. 12, 2021, No. 1:21-CV-1009) 2021 WL 4734404	Federal Court, New York	Department of Health issued vaccine mandate without a religious exemption.		Court enjoins policy so long as policy does not have a religious exemption. Notes that “an appeal may very well be appropriate.”
<i>AFSCME v. Regents of the University of California</i> (Cal. PERB 2021)	California Public Emp. Relations Commission	Union claimed that both the decision and effects of a mandatory vaccination program were negotiable.	The decision to impose a mandatory vaccination program is not negotiable.	Various effects of a vaccination program are negotiable. Because employer did not seek an “emergency exception,” it must complete effects

<i>PERB Decision No. 2783-H.</i>				bargaining before implementation.
<i>America’s Frontline Doctors et al. v. Wilcox et al., No. 5:21-cv-01243 (C.D. Ca. July 26, 2021)</i>	Federal Court, California	Students sought temporary restraining order against university’s vaccine mandate, raising “bodily autonomy” and “state-created danger” arguments.	Court denied request for temporary restraining order. Ninth Circuit denied request for mandamus. Plaintiffs request for mandamus pending before Supreme Court.	
<i>Beckerich v. St. Elizabeth Medical Center, NO. 21-105-DLB-EBA, 2021 WL 4398027 (E.D. Ken. Sep. 24, 2021)</i>	Federal Court, Kentucky	Healthcare employees sought TRO, arguing constitutional claims and a “corrupt system” with a lack of ADA/religious reasonable accommodation.	Court dismissed constitutional claims as employer was not a governmental body. Court found that ADA/religious accommodation system was not “corrupt”, that employer had granted full exemptions or deferments for more than 75% of disability exemption requests, that no plaintiff had been denied a religious exemption (and 11 plaintiffs had received an exemption), and that employees had failed to provide proof of factual assertions.	
<i>Bridges et al. v. The Methodist Hospital et al., No. 4:21-CV-01774, 2021 WL 2221293 (Dist. Ct. S.D. Tex. June 1, 2021).</i>	Federal Court, Texas	116 employees of hospital challenged vaccine mandate, citing on FDA’s Emergency Use Authorization statutes.	Court found that EUA statutes did not bar an employer from having a vaccine mandate. Decision appealed to Fifth Circuit.	
<i>California Educators for Medical Freedom et al v. Los Angeles</i>	Federal Court, California	Teachers’ challenge to “vaccine or testing policy.”	Court dismissed case, finding that “or testing” element of policy meant there was no injury to the plaintiffs.	

<p><i>Unified School District et al., No. 21-CV-02388 (C.D. Cal. Mar. 17, 2021) 2021 WL 1034618</i></p>				
<p><i>C.B., Plaintiff, v. D.B., Defendant. (N.Y. Sup. Ct., Oct. 7, 2021) 2021 N.Y. Slip Op. 21268</i></p>	<p>State Court, New York</p>	<p>Can custodial mother condition visitation by non-custodial father on father’s vaccination?</p>	<p>“Throughout most of modern medical history, the advent of a vaccine was almost universally embraced as a means of protecting ourselves and our children from deadly or debilitating disease. In my lifetime, I need only think of how polio was eradicated in this country as a result of the vaccine first developed by Jonas Salk, with other diseases, such as measles, rubella, and diphtheria, having been similarly eliminated. Then came COVID-19. Fortunately, most people, heeding expert medical opinion, have availed themselves of vaccines that promise not only to protect them and others from the ravages of COVID-19, but ultimately to completely vanquish the virus. Unfortunately, and to my mind, incomprehensibly, a sizeable minority, seizing upon misinformation, conspiracy theories, and muddled notions of individual liberty, have refused all entreaties to be vaccinated.”</p> <p>“The danger of voluntarily remaining unvaccinated during access with a child while the COVID-19 virus remains a threat to children's health and safety cannot be</p>	

			understated. Although some children infected with the virus experience mild symptoms, others are subject to serious illness and long-term health effects.”	
<i>Children’s Health Defense v. Rutgers, The State University of New Jersey</i> , 2021 WL 4398743 (D.N.J. 2021)	Federal Court, New Jersey	Non-profit and others challenged Rutgers University’s vaccine mandate for students, seeking TRO and citing “rights to informed consent and to refuse unwanted medical treatment.”	“Given the severity and number of cases and deaths during the COVID-19 pandemic so far, there is a real and substantial relation between the Policy and the need to protect public health. . . . [A]s the <i>Jacobson</i> Court noted then, other states and countries in Europe have likewise enacted similar vaccine policies giving more legitimacy to the Policy at issue.”	
<i>Christian v. Hancock</i> , No. 2021CV33007 (Sep. 29, 2021)	State Court, Colorado	Employees of City and County of Denver sought injunctive relief against vaccine mandate.	Court dismissed lawsuit for failing to exhaust administrative remedies.	
<i>Cleary v. Inslee</i> , No. 21-2-04111-36 (Wash. Super. Ct. Oct. 19, 2021)	State Court, Washington	State employees challenged governor’s vaccine mandate, claiming separation of powers violation, due process, and privacy.	Court denied request for preliminary injunction. “Because the governor had the legal authority under the powers granted to the governor ... even if the individual plaintiffs show individual instances in which the proclamation and resulting actions may be unjust, the plaintiffs have not met their burden to show that it is unjust in all applications.”	
<i>Dixon v. De Blasio</i> (E.D.N.Y., Oct. 12, 2021, No. 21-CV-5090 (BMC)) 2021 WL 4750187	Federal Court, New York	Citizen challenge to New York City executive orders requiring vaccination to remain in public areas for prolonged periods of time, citing equal	“Plaintiffs’ equal protection claim fails because they have not shown that the [orders] target a protected class, are the result of animus, or are not rationally related to a legitimate government interest. . . To the extent that the EEOs disproportionately affect the African	

		protection and other claims.	American or Hispanic communities, this disparity can be remedied by those individuals getting vaccinated.” “The City has provided several such rational justifications for [the orders]. These include: the rise of the COVID-19 Delta variant, the potential for the disease to overwhelm healthcare infrastructure, and the increased prevalence of breakout cases. This Court has also recognized the validity of substantial state action given the severity of this crisis.”	
<i>In re: Civil Service Employees Association, No. 908328-21 (Oct. 19, 2021)</i>	State Court, New York	Union sought injunctive relief on bargaining issue pending PERB decision on whether mandatory vaccination program was negotiable.	Though TRO initially granted, court refused to issue a preliminary injunction and allowed the mandate to go into place.	
<i>Dahl v. Board of Trustees of Western Michigan University, 2021 WL 4618519 (6th Cir. Oct. 7 2021)</i>	Federal Court, Michigan	Students on soccer team challenged university’s refusal to allow religious exemptions from vaccination requirements. After TRO granted, university applied for stay of TRO pending appeal.		“Defendants, it bears noting, provided the district court with an affidavit stating that COVID-19 vaccines are ‘the most effective and reasonable way to guard against’ the virus. We do not dispute that assessment. But the question before us ‘is not whether the [University] has a compelling interest in enforcing its [vaccine] policies generally, but whether it has such an

				interest in denying an exception' to plaintiffs, and whether its conduct is narrowly tailored to achieve that interest. Defendants present neither evidence nor argument on that score. To the contrary, they contend only that their conduct survives rational basis review."
<i>Doe 1 et al. v Incyte Corporation, No. 2:21-CV-05956 (C.D. Cal. July 22, 2021)</i>	Federal Court, California	Employees challenged vaccine mandate on "bodily autonomy" grounds.	Case voluntarily dismissed by plaintiffs.	
<i>Fish and Wildlife Officers Guild v. State of Washington, No. 21-2-07684-1 (Wash. Super. Ct. Oct. 4, 2021)</i>	State Court, Washington	Wildlife Officers Guild sought TRO against Governor's vaccine mandate, citing obligation to bargain.	Court denies TRO, commenting from bench that "20 people are asking me to look out for their well-being and ignore the well-being of the rest of the state, and I am frankly unwilling to do that."	
<i>Fraternal Order of Police v. City of Chicago, #2021CH05276 (Ill. Cir. Ct. filed Oct. 14, 2021)</i>	State Court, Illinois	Unions request injunctive and declaratory relief seeking interest arbitration over decision and impacts of vaccine mandate. Related ULP filed as well.		
<i>Friend v. City of Gainesville, Case</i>	State Court, Florida	Employees sought temporary injunction		Court grants injunction: "The City did not put on any

<p>No. 01-2021-CA-2412 (Fla. Cir. Ct. Sep. 22, 2021)</p>		<p>against mandatory vaccination program on grounds program violated Florida’s right to privacy.</p>		<p>evidence, at all, at the injunction hearing. Without any evidence, the Court is unable to consider whether the Vaccine Mandate serves a compelling interest through the least restrictive means, whether the Vaccine Mandate meets a strict scrutiny test, a rational basis test, or whether it meets any other standard. The City did not file any affidavits or declarations, did not submit any documentary evidence, and did not call any witnesses. For the reasons set forth below, the Plaintiffs’ Emergency Petition for Injunctive Relief is GRANTED.”</p>
<p><i>Garfield v. Middle Tennessee State University et al.</i>, No. 3:21-cv-00613 (M.D. Tenn. Aug. 6, 2021)</p>	<p>Federal Court, Tennessee</p>	<p>Students sought temporary restraining order against University’s vaccine mandate, citing EUA statutes.</p>	<p>Court denied request for temporary restraining order.</p>	
<p><i>Harris v. University of Massachusetts, Lowell</i> (D. Mass., Aug. 27, 2021,</p>	<p>Federal Court, Massachusetts</p>	<p>Students filed due process and religion claims against university’s vaccine mandate.</p>	<p>Court grants university’s motion to dismiss, finding “Contrary to Plaintiffs’ assertion that the Vaccine Policy is arbitrary or not based in science, the Defendants based the decision upon both medical and scientific</p>	

<p>No. 21-CV-11244-DJC) 2021 WL 3848012</p>			<p>evidence and research and guidance, and thus is at least rationally related to these legitimate interests” and that “UMass is under no constitutional obligation to offer a religious exemption to its Vaccine Requirement.”</p>	
<p><i>Harsman v. Cincinnati Children’s Hospital Medical Center</i>, 2021 WL 4504245 (S.D. Ohio Sept. 30, 2021)</p>	<p>Federal Court, Ohio</p>	<p>Employees sought TRO against vaccine mandate, arguing “constitutional reasons” without citing specific sections of the Constitution.</p>	<p>“The Court has waded through the entire complaint, probing the seemingly insurmountable obstacles to Plaintiffs’ likelihood of success of any of their claims, but the Court need not have done so. As the law provides, ‘the district court and defendants should not have to fish a gold coin from a bucket of mud to identify the allegations really at issue.’”</p> <p>On the issue of irreparable injury, court holds “these Plaintiffs are choosing whether to comply with a condition of employment, or to deal with the potential consequences of that choice. Even if they believe the condition or the consequences are wrong, the law affords them an avenue of recourse—and that avenue is not injunctive relief on this record.”</p>	
<p><i>Hencey, et al. v. United Airlines, et al.</i>, 2021 WL 3634630 (S.D. Fla. Aug. 14, 2021)</p>	<p>Federal Court, Florida</p>	<p>Airline employees challenged employer’s vaccine mandate, seeking a temporary restraining order.</p>	<p>Court denied request for TRO, commenting “Plaintiffs have not filed a complaint, and the Motion itself reads like a shotgun pleading. Plaintiffs reference their rights under the Constitution and several federal statutes without explaining with any level of particularity their claims or how each Defendant has violated Plaintiffs’ rights.”</p>	

<p><i>Higley, et al. v. CA State University et al., No. 2:21-cv-01126-TLN-JDP (Dist. Ct. E.D. Cal. June 24, 2021).</i></p>	<p>Federal Court, California</p>	<p>Students challenged university mandate contending that the mandate posed a risk of death or serious illness. Main legal theory was 14th Amendment liberty “bodily autonomy” claim.</p>	<p>10 days after University filed a motion to dismiss, the plaintiffs voluntarily dismissed the lawsuit.</p>	
<p><u><i>In re City of Newark, Nos. 0146-21 and A-0159-21 (App. Div. Sep. 27, 2021).</i></u></p>	<p>State Court, New Jersey</p>	<p>Unions filed bargaining challenge to City’s implementation of a mandatory vaccination program.</p>	<p>Court rejects unions’ claims. “City employees have the right to get vaccinated and keep their jobs or decide that they do not want to work for the common good. . . The Unions have made no showing that they have a right to negotiate the implementation, timing, or enforcement of that mandate. Because the record supports a holding that the implementation and impact of the mandate are non-negotiable, the Unions have not shown a likelihood of success on the merits.”</p>	
<p><i>International Brotherhood of Teamsters, Local 743 v. Central States Southeast and Southwest Areas Health and Welfare and Pension Funds, No. 1:21-cv-03840 (N.D. Ill. Jul. 19, 2021)</i></p>	<p>Federal Court, Illinois</p>	<p>Union sought injunction and declaratory judgment that employer’s vaccine mandate violated its bargaining and arbitration rights, contending that employees “who do not wish to receive the vaccine hold good-faith, reasonable concerns about some aspect(s) of</p>	<p>Court denied motion for injunction.</p>	

		these novel vaccines, the long-term effects of which are not known and cannot be known.”		
<i>Jane Does 1-6 et al., v. Mills, No. 1:21-CV-00242-JDL (D. Me. Aug. 25, 2021)</i>	Federal Court, Maine	Healthcare workers sought temporary restraining order against state’s vaccine mandate, claiming violation of religious freedom and due process.	Court denied request for TRO.	
<i>Jane Does 1-6 v. Mills (D. Me., Oct. 13, 2021, No. 1:21-CV-00242-JDL) 2021 WL 4783626</i>	Federal Court, Maine	Healthcare workers and one healthcare provider sought preliminary injunction against vaccine mandate, arguing lack of religious exemption was First Amendment violation.	<p>“The COVID-19 vaccine mandate challenged here is facially neutral. Neither the applicable statute nor the Rule mention religion, even by implication. . . the COVID-19 vaccine mandate challenged here is facially neutral. Neither the applicable statute nor the Rule mention religion, even by implication. . . Here, the Rule does not compel the Plaintiffs to be vaccinated against their will, and the Plaintiffs have, in fact, freely exercised their religious beliefs by declining to be vaccinated. This is not to minimize the seriousness of the indirect consequences of the Plaintiffs’ refusal to be vaccinated, as it affects their employment. Nonetheless, the Rule has not prevented the Plaintiffs from staying true to their professed religious beliefs.”</p> <p>“The medical exemption at issue here was adopted to protect persons whose health may be jeopardized by receiving a COVID-19</p>	

			<p>vaccination. The exemption is rightly viewed as an essential facet of the vaccine's core purpose of protecting the health of patients and healthcare workers, including those who, for bona fide medical reasons, cannot be safely vaccinated. Because the medical exemption serves the core purpose of the COVID-19 vaccine mandate, it does not reflect a value judgment prioritizing a purely secular interest—such as the uniformity of appearance of uniformed officers considered in <i>Fraternal Order of Police</i>—over religious interests.”</p>	
<p><i>Johnson v. Brown, Case No. 3:21-cv-1494-SI (D. Or. Oct. 18, 2021)</i></p>	<p>Federal Court, Oregon</p>	<p>42 employees sought TRO blocking governor’s mandatory vaccination requirements, citing Nuremberg Code, due process, and the Privileges and Immunities clause of the Constitution.</p>	<p>“Plaintiffs offer no international law materials that vaccine mandates, particularly during a worldwide pandemic, for an FDA-authorized vaccine that has undergone significant clinical trials and safety evaluation by the FDA is considered a forced or coerced medical “experiment.” . . . “Plaintiffs remain free to choose whether to get the vaccine. The Vaccine Orders give individuals the choice either to get a vaccine, to apply for a religious or medical exception (exempting the person from the requirement to get a vaccine), or to find employment elsewhere, including potentially in another state. Plaintiffs have not shown that the international community collectively condemns this type of choice as the type of coercion that falls within the prohibition of the Nuremberg Code, particularly during a global pandemic and when the vaccine is FDA-authorized.”</p>	

<i>Khanthatphixay et al. v. Loyola Marymount University et al., No. 2:21-cv-06000 (C.D. Cal. Jul. 24, 2021)</i>	Federal Court, California	Students sought temporary restraining order against university's vaccine mandate, arguing in part that students receiving exemptions were subject to disparate living situations and other requirements.	Court denied request for temporary restraining order. Case still pending.	
<i>Klaassen et al. v. The Trustees of Indiana University, No. 1:21-cv-00238-DRL-SLC (Dist. Ct. N.D. Ind. July 18, 2021).</i>	Federal Court, Indiana	Students sought preliminary injunction against university's vaccine mandate, claiming 14 th amendment liberty right to "bodily autonomy."	Court denied request for preliminary injunction, finding the university's interests in public health prevailed. 7 th Circuit refused to enjoin the policy pending an appeal and Supreme Court Justice Amy Barrett denied request to enjoin policy.	
<i>Legarreta v. Macias, No. 2:21-CV-00179 (D.N.M. Feb. 28, 2021).</i>	Federal Court, New Mexico	Corrections officer sought TRO preventing his termination for non-compliance with vaccine mandate.	Court denied TRO request. Employer's motion to dismiss is pending.	
<i>Magliulo v. Edward Via College of Osteopathic Medicine (W.D. La., Aug. 17, 2021, No. 3:21-CV-2304) 2021 WL 3679227</i>	Federal Court, Louisiana	Students sought temporary restraining order against College's vaccine mandate, arguing that the mandate violated state statutes.		Court granted request for TRO, finding the mandate prohibited under Louisiana statutes that required exemptions from vaccination requirement for students filing written dissents.
<i>Mallon v. Frostburg State</i>	Federal Court, Maryland	Student brought ADA lawsuit challenging	"Defendants offered multiple reasonable accommodations – they indicated that	

<p><i>University. (D. Md., Sept. 15, 2021, No. CV BPG-19-795) 2021 WL 4215331.</i></p>		<p>proffered accommodations offered by union for exemption from mumps/measles vaccination requirement.</p>	<p>plaintiff could obtain MMR antibody titer test instead of providing proof of vaccination for measles, mumps, and rubella. Defendants also offered plaintiff the option to sign a religious exemption waiver or a conscientious exemption waiver for all the required vaccinations. Plaintiff refused to accept any of these reasonable accommodations, because they were “invasive” and compromised his principles. Plaintiff argues that defendants should have allowed him to take online classes as a reasonable accommodation. Defendants are not required, however, to provide “the best” accommodation, or plaintiff’s preferred accommodation.”</p>	
<p><i>Maniscalco v. New York City Dept. of Education, 2021 WL 4344267 (E.D.N.Y. Sep. 23, 2021)</i></p>	<p>Federal Court, New York</p>	<p>Employees working in schools sought preliminary injunction against vaccine mandate, citing (1) equal protection; (2) due process; and (3) an arbitrary and capricious requirement.</p>	<p>“Plaintiffs ‘must demonstrate that the state action was so egregious, so outrageous, that it may fairly be said to shock the contemporary conscience’ such that the Due Process Clause ‘would not countenance it even were it accompanied by full procedural protection.’ Plaintiffs cannot meet that burden.”</p>	
<p><i>Massachusetts Correction Officers Federated Union v. Baker, No. 21-11599-TSH (Oct. 15, 2021)</i></p>	<p>Federal Court, Massachusetts</p>	<p>Union and corrections employees sought preliminary injunction against vaccine mandate imposed by executive order, citing the Constitution’s contract clause</p>	<p>“EO 595 operates as a condition of employment and not a core provision of the CBA, which does not undermine the bargaining agreement and can be seen as a reasonable and foreseeable mechanism to maintain a safe work environment. Further, EO 595 does not appear to prevent Plaintiffs from safeguarding their rights, as the</p>	

			<p>MCOFU is currently pursuing those claims at the Department of Labor Relations.</p> <p>“Finally, even if Plaintiffs could show a substantial impairment of a contractual relationship, their claim under the Contracts Clause would not succeed because EO 595 is a reasonable and appropriate way to advance the significant goal of stopping the spread of COVID-19 in the state prison system.”</p>	
<p><i>Messina v. The College of New Jersey (D.N.J., Oct. 14, 2021, No. CV2117576ZNQ DEA) 2021 WL 4786114</i></p>	<p>Federal Court, New Jersey</p>	<p>College students sought TRO challenging vaccine mandate, alleging liberty, privacy, equal protection, and search and seizure claims.</p>	<p>“Given United States Supreme Court precedent and persuasive authorities from other circuits on this issue, this Court concludes that Plaintiffs failed to establish their likelihood of success on the merits. . . The Court rejects Plaintiffs’ ill-fated effort to circumvent well-established Supreme Court precedent by re-categorizing the COVID-19 vaccines as ‘Gene Therapy Products.’ . . . Although Plaintiffs have a right to refuse unwanted medical treatment, this right is not absolute. Given the severity of the ongoing COVID-19 pandemic and number of COVID-19-related deaths in New Jersey, there is a real and substantial relation between the Mandate and the need to protect the public health.”</p>	
<p><i>Neve v. Birkhead et al., No. 1:21-CV-00308 (Dist. Ct. M.D.N.C. Apr. 16, 2021).</i></p>	<p>Federal Court, North Carolina</p>	<p>Employee of sheriff’s office who had been terminated for non-compliance with vaccine policy challenged termination based on</p>	<p>Suit voluntarily dismissed by plaintiff.</p>	

		FDA's Emergency Use Authorization statutes.		
<u>New York City Municipal Labor Committee v. City of New York, 2021 WL 4484753 (N.Y. Supr. Ct. September 29, 2021).</u>	State Court, New York	Employees challenged vaccine mandate of the New York City school system, citing bodily integrity due process argument.	Court denies temporary injunction, "Since <i>Jacobson</i> , the state and federal courts have consistently held that a mandatory vaccine requirement does not violate substantive due process rights and properly fall within the State's police power. . . Here, the Order may ultimately disqualify plaintiffs from employment in their positions at public schools in New York City, but "the Due Process Clause secures the liberty to pursue a calling or occupation, and not the right to a specific job."	
<i>Norris v. Stanley (W.D. Mich., Oct. 8, 2021, No. 1:21-CV-756) 2021 WL 4738827</i>	Federal Court, Michigan	Employee challenged university's vaccine requirement. Claims included privacy, due process "deprivation of employment," and EUA statutes.	Court denied request for preliminary injunction, finding: "Although Plaintiff advocates that strict scrutiny should apply because MSU's vaccine policy violates her fundamental rights to privacy and bodily integrity under the Fourteenth Amendment, this argument is without merit. Plaintiff is absolutely correct that she possesses those rights, but there is no fundamental right to decline a vaccination. . . .She also does not have a constitutionally protected interest in her job at MSU, which Plaintiff's counsel conceded. The MSU vaccine policy does not force Plaintiff to forgo her rights to privacy and bodily autonomy, but if she chooses not to be vaccinated, she does not have the right to work at MSU at the same time."	
<i>Oregon FOP v. Brown, No. 21CV35125 (Or.</i>	State Court, Oregon	Individual state troopers and assorted other employees sought TRO	Court denies request for TRO and preliminary injunction, finding that the plaintiffs "have shown no likelihood of	

<p>Cir. Ct. October 7, 2021)</p>		<p>and preliminary injunction against Governor’s vaccination mandate, claiming wrongful discharge, violation of free speech rights, violation of separation of powers, and equal protection violation.</p>	<p>success on the merits under any of the legal theories alleged in their complaint.” Court rejects free speech argument, holding that “nothing prohibits them from saying anything they want about COVID vaccinations. Plaintiffs argue, though, that their refusal to get vaccinated itself is "Inextricably intertwined with deeply held political, social, philosophical, and religious beliefs" and thus is protected expression. . . Plaintiffs' argument incorrectly assumes that their refusal to get vaccinated is expressive conduct protected by [the free speech guarantees of the state constitution]. .</p>	
<p><i>Oregon Healthcare Workers for Medical Freedom v. Oregon Health Authority</i>, No. A176900 (Or. App. Oct. 5, 2021).</p>	<p>State Court, Oregon</p>	<p>Healthcare workers challenged regulation mandating vaccination and sought stay of regulation in court of appeals on grounds that regulation was not properly adopted and violated constitutional rights of employees.</p>	<p>Court administrator denies request for stay. “The Court determines that petitioners have little to no likelihood of success on the merits of their judicial review.” Court rejects religious freedom and “privileges and immunities” arguments as well as claims based on method of adoption of regulation.</p>	
<p><i>People v. D.R.</i> (N.Y.Crim.Ct., Oct. 6, 2021) 2021 N.Y. Slip Op. 21266</p>	<p>State Court, New York</p>	<p>Can a criminal defendant’s criminal discharge be conditioned on vaccination?</p>	<p>“First, the Court notes that this choice was not taken away from the defendant: if he did not want to present proof of vaccination, he could have simply declined the Court's offer and proceeded to trial. Defendants are required to make many difficult choices during the course of a criminal case, and this particular choice is no different than ones being made by New Yorkers every day — from the extremely consequential to the</p>	

			mundane -- in the face of the various vaccine mandates discussed above. Do I want to be vaccinated, or give up my job as a teacher? Do I want to be vaccinated, or give up my generous court officer's pension? Do I want to be vaccinated, or not go out to dinner and the movies?"	
<u>Plata v. Newsom, Case No. 01-cv-01351-JST (N.D. Cal. Sep. 27, 2021).</u>	Federal Court, California	Federal court receiver recommended compulsory vaccination for ""all staff at California Health Care Facility, California Medical Facility, and the Skilled Nursing Facility at Central California Women's Facility, and all workers regularly assigned to work in certain healthcare areas systemwide, including clinic treatment areas, Correctional Treatment Centers and other licensed beds, hospice beds, and dialysis units.""	Judge grants receiver's recommendations, finding "It is also uncontested that institutional staff are primary vectors for introducing COVID-19 into CDCR facilities," id. at 7, and that institutions with low staff vaccination rates experience larger and more frequent COVID-19 outbreaks. For example, half of the 14 outbreaks between May and July 2021 have been traced to staff, and that number could still grow because analysis of the remaining outbreaks is ongoing. Between July 31 and September 10, 2021, a staggering 48 outbreaks have been traced back to institutional staff. . . [The Department's] partial vaccination requirement is an unreasonable attempt to address the risk of harm to Plaintiffs for several reasons. First, the incarcerated population is not at risk only, and may not even be at the highest risk, in areas that Defendants have designated as healthcare settings. For example, Defendants do not dispute that incarcerated persons do not wear masks when eating or sleeping, and that this increases the chance of transmission. Nor do Defendants dispute the myriad ways in which incarcerated persons	

			come into close contact with staff outside of healthcare settings.”	
<u>State Police Association of Massachusetts v. Commonwealth of Massachusetts, No. 2184-CV-02117 (Mass. Super. Ct. Sep. 23, 2021).</u>	State Court, Massachusetts	State troopers sought temporary restraining order prohibiting implementation of vaccine mandate, citing State’s refusal to bargain.	“While the union has a significant interest in effecting the right to bargain the terms and conditions of members’ employment, the Court concludes that this interest is outweighed by the Commonwealth’s more significant interest in protecting the health and safety of its workforce, those who come into contact with its workforce, and the public in general.”	
<i>Streight, Plaintiff, v. Pritzker. (N.D. Ill., Sept. 22, 2021, No. 3:21-CV-50339) 2021 WL 4306146</i>	Federal Court, Illinois	Student sought preliminary injunction against saliva testing requirement, citing Fourth Amendment.	Court rejects claim, “the nature of the privacy interests” to be minimal and “the nature and immediacy of the governmental concern “ to be great.	
<i>Dr. T v. Scott, 2021 WL 4476784 (D.R.I. Sep. 30, 2021)</i>	Federal Court, Rhode Island	Healthcare workers sought TRO against vaccine mandate, raising constitutional due process claims and lack of religious exemption in vaccination regulation.	“As to the constitutional claims, courts have held for over a century that mandatory vaccination laws are a valid exercise of a state’s police powers, and such laws have withstood constitutional challenges. . . The Regulation is silent on the issue of religious exemptions. Title VII requires employers to accommodate religious beliefs, practices, or observances only to the extent that doing so would not impose undue hardship on the employer. While the Regulation may make it more difficult for employers to accommodate religious objections; it does not create a physical impossibility.”	

<p><i>Valdez v. Grisham</i> (D.N.M., Sept. 13, 2021, No. 21-CV-783 MV/JHR) 2021 WL 4145746</p>	<p>Federal Court, New Mexico</p>	<p>Health care worker and user of state fair facilities sought TRO against state mandate, citing the EUA statutes.</p>	<p>“The provisions nowhere prevent the state, or any other entity, from requiring certain individuals to be vaccinated against COVID-19,” and only apply to medical providers.</p> <p>Citing <i>Jacobson</i> and <i>Klaasen</i>, finds a rational basis for a vaccine mandate. Also rejects equal protection and procedural due process claims.</p>	
<p><i>Wade et al. v. University of Connecticut Board of Trustees</i>, No. 3:21-cv-00924 (D. Conn. Jul. 6, 2021)</p>	<p>Federal Court, Connecticut</p>	<p>Two students and a parent of a third student challenged university vaccine mandate under EUA statutes, also arguing that the mandate had no rational basis.</p>	<p>Court dismissed lawsuit. Two students had been granted exemptions, thus mooted their claims. The third student had failed to apply for an exemption, thus rendering the student without legal standing.</p>	
<p><i>Zywicki v. Washington et al.</i>, No. 1:21-CV-00894 (E.D. Va. Aug. 3, 2021)</p>	<p>Federal Court, Virginia</p>	<p>Teacher challenged masking, social distancing, and other elements of employer’s policy, alleging violations of privacy and due process rights.</p>	<p>Lawsuit voluntarily dismissed by plaintiff.</p>	