

Vaccine Mandate Litigation
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Total Cases	Mandate Upheld	Mandate Rejected	Procedural Grounds
72	59	3	10

Cases where mandate rejected:

*Employer/school had no religious exemption (1)

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	Claim	Employer/School Win?	Employee/Student Win or Decided on Procedural Grounds?
<i>A. v. Hochul, No. 21-2566 (2nd Cir. Oct. 29, 2021)</i>	Department of Health issued vaccine mandate without a religious exemption.	Appeals court dissolves trial court’s preliminary injunction. Opinion to follow.	
<i>AFSCME v. Regents of the University of California (Cal. PERB 2021) PERB Decision No. 2783-H.</i>	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 bargaining before implementation.

<p><i>America’s Frontline Doctors et al. v. Wilcox et al., No. 5:21-cv-01243 (C.D. Ca. July 26, 2021)</i></p>	<p>Students sought temporary restraining order against university’s vaccine mandate, raising “bodily autonomy” and “state-created danger” arguments.</p>	<p>Court denied request for temporary restraining order. Ninth Circuit denied request for mandamus. Plaintiffs request for mandamus pending before Supreme Court.</p>	
<p><i>Bacon v. Woodward, 2021 WL 5183059 (E.D. Wa. Nov. 8, 2021)</i></p>	<p>Firefighters challenged state vaccination mandate, citing due process, freedom of religion, the ADA, privacy, and bodily autonomy.</p>	<p>“Here, Plaintiffs’ speculative and unsubstantiated claim that the public will lose emergency services personnel is insufficient to support an injunction against Defendants’ vaccination requirement. This Court recently joined other district courts around the country in finding that public interest is not served by enjoining vaccination requirements designed to reduce the spread of COVID-19 and to mitigate the dangers posed by the disease. As one court noted ‘weakening the State’s response to a public-health crisis by enjoining it from enforcing measures employed specifically to stop the spread of COVID-19 is not in the public interest.’</p> <p>“The balance of equities tips in favor of Defendants. While the Court is sensitive to potential economic hardships Plaintiffs may face should their employment status change, the balancing of harm and equities weighs in favor of Defendants because there is a ‘legitimate and critical public interest in preventing the spread of COVID-19 by increasing the vaccination rate.’”</p>	
<p><i>Bauer v. Summey (D.S.C., Oct. 21, 2021, No. 2:21-CV-</i></p>	<p>Various public employees challenged vaccine mandate, alleging constitutional</p>	<p>“Defendants have provided several rational justifications for the Policies. These include, inter alia, the health concerns to government employees and citizens posed by COVID-19, the continued</p>	

<p>02952-DCN) 2021 WL 4900922.</p>	<p>violations as well as breach of state statutes.</p>	<p>workforce disruption caused by the spread of COVID-19—particularly among unvaccinated employees, and the financial burden of implementing safeguards to counteract these risks. The Supreme Court has recognized that ‘[s]temming the spread of COVID-19 is unquestionably a compelling interest.’</p> <p>“Plaintiffs argue that the Policies violate plaintiffs’ rights to equal protection because they treat vaccinated persons differently than unvaccinated persons, including those who have natural immunity. . . . Plaintiffs fail to articulate how defendants’ differential treatment of vaccinated and unvaccinated personnel is irrational. As of August 2021, the CDC reported that unvaccinated individuals have a 6.1 times greater risk of testing positive for COVID-19 and 11.3 times greater risk of dying from COVID-19 than vaccinated individuals.”</p> <p>“To be sure, plaintiffs who oppose vaccination may be harmed by the Policies—whether by termination or by their reluctant submission to vaccination to retain their jobs. But defendants’ “interest in combatting COVID-19 is at least equally [as] significant” as the harm plaintiffs face in choosing between receiving a medically-approved vaccination or suffering employment-related consequences.”</p>	
<p><i>Beckerich v. St. Elizabeth Medical Center</i>, NO. 21-105-DLB-EBA, 2021 WL 4398027 (E.D.</p>	<p>Healthcare employees sought TRO, arguing constitutional claims and a “corrupt system” with a lack of ADA/religious</p>	<p>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</p>	

<i>Ken. Sep. 24, 2021)</i>	reasonable accommodation.	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>	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>Broecker v. New York City DOE, 2021 WL 5514656 (E.D. N.Y. Nov. 24, 2021)</i>	Teachers objecting to mandatory vaccination program sought injunction, claiming procedural due process and contractual rights. September 2021 interest arbitration decision allowed mandatory vaccination.	Court finds due process claims foreclosed by procedures established by interest arbitration award. As to irreparable harm, "To be sure, the Court does not dispute that a loss of income is a hardship. The loss of one's wages, particularly for those with financial commitments and dependents, is a real, tangible harm. In order to demonstrate an entitlement to injunctive relief, Plaintiffs may not simply identify a general loss. Instead, Plaintiffs must identify a harm for which available legal remedies and monetary damages would be inadequate. In particular, in the Second Circuit, irreparable injury is one that cannot be redressed through a monetary award. Where money damages are adequate compensation a preliminary injunction should not issue."	
<i>BST Holdings, LLC v. OSHA, 17 F.4th 604 (5th Cir. Nov. 12, 2021)</i>	Challenge to OSHA's Emergency Temporary Standard requiring large employers to have	Court issues stay of OSHA's ETS. "The Constitution vests a limited legislative power in Congress. For more than a century, Congress has routinely used this power to delegate policymaking specifics and technical details to executive agencies charged with	

	mandatory vaccination program.	effectuating policy principles Congress lays down. In the mine run of cases—a transportation department regulating trucking on an interstate highway, or an aviation agency regulating an airplane lavatory—this is generally well and good. But health agencies do not make housing policy, and occupational safety administrations do not make health policy. In seeking to do so here, OSHA runs afoul of the statute from which it draws its power and, likely, violates the constitutional structure that safeguards our collective liberty.”	
<i>Burch v. Lipscomb</i> (Ky. Ct. App., Nov. 19, 2021, No. 2021-CA-0614-ME) 2021 WL 5406027, at *3	Though divorcing parents had applied for religious exemption to vaccine mandate for their children during the marriage, father sought order requiring vaccination post-divorce. Mother opposed, citing freedom of religion.	“The family court noted that the health and welfare of the children is this court's priority even when balanced against the proclaimed religious beliefs of one parent. Under analogous circumstances involving First Amendment objections by one parent, this Court reached the same conclusion. <i>Young v. Holmes</i> , 295 S.W.3d 144 (Ky. App. 2009). We cannot say the family court's factual findings lacked the support of substantial evidence, and we cannot conclude that it made any legal error in reaching its decision.”	
<i>California Correctional Peace Officers Association v. California Department of Public Health</i> , BCV-21-102318 (Cal. Super. Ct. Oct. 22, 2021)	Correctional officers union sought preliminary injunction against vaccine mandate; TRO previously issued.	Court dissolves TRO and rejects request for preliminary injunction. “The court is not in a position to second guess the state as to how to address the pandemic and satisfy their obligations to inmates in their care in our state prison system.”	

<p><i>California Educators for Medical Freedom et al v. Los Angeles Unified School District et al., No. 21-CV-02388 (C.D. Cal. Mar. 17, 2021) 2021 WL 1034618</i></p>	<p>Teachers’ challenge to “vaccine or testing policy.”</p>	<p>Court dismissed case, finding that “or testing” element of policy meant there was no injury to the plaintiffs.</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>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</p>	

		cannot be 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 Def., Et Al., Plaintiffs, V. Food & Drug Admin., Et al., Defendants. Additional Party Names: Amy Miller, Janet Woodcock (E.D. Tenn., Nov. 30, 2021, No. 121CV00200DCL CCHS) 2021 WL 5756085, at *2</i>	Group asked court to enjoin the FDA from both licensing the Pfizer Comirnaty vaccine and extending the EUA for the Pfizer-BioNTech vaccine, citing defects in the EUA process.		Plaintiffs lack standing and court lacks subject matter jurisdiction over case. “The only actions that Defendants have taken are to license the Comirnaty vaccine and reauthorize the Pfizer-BioNTech EUA. The harms the declarants identify—being subject to vaccine mandates by various branches of the military and the consequences of refusing to comply with those mandates—are tied to the actions of the military leadership and not the FDA.”
<i>Children's Health Defense v. Rutgers, The State University of New Jersey, 2021 WL 4398743 (D.N.J. 2021)</i>	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, No. 2021CV33007 (Sep. 29, 2021)</i>	Employees of City and County of Denver sought injunctive relief against vaccine mandate.	Court dismissed lawsuit for failing to exhaust administrative remedies.	

<p><i>Ciseneroz, Et Al., Plaintiffs, V. City Of Chicago, Defendant.</i> (N.D. Ill., Dec. 1, 2021, No. 21-CV-5818) 2021 WL 5630778, at *2</p>	<p>City of Chicago employees challenged City's vaccine mandate on privacy, due process, and religious grounds.</p>	<p>"Furthermore, the City's vaccine policy has a rational basis due to the severity of the COVID-19 pandemic, including the newly-discovered omicron variant, and the need to prevent the spread of the disease. See <i>Klaassen v. Trustees of Ind. Univ.</i>, 7 F.4th 592, 593 (7th Cir. 2021) ("vaccination requirements, like other public-health measures, have been common in this nation"). Indeed, the City has presented evidence that City employees are twice as likely to be infected with COVID-19—as compared to all Chicago residents—due to City employees' frequent public contact based on the nature of their work."</p>	
<p><i>Cleary v. Inslee,</i> No. 21-2-04111-36 (Wash. Super. Ct. Oct. 19, 2021)</p>	<p>State employees challenged governor's vaccine mandate, claiming separation of powers violation, due process, and privacy.</p>	<p>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."</p>	
<p><i>Church v. Biden</i> (D.D.C., Nov. 8, 2021, No. CV 21-2815 (CKK)) 2021 WL 5179215</p>	<p>Eighteen civilian employees and two Marines filed constitutional challenge to executive order imposing vaccine mandate for military personnel.</p>		<p>As all of the plaintiffs had exemption requests pending, claims were not ripe and no irreparable harm was present.</p>
<p><i>Creger v. United Launch Alliance LLC,</i> 2021 WL 5579171 (N.D. Ala. Nov. 30, 2021)</p>	<p>Employees whose stem-cell-based exemption requests were denied sued and sought an injunction against their</p>	<p>United Launch is only required to have offered reasonable accommodations if such accommodations would not impose an undue burden on its business. In denying the exemption requests, United Launch noted at least ten different reasons why accommodating these requests would</p>	

	<p>termination, citing the ADA.</p>	<p>have burdened its business and imposed a more than de minimis cost, including the added cost and administrative burden of providing for weekly testing in lieu of vaccination, strict contract requirements that require staffing with vaccinated employees, the financial risks of failing to satisfy these contract requirements, and multiple prior hospitalizations and deaths of United Launch employees due to COVID-19. These reasons are enough to satisfy United Launch’s burden.</p> <p>The plaintiffs contend that they ‘are not asking for an accommodation that places a hardship’ on United Launch and that ‘there are a host of reasonable accommodations that are not unduly burdensome,’ such as working remotely, mask wearing, or periodic testing. Under Title VII, however, an employer need not give an employee a choice among several accommodations, nor is the employer required to provide an employee with the employee’s preferred accommodation or show undue hardship resulting from alternative accommodations proposed by the employee. And for a federal government contractor whose contracts require staffing with vaccinated workers, accommodating any employee’s request to remain unvaccinated may certainly burden the employer in conducting its business and result in a more than de minimis cost.”</p>	
<p><i>Dixon v. De Blasio (E.D.N.Y., Oct. 12, 2021, No. 21-CV-5090</i></p>	<p>Citizen challenge to New York City executive orders requiring vaccination to remain in public areas for</p>	<p>“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</p>	

<p>(BMC)) 2021 WL 4750187</p>	<p>prolonged periods of time, citing equal protection and other claims.</p>	<p>the African American or Hispanic communities, this disparity can be remedied by those individuals getting vaccinated.”</p> <p>“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.”</p>	
<p><i>In re: Civil Service Employees Association, No. 908328-21 (Oct. 15, 2021)</i></p>	<p>Union sought injunctive relief on bargaining issue pending PERB decision on whether mandatory vaccination program was negotiable.</p>	<p>Though TRO initially granted, court refused to issue a preliminary injunction and allowed the mandate to go into place. “Where affected workers would be entitled to reinstatement and back pay if they ultimately prevailed, there is not irreparable harm. Likewise, the speculative loss of health insurance, while clearly a hardship, does not constitute an ‘irreparable injury’ because a party ‘has an adequate remedy in the form of monetary damages’”</p> <p>“The choice between accepting a vaccination that one is strongly against on the one hand and the loss of employment on the other, may appear to be no choice at all. But in reality, it is just that. Nobody under the challenged policy will be forced to accept a vaccination against his or her will. Those who willingly choose not to accept the vaccine, unquestionably face a significant harm — the potential loss of employment — that can be remedied. For that reason, there is no irreparable harm and the law forecloses Petitioners' request for injunctive relief.”</p>	

<p><i>Dahl v. Board of Trustees of Western Michigan University, 2021 WL 4618519 (6th Cir. Oct. 7 2021)</i></p>	<p>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.</p>		<p>"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."</p>
<p><i>Doe 1 et al. v Incyte Corporation, No. 2:21-CV-05956 (C.D. Cal. July 22, 2021)</i></p>	<p>Employees challenged vaccine mandate on "bodily autonomy" grounds.</p>	<p>Case voluntarily dismissed by plaintiffs.</p>	
<p><i>Federoff v. Geisinger Clinic, 2021 WL 5494289 (M.D. Pa. Nov. 23, 2021)</i></p>	<p>Health care employees challenged employer's requirement that employees with exemptions be tested twice a week, citing Title VII. Employees argued that either all</p>	<p>"The first of the Geisinger Employee's irreparable harm arguments is that they will lose their jobs. But the Supreme Court has made clear that loss of employment, unless accompanied by a 'genuinely extraordinary situation,' won't do. And while the Supreme Court has yet to describe what will do, in the case marking out this 'genuinely extraordinary situation' rule, the Court refused to recognize</p>	

	<p>employees (including the vaccinated) should be tested twice weekly, or none.</p>	<p>humiliation, reputational harm, lost income, difficulty finding a new job, and loss of skills as sufficient. . . .</p> <p>“Geisinger has shown here that it would be more than a de minimis cost for them to harbor employees that are both unvaccinated and untested. Their principal argument is that an unvaccinated individual is likelier than a vaccinated individual to be the source of an infection. And, after consideration by their own experts and the advice of the CDC and EEOC, they concluded that testing was the best and least invasive way to reduce the risk that unvaccinated individuals pose to patients and staff.</p> <p>“This approach stands up to both attacks that the Employees levy against it. The first—that PCR and Antigen COVID-19 tests cause cancer and are wholly ineffective at identifying when a person is infected—is not worthy of a response. We simply haven’t the time to explore the depths of this statement’s inaccuracy. . . .</p> <p>“But for our purposes, its entirely rational for Geisinger to have chosen to test employees whose risk of being a vector they cannot reduce through vaccination. It would impose more than a de minimis burden on Geisinger to exempt these employees, who are far more likely to be a vector, from the testing requirement.</p> <p>“And the same can be said for the Employees’ other, contradictory request—that all employees be</p>	
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		tested. . . . But, as a matter of law (not back of the envelope math) this “exemption”—which isn’t an exemption because it would merely expand the objected to program by 23,000 individuals—would undoubtedly impose more than a de minimis cost on Geisinger”	
<i>Fish and Wildlife Officers Guild v. State of Washington</i> , No. 21-2-07684-1 (Wash. Super. Ct. Oct. 4, 2021)	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</i> , #2021CH05276 (Ill. Cir. Ct. filed Oct. 14, 2021)	Union sought stay in (1) registration of vaccination status; and (2) mandatory vaccination deadline pending completion of bargaining.	<p>Court grants stay of vaccination deadline but not registration requirement. “The reporting obligation itself is a minimal intrusion particularly considering that police officers are already obligated to provide medical information to their employer. Should the reporting obligation prove to be a violation of the collective bargaining agreements, the arbitrator can order the information purged.</p> <p>If every union member complied and was vaccinated by December 31 (or otherwise exempt), they would have no grievance to pursue and there would be no remedy an arbitrator could award. An award of back pay or reinstatement cannot undo a vaccine. Nothing can. If that aspect of the City’s policy was found to violate the collective bargaining agreements, the arbitral process could not restore the parties to their original positions. . . . This absence of meaningful arbitration is not just an injury to members, it is also an injury to the union itself. It undermines the unions’ collective</p>	

		bargaining power and risks diminishing the union in the eyes of its members.”	
<i>Friend v. City of Gainesville</i> , Case No. 01-2021-CA-2412 (Fla. Cir. Ct. Sep. 22, 2021)	Employees sought temporary injunction against mandatory vaccination program on grounds program violated Florida’s right to privacy.		Court grants injunction: “The City did not put on any 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.”
<i>Garfield v. Middle Tennessee State University et al.</i> , No. 3:21-cv-00613 (M.D. Tenn. Aug. 6, 2021)	Students sought temporary restraining order against University’s vaccine mandate, citing EUA statutes.	Court denied request for temporary restraining order.	
<i>Harris v. University of Massachusetts, Lowell</i> (D. Mass., Aug. 27, 2021,	Students filed due process and religion claims against university’s vaccine mandate.	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 evidence and research and guidance,	

<p>No. 21-CV-11244-DJC) 2021 WL 3848012</p>		<p>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>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>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 statues 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.</i>, No. 2:21-cv-01126-TLN-JDP (Dist. Ct. E.D.</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</p>	<p>10 days after University filed a motion to dismiss, the plaintiffs voluntarily dismissed the lawsuit.</p>	

Cal. June 24, 2021).	“bodily autonomy” claim.		
<i>In re City of Newark, Nos. 0146-21 and A-0159-21 (App. Div. Sep. 27, 2021).</i>	Unions filed bargaining challenge to City’s implementation of a mandatory vaccination program.	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.”	
<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>	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 these novel vaccines, the long-term effects of which are not known and cannot be known.”	Court denied motion for injunction.	
<i>Jane Does 1-6 et al., v. Mills, No. 1:21-CV-00242-</i>	Healthcare workers sought temporary restraining order against state’s vaccine mandate,	Court denied request for TRO.	

<p><i>JDL (D. Me. Aug. 25, 2021)</i></p>	<p>claiming violation of religious freedom and due process.</p>		
<p><i>Jane Does 1-6 v. Mills (1st Cir. Oct. 19, 2021, No. 1:21-CV-00242-JDL) 2021 WL 4783626</i></p>	<p>Healthcare workers and one healthcare provider sought preliminary injunction against vaccine mandate with only medical exemption, arguing lack of religious exemption was First Amendment violation.</p>	<p>“Maine CDC’s rule offers only one exemption, and that is because the rule itself poses a physical health risk to some who are subject to it. Thus, carving out an exception for those people to whom that physical health risk applies furthers Maine’s asserted interests in a way that carving out an exemption for religious objectors would not. . . . Strict scrutiny does not apply here. But even if it did, the plaintiffs still have no likelihood of success. “Stemming the spread of COVID–19 is unquestionably a compelling interest.”</p> <p>On Oct. 29, the Supreme Court denied the request for an injunction. The two justices (Barrett & Kavanaugh) concurring in the result thought the case inappropriate for emergency relief. Three dissenting judges (Alito, Gorsuch & Thomas) thought the absence of a religious exemption was unconstitutional.</p>	
<p><i>Jane Doe 1 v. Northshore University HealthSystem, 2021 WL 5578790 (N.D. Ill. Nov. 30, 2021)</i></p>	<p>Healthcare workers sought temporary injunction against employer’s mandatory vaccination program, which had no religious exemption.</p>	<p>“In making this finding, the Court is mindful of the dilemma Plaintiffs face. It is undeniable that any recovery of damages by Plaintiffs—even an across-the-board victory—is months or perhaps even years away. During that interval, Plaintiffs will still need to provide food, shelter, and myriad other necessities for themselves and, often, their dependents. The contingent hope of a future recovery does nothing to meet present needs, and that uncertainty may indeed cause some Plaintiffs to choose to get vaccinated despite their religious views. But in that sense, Plaintiffs are situated no differently than</p>	

		other Title VII plaintiffs who may face the same choice—who may feel compelled to tolerate invidious discrimination at work based on personal needs, and yet for whom precedent establishes that money damages are a sufficient remedy.”	
<i>John Doe Et Al., Plaintiffs, V. San Diego Unified School District Et Al., Defendants.</i> (S.D. Cal., Nov. 18, 2021, No. 21-CV-1809-CAB-LL) 2021 WL 5396136, at *1	Citing free exercise claim, parents and students challenged school’s requirement that students be vaccinated to participate in in-person learning.	<p>“In light of the overwhelming weight of authority upholding vaccination requirements in response to free exercise challenges, the Court finds that Plaintiffs are not likely to succeed on the merits of their claim.”</p> <p>Cites <i>Whitlow v. California</i>, 203 F. Supp. 3d 1079, 1084 (S.D. Cal. 2016) (“[I]t is clear that the Constitution does not require the provision of a religious exemption to vaccination requirements.”); <i>McCarthy v. Boozman</i>, 212 F. Supp. 2d 945, 948 (W.D. Ark. 2002) (“It is also well settled that a state is not required to provide a religious exemption from its immunization program. The constitutional right to freely practice one’s religion does not provide an exemption for parents seeking to avoid compulsory immunization for their school-aged children.”).</p>	
<i>Johnson v. Brown, Case No. 3:21-cv-1494-SI</i> (D. Or. Oct. 18, 2021)	42 employees sought TRO blocking governor’s mandatory vaccination requirements, citing Nuremberg Code, due process, and the Privileges and Immunities clause of the Constitution.	“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.”	
<i>Johnson v. Inslee</i> , 2021 WL 4944016 (Wash. Oct. 22, 2021)	Challenge by state employees to governor’s vaccine mandate; filed in county where employees worked, not in county where state capitol is located.	“It is the official act itself—the act for which redress is sought—that gives rise to the cause of action, and thus venue is proper in the county where the act is made. . . . The purpose of referring proceedings against public officials for official acts to the county where the acts are done is to localize suits against officers and relieve them from the necessity of deciding between conflicting orders of courts of different counties, making them amenable only to the courts of the county in which they are acting.”	
<i>Kane v. De Blasio</i> (2d Cir., Nov. 28, 2021, No. 21-2678) 2021 WL 5549403	Teachers and school administrators brought action against city alleging that city's COVID-19 vaccine mandate for individuals who worked in city schools violated Free Exercise Clause both facially and as applied to the process.	Teacher and school administrators did not show, at preliminary injunction stage, that city's COVID-19 vaccine mandate for individuals who worked in city schools was not neutral on its face under Free Exercise Clause, where mandate applied to all staff of city's department of education as well as city employees and contractors of DOE and city who work in DOE school settings.	“We have grave doubts about whether the Accommodation Standards are consistent with this bedrock First Amendment principle. They provide that ‘exemption requests shall be considered for recognized and established religious organizations’ and that ‘requests shall be denied where the leader of the religious organization has spoken publicly in favor of the vaccine, where the documentation is readily available (e.g., from an online source), or where the objection is personal, political, or philosophical in nature.’

			<p>Moreover, Plaintiffs have offered evidence that arbitrators applied the Accommodation Standards to their applications by, for example, telling Plaintiff Keil that his religious beliefs ‘were merely personal, [because] there are other Orthodox Christians who choose to get vaccinated.’</p> <p>Denying an individual a religious accommodation based on someone else's publicly expressed religious views — even the leader of her faith — runs afoul of the Supreme Court's teaching that “it is not within the judicial ken to question the centrality of particular beliefs or practices to a faith, or the validity of particular litigants' interpretations of those creeds.”</p>
<p><i>Kentucky v. Biden (E.D. Ky., Nov. 30, 2021, No. 3:21-CV-00055-GFVT) 2021 WL 5587446, at *1</i></p>	<p>Challenge to federal government’s mandate that the employees of federal contractors be vaccinated.</p>		<p>This is not a case about whether vaccines are effective. They are. “Nor is this a case about whether the government, at some level, and in some circumstances, can require citizens to obtain vaccines. It can. The question presented here is narrow. Can the president use congressionally delegated authority to manage the federal procurement of goods and services to impose vaccines on the</p>

			employees of federal contractors and subcontractors? In all likelihood, the answer to that question is no. So, for the reasons that follow, the pending request for a preliminary injunction will be granted.”
<i>Khanthatphixay et al. v. Loyola Marymount University et al., No. 2:21-cv-06000 (C.D. Cal. Jul. 24, 2021)</i>	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>Kheriaty v. Regents of the Univ. of Cal., 2021 WL 4714664, at *6 (C.D. Cal. Sept. 29, 2021).</i>	Employee challenged university’s vaccine mandate, citing “natural immunity” argument.	<i>“While the case predates the formalized tiers of review, the [Supreme] Court later acknowledged that Jacobson ‘essentially applied rational basis review.’ . . . merely drawing different conclusions based on consideration of scientific evidence does not render the Vaccine Policy arbitrary and irrational. . . Plaintiffs argue that a growing body of scientific evidence demonstrates that vaccines cause more harm to society than good, but as Jacobson made clear, that is a determination for the legislature, not the individual objectors.”</i>	
<i>Klaassen et al. v. The Trustees of Indiana University, No. 1:21-cv-00238-</i>	Students sought preliminary injunction against university’s vaccine mandate, claiming 14 th	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>DRL-SLC (Dist. Ct. N.D. Ind. July 18, 2021).</i>	amendment liberty right to “bodily autonomy.”		
<i>Legarreta v. Macias, No. 2:21-CV-00179 (D.N.M. Feb. 28, 2021).</i>	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>	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 University. (D. Md., Sept. 15, 2021, No. CV BPG-19-795) 2021 WL 4215331.</i>	Student brought ADA lawsuit challenging proffered accommodations offered by union for exemption from mumps/measles vaccination requirement.	“Defendants offered multiple reasonable accommodations – they indicated that 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.”	
<i>Maniscalco v. New York City</i>	Employees working in schools sought	“Plaintiffs ‘must demonstrate that the state action was so egregious, so outrageous, that it may fairly	

<p><i>Dept. of Education, 2021 WL 4344267 (E.D.N.Y. Sep. 23, 2021)</i></p>	<p>preliminary injunction against vaccine mandate, citing (1) equal protection; (2) due process; and (3) an arbitrary and capricious requirement.</p>	<p>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>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 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>McCutcheon v. Enlivant ES, LLC, 2021 WL 5234787 (S.D.W.Va. Nov. 9, 2021)</i></p>	<p>Employee challenged termination for being unvaccinated, citing EUA and Nuremberg Code claims.</p>	<p>“Ms. McCutcheon’s claims are similar to those offered in <i>Bridges v. Houston Methodist Hosp.</i> Among other good observations, Judge Hughes correctly noted that vaccine mandates by public employers do not coerce employees. The same might be said of private employers -- particularly those in the medical and assisted living industries -- which impose vaccination policies to protect their residents, patients, and staff members. Ms. McCutcheon is free to accept or refuse the COVID-</p>	

		19 vaccine. If she refuses, she need only to pursue employment elsewhere.”	
<i>Messina v. The College of New Jersey (D.N.J., Oct. 14, 2021, No. CV2117576ZMQ DEA) 2021 WL 4786114</i>	College students sought TRO challenging vaccine mandate, alleging liberty, privacy, equal protection, and search and seizure claims.	“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.”	
<i>Missouri v. Biden (E.D. Mo., Nov. 29, 2021, No. 4:21-CV-01329-MTS) 2021 WL 5564501</i> <i>(To same effect, Louisiana v. Becerra (W.D. La., Nov. 30, 2021, No. 3:21-CV-03970) 2021 WL 5609846, at *1); Missouri v. Biden, 2021 WL 5631736 (E.D.</i>	States brought challenge to federal government’s Interim Final Rule mandating that employees and contractors working at 15 categories of health care facilities be vaccinated.		In granting injunction, Court finds that Centers for Medicare and Medicaid Services had no authority to issue regulation: “Had Congress wished to assign this question fraught with deep economic and political significance to CMS, “it surely would have done so expressly.” Court also finds that CMS lacked “good cause” to enact regulation without notice and comment process. “The COVID pandemic is an event beyond CMS's control, yet it was completely within its control to act earlier than it did. The mere desire or need to have

<p>Mo. Dec. 1, 2021)</p>			<p>the mandate does not suffice for good cause.”</p>
<p><i>Navy Seal 1, Et Al., Plaintiffs, V. Joseph R. Biden, Et Al., Defendants.</i> (M.D. Fla., Nov. 22, 2021, No. 8:21-CV-2429-SDM-TGW) 2021 WL 5448970, at *3</p>	<p>Military employees challenged mandatory vaccination requirement on the grounds that the licensed vaccine, which the FDA license permits Pfizer to market as “Comirnaty,” remains unavailable in the United States. The service-member plaintiffs contend that the vaccination deadline compels their accepting without consent the injection of an emergency vaccine. (10 U.S.C. §§1107a.3 prohibits the military from administering an emergency vaccine without the service member’s consent.</p>	<p>“Pfizer has produced vaccines bearing the ‘emergency use authorization’ label but nonetheless complying with the technical, scientific, compositional, manufacturing, and other requirements of the FDA license. Comirnaty comprises “the same formulation as Pfizer’s emergency vaccine and can be used interchangeably...to provide [the two-dose] vaccination series. The plaintiffs identify no factual distinction between Pfizer’s vaccine bearing the emergency label but produced in compliance with the FDA license and Pfizer’s interchangeable vaccine bearing the Comirnaty label.</p> <p>Also, the plaintiffs identify no legal distinction pertinent to informed consent under 10 U.S.C. § 1107a. The August 24, 2021 DoD memorandum states that mandatory vaccination against COVID-19 will only use COVID-19 vaccines that receive full licensure and that the DoD possesses and is using hundreds of thousands of Pfizer vaccines bearing the emergency label but complying with the FDA license. Nothing in the record suggests that a service-member plaintiff, each of whom remains temporarily exempt from the military’s vaccination requirement during the pendency of a request for religious exemption and during any appeal, requested or was denied a Pfizer vaccine complying with the FDA license. The plaintiffs fail to show that the military will require — imminently or otherwise — a service-member plaintiff to receive an</p>	

		emergency vaccine not complying with the FDA license.	
<i>Neve v. Birkhead et al., No. 1:21-CV-00308 (Dist. Ct. M.D.N.C. Apr. 16, 2021).</i>	Employee of sheriff's office who had been terminated for non-compliance with vaccine policy challenged termination based on FDA's Emergency Use Authorization statutes.	Suit voluntarily dismissed by plaintiff.	
<u>New York City Municipal Labor Committee v. City of New York, 2021 WL 4484753 (N.Y. Supr. Ct. September 29, 2021).</u>	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>	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</i> , No. 21CV35125 (Or. Cir. Ct. October 7, 2021)	Individual state troopers and assorted other employees sought TRO 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.	Court denies request for TRO and preliminary injunction, finding that the plaintiffs “have shown no likelihood of 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]. .	
<i>Oregon Healthcare Workers for Medical Freedom v. Oregon Health Authority</i> , No. A176900 (Or. App. Oct. 5, 2021).	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.	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.	
<i>People v. D.R.</i> (N.Y.Crim.Ct., Oct. 6, 2021) 2021 N.Y. Slip Op. 21266	Can a criminal defendant’s criminal discharge be conditioned on vaccination?	“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 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 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.”	
<i>Plata v. Newsom (N.D. Cal., Nov. 17, 2021, No.</i>	Union sought stay of decision in immediately-preceding case in table.	“Moreover, subsequent to the Court's mandatory vaccination order, Defendants' own expert has now concluded that ‘COVID-19 vaccination of all	

<p><i>01-CV-01351-JST) 2021 WL 5410608, at *2</i></p>		<p>employees of the CDCR without a valid contra-indication or exemption is the single most effective intervention available to prevent cases and outbreaks of COVID-19, both among those who are vaccinated and those who cannot be vaccinated.’ Defendants’ expert has also opined that prisons “are highly unlikely to be able to prevent or control outbreaks of COVID-19 solely through the application of non-pharmaceutical interventions,” <i>id.</i>, thus undercutting Defendants’ and CCPOA’s contention that other COVID-preventive measures are sufficient to reasonably protect Plaintiffs. The State’s adoption of vaccine mandates for other groups of state employees further underscores Defendants’ deliberate indifference.”</p>	
<p><i>Reese v. Tyson Foods, Inc., 2021 WL 5625411 (W.D. Mo. Nov. 30, 2021)</i></p>	<p>Employee challenged mandatory vaccination program alleging, among other things, common law assault.</p>	<p>“Even if the MHRA did not preclude Plaintiff’s assault claim, it is unlikely to succeed on the merits. A claim of assault requires Plaintiff to show any unlawful offer or attempt to injure another with the apparent present ability to effectuate the attempt under circumstances creating a fear of imminent peril. The assault is complete, if the intent, with the present means of carrying it into effect, exists and preparations therefor have been made even though there has been no actual violence to the person. Notably, in Missouri cases of assault unaccompanied by the physical contact of battery are rare.</p> <p>“Here, Plaintiff’s Petition does not plead physical contact had occurred, and Plaintiff admitted in his testimony he had not been forced to get the vaccination. Additionally, Plaintiff’s testimony at the hearing failed to demonstrate any imminence of physical peril to his person. The Court finds</p>	

		Plaintiff's testimony at the hearing on this motion made clear that Plaintiff did not reasonably believe that Defendant 'was about to carry out the threat of harmful and offensive contact upon him by forcing him to inject' a COVID-19 vaccine into his body, as set forth in the Petition. In fact, Plaintiff admitted he had not been forced to get the vaccine."	
<i>Rydie v. Biden, 2021 WL 5416545 (D. Md. Nov. 19, 2021)</i>	Federal employees challenged vaccine mandate on due process and bodily integrity privacy grounds, also contending that the government's information collection process violated their privacy rights.	<p>"Making vaccination a condition of employment does not cross the line into battery or reach the level of coercion necessary to infringe this fundamental liberty interest. . . . There also is no related right to refuse vaccination deeply rooted in this Nation's history and tradition. Quite the opposite. There is a long tradition of upholding mandatory vaccination laws under rational basis scrutiny because they were necessary to the public health. Every court that has considered the constitutionality of a COVID-19 vaccine mandate by an employer or university has held that it satisfied rational basis scrutiny. Even if the vaccine requirement implicated a fundamental right, it might survive strict scrutiny.</p> <p>"Plaintiffs' information privacy argument fares no better. Any right to keep information private does not prohibit the government from requesting information reasonably related to its role as an employer, so long as the information is protected by the Privacy Act. It is reasonable for the government to request employees' vaccination status in light of the risks posed by COVID-19 and that information is likely protected by the Privacy Act.</p>	
<i>Sambrano v United Airlines,</i>	Airline employees who were granted	"Plaintiffs first argue that "United has put its religious and disabled workers in an impossible	

<p>2021 WL 5176691 (N.D. Tex. Nov. 8, 2021)</p>	<p>exemptions sought injunction against employer’s placement of them on unpaid leave as a reasonable accommodation.</p>	<p>position—take the COVID-19 vaccine, at the expense of their religious beliefs [or face indefinite] unpaid leave.” Pls.’ PI Br. at 16, ECF No. 37. Because the vaccine cannot be removed from their bodies, an individual who chooses to get the shot cannot undo that choice.⁸ Plaintiffs argue that acquiescing to United and getting the vaccine in violation of their beliefs will cause irreparable harm.</p> <p>This argument, however, conflates the potential harm arising from United’s accommodation policy with the personal difficulty of deciding to decline the vaccine. United exempted Plaintiffs from the vaccine mandate; Plaintiffs were not required to violate their religious beliefs. United’s employees claimed they faced an impossible choice: get the vaccine or endure unpaid leave. But they chose the latter. Their dispute thus centers on United’s response to their choice.”</p> <p>Neither loss of seniority nor loss of income associated with placement on unpaid leave of absence is irreparable harm.</p> <p>The Court is not insensitive to Plaintiffs’ plight. A loss of income, even temporary, can quickly ripple out to touch nearly every aspect of peoples’ lives, and the lives of their families and dependents. But the Court’s analysis must be guided by the law, not by its sympathy. Despite the novel facts presented here, the case law is clear that hardships stemming from loss of income are remediable; axiomatically such hardships cannot be called irreparable.”</p>	
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<p><i>Smith v. Biden</i> (D.N.J., Nov. 8, 2021, No. 1:21-CV-19457) 2021 WL 5195688, at *1</p>	<p>Federal employees sought injunction against federal government’s vaccine mandate, citing due process and equal protection arguments.</p>	<p>“Courts have repeatedly refused to enjoin an employer’s COVID-19 vaccine mandate, provided they contain legally required exemptions, finding they pass muster under the rational basis test. Plaintiffs provide no legal or factual basis to distinguish the federal government’s issuance of a vaccine mandate for its workforce from that of any other employer that has taken the same action or to compel a different result in this case.</p> <p>Plaintiffs also fail to show a likelihood of success on the merits as to their equal protection claim alleged in Count Two of the proposed Second Amended Complaint. The first step to evaluate an equal protection claim is to determine the standard of review. Since Plaintiffs’ claims do not involve a suspect class or fundamental right, the same rational basis standard of review applies. <i>Id.</i> Thus, for the same reasons set forth above, Plaintiffs are not likely to succeed on the merits of this claim.”</p>	
<p><u>State Police Association of Massachusetts v. Commonwealth of Massachusetts, No. 2184-CV-02117 (Mass. Super. Ct. Sep. 23, 2021).</u></p>	<p>State troopers sought temporary restraining order prohibiting implementation of vaccine mandate, citing State’s refusal to bargain.</p>	<p>“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.”</p>	
<p><i>Streight, Plaintiff, v. Pritzker.</i> (N.D.</p>	<p>Student sought preliminary injunction against saliva testing</p>	<p>Court rejects claim, “the nature of the privacy interests” to be minimal and “the nature and</p>	

<i>Ill., Sept. 22, 2021, No. 3:21-CV-50339) 2021 WL 4306146</i>	requirement, citing Fourth Amendment.	immediacy of the governmental concern “ to be great.	
<i>Dr. T v. Scott, 2021 WL 4476784 (D.R.I. Sep. 30, 2021)</i>	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.”	
<i>Together Employees v. Mass General Brigham Inc. (1st Cir., Nov. 18, 2021, No. 21-1909) 2021 WL 5368216</i>	Citing Title VII and the ADA, employees sought injunction against denial of exemptions from vaccination requirement.	Employees would not suffer irreparable harm in the absence of injunction pending appeal of the denial of their request for preliminary injunctive relief from employer's policy. If employer's actions were found to violate Title VII and the ADA, money damages would adequately resolve all of the harms alleged by employees, including deprivation of salaries and health insurance as well as psychological injuries, which were external factors common to most discharged employees.	
<i>Troogstad v. City of Chicago (N.D. Ill., Nov. 24, 2021, No. 21 C 5600) 2021 WL 5505542</i>	City employees sought TRO enjoining vaccination policy, citing substantive due process, procedural due process, and free exercise rights	“The questions Plaintiffs raise about the efficacy of vaccines as compared to natural immunity do not persuade the Court that Defendants’ policies lack a rational basis. Nor does the Court believe the comparative efficiencies of vaccine immunity versus natural immunity (at least, as depicted on this record) would have altered the Seventh Circuit's holding.	

		<p>Plaintiffs next argue that <i>Klaassen</i>, which addressed a vaccination requirement for university students, ought not apply to vaccination requirements for public employees because “the determination to terminate or not to renew a public employment contract cannot be premised upon the employee’s protected activities.” But this argument misinterprets <i>Klaassen</i>. <i>Klaassen</i> did not hold that <i>Jacobson</i> permitted the university to violate the fundamental right of students not to be vaccinated. Instead, <i>Klaassen</i> held that no such substantive due process right exists in the first instance.”</p>	
<p><i>United Firefighters of Los Angeles City v. City of Los Angeles</i>, No. 21STCV-41138 (Cal. Super. Ct. Dec. 3, 2021)</p>	<p>Union sought TRO halting vaccine mandate pending completion of impasse-resolution process.</p>	<p>In denying TRO, court deferred to employer’s declaration of a health emergency and lack of proof of public harm if firefighters were terminated for non-compliance with mandate.</p>	
<p><i>United KP Freedom Alliance v. Kaiser Permanente</i>, 2021 WL 5370951 (N.D. Cal. Nov. 18, 2021)</p>	<p>Health care employees challenged vaccine mandate under state constitutional privacy clause.</p>	<p>“Unlike the federal constitutional rights that the plaintiffs assert, California’s constitutional right to privacy applies to nongovernmental entities. And the privacy interest encompassed by the right is broad, covering a person’s ‘interest in making intimate personal decisions or conducting personal activities without observation, intrusion, or interference’—what courts commonly refer to as ‘autonomy privacy.’ But privacy concerns are not absolute; they must be balanced against other important interests. Therefore, invasion of a privacy interest is not a violation of the state constitutional</p>	

		<p>right to privacy if the invasion is justified by a competing interest. . . .</p> <p>“Kaiser’s mandatory vaccination policy is justified by multiple important interests. Most obviously, Kaiser has a serious (and compelling) interest in promoting the health and safety of its workforce; an employer may take steps to prevent its employees from getting sick, as employee sickness may cause staffing difficulties and increased health care costs (not to mention human suffering). Furthermore, this vaccination mandate is not solely about the health of individual employees, but the health of people with whom employees interact (which, in this case, includes medical patients, although the absence of patients would not make a material difference).”</p>	
<p><i>Valdez v. Grisham</i> (D.N.M., Sept. 13, 2021, No. 21-CV-783 MV/JHR) 2021 WL 4145746</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>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>Williams v. Brown</i>, No. 6-</p>	<p>Employees challenged governor’s vaccine</p>	<p>“As Dr. Sutton explained in her Declaration, the decision to extend this mandate to employees and</p>	

<p>21-cv-01332-AA (D. Or. Oct. 19, 2021)</p>	<p>mandate, citing “bodily integrity” and “natural immunity” claims.</p>	<p>workers who have previously contracted COVID-19 was based on evidence that infection-based immunity was not as durable or reliable as the protection conferred by the vaccines and on the CDC’s recommendation that all eligible people be vaccinated, regardless of prior infection. . . The Court concludes that the vaccine mandates would survive rational basis review and that Plaintiffs have not shown a likelihood of success on the merits of their equal protection claim or even serious questions going to the merits of that claim.”</p>	
<p><i>Wise v. Inslee, NO. 2:21-CV-0288-TOR (E.D. Wash. Oct. 25, 2021)</i></p>	<p>Challenge to governor’s order calling for mandatory vaccination for educators, healthcare workers, and state employees and contractors, citing religious freedom (though order had religious exemption) and contract clause claims.</p>	<p>Religious claim met rational basis test; court rejected strict scrutiny, citing <i>Jacobsen</i>.</p> <p>“The Court need not decide whether the Proclamation is a substantial impairment of contractual relations because there is no doubt that it is an appropriate and reasonable way to advance a significant and legitimate public purpose, which is curbing the spread of COVID-19. Even applying a heightened scrutiny, the Proclamation serves the State’s compelling interest in reducing COVID-19 infections.</p>	
<p><i>Zywicki v. Washington et al., No. 1:21-CV-00894 (E.D. Va. Aug. 3, 2021)</i></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>	