



Boulder Area Human Resource Association

BAHRA Legal Minute November 2021

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OSHA issues vax or test requirement

- » Employers with 100 or more employees must implement COVID-19 vax requirement for their employees — and offer a weekly testing + mask alternative to unvaxxed — by 1/4/22
 - » Count all full and part-time employees toward 100
 - » Vax mandate does not apply to lone/remote/outdoor workers
 - » Employers must provide up to 4 hours paid time/reasonable sick leave to get vax; employer bears no cost of testing unvaxxed
 - » Must consider accommodations for medical condition/religion
 - » Must maintain roster each employee's vax status; proof of vax for each employee
 - » **MUST HAVE A WRITTEN VAX POLICY**

5th Circuit has stayed OSHA ETS

- » 490-page OSHA Emergency Temporary Standard (ETS) mandating vax or test requirement for employers with 100₊ employees was *temporarily stayed* by 5th U.S. Circuit Court of Appeals on November 6, 2021
- » **Large employers should still prepare for the ETS pending litigation and final outcome on the matter**

Rules for healthcare workers/contractors

- » Published November 4, 2021 by Centers for Medicare and Medicaid Services (CMS) at DHHS creates fully vaxxed mandate by **1/4/22**
 - » Requires full vax status; does not require booster shots
 - » Must consider accommodations for medical conditions/religion
- » Vax requirement for federal contractors extended from 12/8/21 to **1/4/22**
- » New rules preempt all conflicting state/local laws
- » United Airlines' employee vax mandate upheld on 11/9/21 (*Sambrano v. United Airlines* (N.D. Tex.))

Questions?

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