

# Washington State Continues to Mandate COVID-19 Vaccination for Certain Workers

December 1, 2021

## Related Services

COVID-19

Disability, Leave and Health Management

Workplace Safety and Health

Following such states as California, Connecticut, Massachusetts, New Jersey, New York, and Oregon, Washington's Governor Jay Inslee has issued [Proclamation 21-14.3](#) to require certain workers be fully vaccinated against COVID-19 and provide proof of such vaccination.

### Covered Workers

The vaccine mandate applies to employees, on-site volunteers, or on-site contractors for:

- State agencies;
- Operators of any educational setting; and
- Operators of any healthcare setting.

It also applies to "Health Care Providers," who are defined as:

- i. Any individual with credentials listed on the Healthcare Professional Credentialing Requirements list;
- ii. Individuals who are permitted by law to provide healthcare services in a professional capacity without holding a credential;
- iii. Long-term care workers (unless specifically excluded); and
- iv. Workers in any "Health Care Setting," which is defined as any public or private setting that is primarily used to deliver in-person healthcare services to people.

The Proclamation does not include in-home care or hospice care providers.

### Exemptions

The Proclamation has exceptions and exemptions for disability and sincerely held religious beliefs, practices, or observances, unless providing an accommodation does not cause an undue hardship on the employer.

Under the Proclamation, before granting a disability-related reasonable accommodation, covered employers must obtain from the worker documentation from an appropriate healthcare or rehabilitation professional stating that the individual's disability necessitates an accommodation and the duration of the need for an accommodation.

Individuals seeking exemption from the vaccine mandate for religious reasons must provide a document that explains the way in which the vaccine requirement conflicts with the individual's sincerely held religious observance, practice, or belief.

As of November 24, facilities that provide 24/7 care to individuals that are unable to find contractors whose vaccinations are verified can use unverified contractors for the duration of certain "emergent events or conditions," such as fires, floods, or other natural disasters, with various documentation requirements.

Employers granting such requests must still require the worker to take COVID-19 safety measures that are consistent with the recommendations of the state Department of Health

and the Department of Labor & Industries for the particular setting.

## Proof

The Proclamation requires individuals to provide certain proof of full vaccination. Documentation from a healthcare provider or electronic health records, state immunization information system records, or the individual's Centers for Disease Control and Prevention COVID-19 Vaccination records or photo of the card are acceptable proof of vaccination.

Personal attestations are *not* acceptable as proof of vaccination. This departs from the state's [mask mandate](#), which allows employees to provide personal attestations as evidence of vaccination. (See our article, [Washington Employers Can't Relax After Reopening Under New COVID-19 Rules](#), for more details.)

## Employer Obligations

Under the Proclamation, individuals who are not vaccinated by the October 18 deadline may not be permitted to work. Violators of the Proclamation may be subject to criminal penalties pursuant to RWC 43.06.220(5).

Employers have been faced with situations where employees choose to not vaccinate or simply could not vaccinate before the deadline, and they are continuing to deal with such scenarios. In addition, employers have faced an influx of accommodation requests, which must be addressed on a case-by-case basis, with an eye on privacy concerns to properly maintain private health information.

To assist covered employers, the [governor's office](#) and the [Department of Health](#) have released FAQs for various industries; however, these guides are informal and not authoritative.

## Effectiveness of Proclamation

In late-October, a federal judge in the Eastern District of Washington denied a suit by first responders who wanted to halt the vaccination requirements on the ground that their civil rights were violated.

Questions remain over how the Proclamation will interact with various federal vaccination initiatives.

Jackson Lewis attorneys are closely monitoring updates and changes to legal requirements and guidance and are available to help employers weed through the complexities.

If you have questions or need assistance, please reach out to the Jackson Lewis attorney with whom you regularly work, or any member of our [COVID-19 team](#).

©2021 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on labor and employment law since 1958, Jackson Lewis P.C.'s 1000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged, stable and diverse, and share our clients' goals to emphasize inclusivity and respect for the contribution of every employee. For more information, visit <https://www.jacksonlewis.com>.