

# Appeals Court Blocks Biden's COVID-19 Vaccine Mandate for Federal Workers



In a major blow to the Biden administration, the 5th U.S. Circuit Court of Appeals on Thursday upheld an injunction on President Joe Biden's COVID-19 vaccine mandate affecting more than 3.5 million federal workers.

In a rare [\*en banc\* ruling](#), ten of sixteen judges on the 5th Circuit reversed the court's earlier decision ruling there's no constitutional basis to require federal employees to be vaccinated. U.S. District Judge Jeffrey Brown in January 2022 initially blocked the mandate; however, a three-judge panel from the 5th Circuit Court of Appeals reinstated the mandate last April.

The three-member panel said federal employees should have taken their complaint to administrative agencies such as the Civil Service Reform Act or Merit Systems Protection Board that deal with employment issues instead of suing in court. But the full court agreed to hear the matter *en banc*, which

paused the mandate's enforcement.

Judge Andrew Oldham wrote the opinion for a 10-member majority.

Because the issues revolved around "mandated vaccinations that have consequences long after the employee leaves the federal workforce," the [majority said](#) the Civil Service Reform Act did not prohibit the employees from bringing their case.

The court also noted the issues at stake were outside the scope of the Merit Systems Protection Board, and it would "substantially burden" the agency to "task it with such non-[Civil Service Reform Act] matters." The court compared the vaccine mandate case to one in which an individual installed a camera in the women's changing room at a Veterans Affairs Department facility. In that case, a court ruled it could be litigated outside of the reform act's construct.

"If 'working conditions' does not include peephole cameras in workplace changing rooms," Oldham wrote, "it certainly does not include private, irreversible medical decisions made in consultation with private medical professionals outside the federal workplace."

Oldham reminded the parties that this case only involves a preliminary injunction to maintain the status quo until the parties have a chance to adjudicate the case on its merits.

"When the parties proceed to the merits in the district court, the plaintiffs will have to prove that whatever injunction they request is broad enough to protect against their proven injuries and no broader. And the Government will have another chance to show that any permanent injunction should be narrower than the preliminary one. And both sides will have to grapple with the White House's announcement that the COVID emergency will finally end on May 11, 2023."

The case will now go back to the U.S. Court for the Southern

District of Texas for a decision on the merits of the case, which could result in a permanent injunction.

Biden issued an executive order in September 2021 requiring vaccinations for all executive branch employees except for medical and religious reasons. The White House said in January that 98% of federal workers had been vaccinated.

A senior Biden administration official [declined to say](#) whether the White House and Justice Department would continue to pursue implementation of the mandate given that the public health emergency is set to expire in May.

“The federal government successfully implemented a COVID-19 vaccination requirement within the largest employer in the nation, achieving a 98% compliance rate,” the official said. “We continue to believe that vaccination remains one of the most important tools to protect people from serious illness and hospitalizations against COVID-19.”