

VACCINE MANDATE UPDATE: Missouri Federal Court Joins Three Other Courts in Blocking Federal Contractor Vaccine Mandate

AUTHOR: JAMES KEANEY

On December 20, 2021, the United States District Court for the Eastern District of Missouri ("Court") issued a memorandum and order enjoining enforcement of the vaccine mandate against federal contractors and subcontractors in all covered contracts in 10 states, including Missouri.

Like the Kentucky and Georgia courts, the Court blocked the mandate on all covered contracts. But the Court did not agree with all the conclusions reached by them.

The Court first addressed the issue of standing. Notably, the Court rejected the States' claim that they had standing to sue the federal government "with regard to their quasi-sovereign *parens patriae* interests." This is a legal doctrine that suggests States themselves can sue on behalf of its residents to protect their general welfare. The Missouri court, however, disagreed.

But that disagreement did not end its standing analysis. The Court ultimately concluded that at least Missouri, Wyoming, and Iowa had standing as federal contractors to challenge the mandate. With that issue cleared up, the Court moved on to the merits of the States' challenges.

The Court concluded that the States would likely succeed on their claim that the federal government exceeded its authority in issuing the mandate, but not on their claim that the mandate was unconstitutional.

The Court rejected the argument that there was a sufficiently close nexus between the federal procurement statute and the vaccine mandate. In the Court's view, concluding otherwise would enable the President "to mandate virtually any public health measure that would result in a healthier contractor workforce."

However, the Court declined to adopt the States' Tenth Amendment challenge. It noted the lack of legal authority behind the States' claim that the mandate violated the Spending Clause (*i.e.*, one of Congress's enumerated powers) and characterized their arguments as essentially tautological: "[t]he Tenth Amendment 'restrains the power of Congress, but this limit is not derived from the text of the Tenth Amendment itself'....[r]ather, it 'confirms that the power of the Federal Government is subject to limits that may, in a given instance, reserve power to the States.'"

Interestingly, these are essentially the opposite conclusions reached by a Louisiana federal court that recently blocked the federal contractor vaccine mandate in 3 states, which we covered in a separate article [here](#).

Finally, the Court ended its opinion by addressing irreparable harm and the public interest. It recognized "nonrecoverable compliance and monitoring costs" and "significant disruption due to resignations" as irreparable harm, but not harm to sovereign interests *per se*. The Court then stated, "there is no public interest in the enforcement of an unlawful action."

Keep checking back here for more updates as these cases proceed through the appellate process in Federal Courts of Appeal throughout the country.