

New Illinois Department Of Labor Rules Adopt Federal Vaccine and Testing Mandates

by Greg Bishop
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(The Center Square) – Effective immediately, new rules filed by the Illinois Department of Labor adopt federal vaccine and testing mandates on employers of more than 100 employees.

The state agency's website said the final rules are not open to appeal or challenge and adopt the federal Occupational Safety and Health Administration's COVID-19 Vaccination and Testing Emergency Temporary Standard.

"These Rules are effective immediately, but give employers under the jurisdiction of Illinois OSHA until January 24 to begin to come into compliance with the requirements of the Emergency Temporary Standard by developing a workplace policy regarding vaccination and testing in accordance with the ETS," the IDOL website said.

The next Illinois Joint Committee on Administrative Rules meeting, where such emergency rule-making is overseen, is Tuesday.

The rules published by IDOL say by Feb. 24, employers must establish a policy on vaccination, determine the status of each employee with proof, and maintain records. Employers must also provide support for employee vaccination.

"Ensure employees who are not fully vaccinated are tested for COVID-19 at least weekly (if in the workplace at least once a week) or within 7 days before returning to work (if away from the workplace for a week or longer)," the rules said.

Among other rules effective Feb. 24, employers must require employees who test positive for COVID to disclose the diagnosis and employers must remove the employee from the workplace. Employers must require face coverings of those not fully vaccinated.

"Provide each employee information about the ETS; workplace policies and procedures; vaccination efficacy, safety and benefits; protections against retaliation and discrimination; and laws that provide for criminal penalties for knowingly supplying false documentation," the rules said.

A challenge to the federal OSHA vaccine mandates for employers of more than 100 employees was heard Friday in the U.S. Supreme Court.

Arguments from attorneys challenging the mandate included executive branch overreach, the expected economic peril on employers having to comply with testing mandates, to employees quitting or being terminated, sending ripples across the economy.

"While no one can say for certain what the outcome will be, seven of the judges asked questions that indicated they had serious questions about the constitutionality of the OSHA mandate," said Jenin Younes, an attorney with New Civil Liberties Alliance.

Several of the justices asked questions critical of those challenging the vaccine mandate.

Justice Elena Kagan pointed to the severity of the virus and also argued that the mandate policy is politically accountable through the president, and that voters can elect a new president to overturn it if they don't like it. Biden's first term ends in January 2025.

“seemed unaware that the vaccines appear relatively ineffective at stopping transmission, and drastically overstated the danger the virus poses to children,” Younes said. “These factual misunderstandings should not serve as the basis of any legal determination.”

A ruling from the U.S. Supreme Court could happen at any time because of the request for a stay ahead of the enforcement deadline. It remains unclear, though, when the ruling will be handed down.

Also Friday, Illinois Gov. J.B. Pritzker issued another consecutive emergency proclamation concerning COVID-19. This marks the 22nd month of disaster proclamations that have brought dozens of executive orders ranging from a stay at home order, to closing schools, to closing businesses and requiring vaccines for educator and masks indoors.

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