

Court Reinstates Vaccine Mandate for Federal Workers, But White House Delays Enforcement

A federal court on Thursday upheld the Biden administration's COVID-19 vaccine mandate for federal employees, but the White House told federal agencies "procedural steps" need to take place before the mandates can be enforced.

By **Susan C. Olmstead**

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A federal appeals court on Thursday [upheld](#) the Biden administration's [COVID-19](#) vaccine mandate for federal employees.

The 5th Circuit Court of Appeals' [2-1 ruling](#) reversed a lower court's Jan. 21 [injunction](#) against the mandate and also ordered the district court to dismiss the case.

Hours after the ruling, the White House told federal agencies to hold off on reinstating the mandates that would affect about 3.5 million workers.

[According to The Washington Post](#), White House officials cautioned "there are still procedural steps that need to take place to lift the injunction, and it's unclear when the agencies might begin enforcing the mandate."

Biden issued the [executive order](#) on Sept. 9, 2021, when the [Delta](#) variant was dominant in the U.S.

Under the order, unvaccinated federal employees risk being fired, unless they qualify for an exemption on medical or religious grounds or have such a request under consideration.

Commenting on Thursday's ruling, Mary Holland, president and general counsel at [Children's Health Defense](#) (CHD), said:

"CHD regrets the 5th Circuit's decision to reimpose President Biden's COVID vaccine mandate for federal workers. We support the federal workers who continue to press their claim that an [experimental](#) gene therapy vaccine mandate is an illegitimate use of federal power."

Plaintiffs' argument rejected

Writing for the majority opinion, Judge Carl Stewart said the plaintiffs, a group called Feds for Medical Freedom, could have challenged the mandate using other channels.

Stewart said the employees could have filed a complaint with the Office of Special Counsel, working within the [Civil Service Reform Act of 1978](#) (CSRA)'s provisions.

The CSRA established [procedures](#) for settling work-related controversies between federal civil service employees and the federal government.

"Under the [CSRA], certain federal employees may obtain administrative and judicial review of specified adverse employment actions," Judge Stewart wrote.

“The plaintiffs could have challenged [the government’s] proposed action against them before filing this suit and certainly before getting vaccinated.”

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Infections among the vaccinated continue

The White House [claimed](#) on Nov. 21, 2021, that 96.5% of federal employees had already been vaccinated in accordance with the mandate. However, vaccinated people [continue](#) to become infected with COVID.

Data recently revealed through a Freedom of Information Act request [showed](#) that 70% of COVID cases among Centers for Disease Control and Prevention employees in August 2021 were in people who had been vaccinated.

“It is ironic that the appeals court is upholding an experimental product that demonstrably does not work to achieve its intent — to stop transmission of COVID,” Holland said.

“Just yesterday, a triple-jabbed high-ranking member of Congress tested positive for COVID,” she added. “These products simply don’t work against the viruses currently in circulation.”

Holland said she wondered whether the continuing push to get people vaccinated has more to do with commerce — and particularly the large unused stockpile of COVID vaccines in the U.S. — than with health.

Millions of COVID vaccine doses are sitting unused, the Associated Press [reported](#) last month, leaving states with stockpiles that officials were scrambling to administer before the vaccines expired.

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Susan C. Olmstead is the assistant editor of The Defender.

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