

Sixth Circuit Upholds Block of Federal Contractor COVID-19 Vaccine Mandate

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On January 12, 2023, the U.S. Court of Appeals for the Sixth Circuit [upheld](#) most of a district court's injunction blocking the federal contractor vaccine mandate in Kentucky, Ohio, and Tennessee.

In its decision, the unanimous three-judge panel described “[t]he mandate’s scope” as “stunning,” noting that it effectively applied to “tens of millions of Americans.” The Sixth Circuit held that federal procurement law did not authorize President Joe Biden’s September 2021 [Executive Order \(E.O.\) 14042](#), which mandates COVID-19 vaccinations and other COVID-19 safety measures for federal contractors and subcontractors. However, the appellate court did narrow the injunction’s scope. While the [district court’s injunction](#) had applied to any contractors in the plaintiff states of Kentucky, Ohio, and Tennessee, the Sixth Circuit limited it to only the parties to the litigation—Kentucky, Ohio, Tennessee, and two Ohio sheriffs’ offices.

The Sixth Circuit’s decision follows similar decisions by the [Eleventh Circuit Court of Appeals](#) and the [Fifth Circuit Court of Appeals](#), which both recently upheld injunctions against the mandate in various states. The Eighth Circuit Court of Appeals is also expected to weigh in on the legality of E.O. 14042 in the coming months. In the meantime, the government has continued to [hold off](#) on enforcing the mandate. The Office of Management and Budget’s [October 2022 guidance](#) instructs federal agencies not to take any steps to implement or enforce the vaccine mandate, absent additional guidance.

Key Takeaways

The Sixth Circuit’s decision is the latest in a string of E.O. 14042 appellate losses for the Biden administration. Covered federal contractors and subcontractors may want to continue to monitor pending district and appellate court litigation, as well as the [Safer Federal Workforce Task Force website](#), for further guidance on the implementation and enforcement of the contractor COVID-19 vaccine mandate.

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