



## FACT SHEET: Vaccine Mandates and Civil Liberties:

Many employers and schools are putting in place rules that require employees and students to receive COVID-19 vaccines; these requirements are often referred to as “vaccine mandates.” Each mandate’s permissibility must be analyzed independently. However, based on the impact of the COVID-19 pandemic on public health, and based on long-standing and recent court decisions, our current view is that many of the recent vaccine mandates being imposed by the government, schools, and private employers to address COVID-19 would likely be held constitutional.

Please see below for answers to some commonly asked questions.

### **Are vaccine mandates new?**

While COVID-19 vaccine mandates are new, there is a long history of vaccine requirements in our country, including in schools, health care facilities, and the U.S military. As far back as 1905, the U.S. Supreme Court, in a case called *Jacobson v. Massachusetts*, upheld the authority of states to enforce mandatory vaccination laws on public health and safety grounds.

### **Are vaccine mandates a violation of my rights?**

Vaccine mandates may raise civil liberties concerns, but that does not mean that all vaccine mandates are impermissible. While people have a fundamental right to make their own health care decisions, there are circumstances in which vaccine mandates can be warranted to protect public health and save lives.

Given the widespread and devastating impact of COVID-19, the effectiveness and safety of the vaccines approved or authorized for emergency use by the FDA, and the absence of an equally effective and less intrusive alternative, COVID-19 vaccination mandates can be consistent with civil liberties principles. However, the permissibility of any mandate will depend on a fact-specific, case-by-case inquiry, and changing circumstances. Further, any mandate must ensure that there are accommodations or exemptions in place for those who are unable to be vaccinated for medical reasons.

Notably, where proof of vaccination can be legitimately required, people must always have the option of providing paper or non-digital proof and should not be required to download and use a specific app or be required to give up their private data to companies. Further, where the government is enacting a vaccine mandate, it is vital that officials set and enforce the requirement neutrally and equally and remain vigilant against disproportionate enforcement efforts — namely those that target communities of color or other historically disadvantaged groups.

## **What about vaccine passports?**

For information regarding privacy concerns raised by “vaccine passports” read [this](#) blog post from the National ACLU.

This fact sheet will be periodically updated.