

Labor and Employment Alert: Status of OSHA ETS on Vaccine Mandate for Employers With 100 or More Employees

11/18/2021

On November 5, 2021, the Federal Occupational Health and Safety Agency (“OSHA”) issued its long-awaited Emergency Temporary Standard (“ETS”) relating to the vaccine mandate for employers with 100 or more employees. For the full text of the ETS as well as the explanation from OSHA (all 150+ pages), [click here](#).

OSHA, however, [announced](#) it has suspended all activities related to the implementation and enforcement of the ETS. The announcement is a result of the Fifth Circuit Court of Appeals [entering a stay](#) barring OSHA from taking any steps to implement and enforce the ETS. To date, 27 States have filed legal challenges to the ETS as well as several private employers, religious organizations, and other groups. All of those legal challenges, pending across the United States, will be decided initially by the Sixth Circuit Court of Appeals. Any appeals from that court would be to the United States Supreme Court.

We will notify employers in the event the stay is lifted or modified in any way. In the meantime, employers that would have been subject to this ETS do not need to put in place or enforce any policies that would have been required by this ETS.

For more information on this topic, please contact any member of the Brach Eichler Labor and Employment team.

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