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# Do Vaccine Mandates Work?

Updated July 7, 2023 | Originally published October 11, 2021

HIGHLIGHTS || ○ ○ ○ ○ ○ ○ ○ ●

In September 2021, the CDC reported that the unvaccinated account for over 90% of COVID-19 hospitalizations and deaths.



## Executive Summary

This report is a brief history of some of the vaccine mandates and exemptions in U.S. states, public schools, and the military from the nation's founding to the present and some related information.

A mandate is defined as “any mandatory order or requirement under statute, regulation, or by a public agency.”<sup>[1]</sup> A vaccine mandate does not mean that a person will be forced to get a vaccine, but rather that they can be penalized or excluded from certain places for not complying, unless exempted.

Some people qualify under law for medical exemptions, and those who oppose vaccines can sometimes secure religious or personal belief exemptions. Opposition to vaccine mandates has existed as long as the mandates themselves.

Inoculation against diseases in the United States traces back to the founding of the United States: on January 6, 1777, General George Washington ordered the inoculation of troops against smallpox during the Revolutionary War, almost 20 years before the first vaccine was developed in 1796.<sup>[2]</sup> Inoculation is a broader term than vaccination, but the two words are now often used interchangeably.

Massachusetts was the first state to pass a vaccine mandate for smallpox for the general population in 1810. In 1812, the U.S. Army implemented its first vaccine mandate. In the following years, vaccinations were required for certain diseases for all service members depending on their status within the military, with some exemptions considered. In 1855, Massachusetts became the first state to mandate the smallpox vaccine for school children.

In 1905, the U.S. Supreme Court (SCOTUS) upheld the authority of states to enact and enforce vaccination mandates, and in 1922 SCOTUS decided that states have the authority to enforce vaccine mandates for public school enrollment.

All 50 states have had vaccine mandates for K-12 public school students for diseases such as polio, diphtheria, tetanus & pertussis, and measles and rubella since at least 1980, and all 50 states allow for medical exemptions while some also offer religious or personal belief exemptions.

The COVID-19 pandemic has taken over one million lives in the United States.

The FDA granted emergency-use authorization to the first COVID-19 vaccine on December 11, 2020. On August 23, 2021, Pfizer's Comirnaty became the first COVID-19 vaccine to receive full FDA approval. In an effort to slow the spread of coronavirus the U.S. government then began to issue COVID-19 vaccine mandates for service members, federal workers, federal contractors, health care workers, and private sector companies with more than 100 employees. Some U.S. states and cities have also enacted vaccine mandates.

A CDC report dated September 17, 2021, found that 92% of COVID-19 hospitalizations and 91% of COVID-19 deaths in the U.S. occurred among people who were not fully vaccinated.

As with past vaccine mandates, there has been opposition to the vaccine mandates instituted to fight COVID-19. People cite fears about the safety of the vaccines, religious objections to the cell lines used to develop them, and concerns about infringement on personal freedom.

In November 2021, 10 state attorneys general filed a lawsuit against the Biden administration over the vaccine mandate for staff members at health care facilities that participate in the Medicare and Medicaid programs. Other groups have also filed lawsuits

seeking to stop mandates, including more than 60 service members requesting religious exemption from the military's vaccine requirement.

On January 13, 2022, SCOTUS upheld President Biden's vaccine requirement for health care facilities that take federal funding by a 5-4 vote, but blocked the vaccine-or-testing mandate for companies with at least 100 employees by a 6-3 vote. Thousands of people gathered in Washington, DC, on January 23, 2022, to protest vaccine mandates.

On January 31, 2022, the FDA approved a second COVID-19 vaccine, Moderna's Spikevax.

As of February 17, 2022, the U.S. military had granted 15 religious exemptions out of 16,000 requests and federal cases on the matter were pending. In March and April 2022 rulings, SCOTUS allowed the military to reassign Navy SEALs and discipline an Air Force officer, all of whom were unvaccinated against COVID-19 for religious reasons.

On April 7, 2022, the 5th Circuit Court of Appeals reinstated Biden's vaccine mandate impacting an estimated 3.5 million federal employees, and on October 3, 2022, SCOTUS rejected a challenge to Biden's vaccine mandate for workers in healthcare facilities that receive federal funds.

## A Brief Timeline of Vaccine Mandates

### 1700s

#### 1. **January 6, 1777** – General George Washington's inoculation mandate

General George Washington, who went on to become the first President of the United States, led the Continental Army during the American Revolutionary War. At the time, diseases such as smallpox were the leading cause of death for his soldiers.<sup>[3]</sup> According to research published by the Library of Congress, General Washington "wrote to Dr. William Shippen Jr., ordering him to inoculate all of the forces that came through Philadelphia.<sup>[4]</sup> He explained that: 'Necessity not only authorizes but seems to require the measure, for should the disorder infect the Army ... we should have more to dread from it, than from the Sword of the Enemy.'<sup>[5]</sup>

#### 2. **1796** – Edward Jenner develops the first successful vaccine



*Dr. Jenner Performing His First Vaccination, 1796. Painted by Ernest Board, circa 1912. Photo credit: Wellcome Collection.*

English doctor Edward Jenner developed a vaccine that prevented a boy from contracting smallpox in 1796.<sup>[6]</sup> The smallpox vaccine was reportedly made from cow pox,<sup>[7]</sup> although some researchers speculate that horsepox may have been the original source for the vaccine.<sup>[8]</sup> Jenner coined the term "vaccine" when his findings were published in 1798, allegedly deriving from the Latin word for cow, "vacca."<sup>[9]</sup>

**Note:** Vaccination refers to the act of putting a vaccine into the body, and immunization is the process of the body becoming protected against a disease.<sup>[10]</sup> Inoculation, which introduces a disease into the body to stimulate disease resistance, is a broader term than vaccination and pre-dated the invention of vaccines. In modern times, the terms vaccination,<sup>[11]</sup> immunization, and inoculation are often used interchangeably.<sup>[11]</sup>

### 1800s

#### 3. **March 6, 1810** – Massachusetts, the sixth of the original 13 states to join the union, passes the first state vaccination mandate<sup>[12]</sup>

Massachusetts passed the first vaccine mandate in the US, granting local health boards the power to require smallpox vaccination for the general population.<sup>[13]</sup> <sup>[14]</sup> On March 6, 1810, the Massachusetts Senate and House of Representatives passed a law titled, "An act to diffuse the benefits of inoculation for the Cow Pox."<sup>[15]</sup><sup>[16]</sup>

On January 25, 1810, Governor Christopher Gore made a speech to the legislature in favor of vaccinating against smallpox by saying "of the duties which the Representatives of a free people have to perform, none can be more pleasant than that of preserving the lives and health of their fellow- citizens. Experience in the United States ... seems to have established a fact, that the Kine Pock [another term for cow pox used for the smallpox vaccine] is a safe, mild, and complete preventive of that loathsome disease, the Small Pox."<sup>[17]</sup> <sup>[18]</sup>

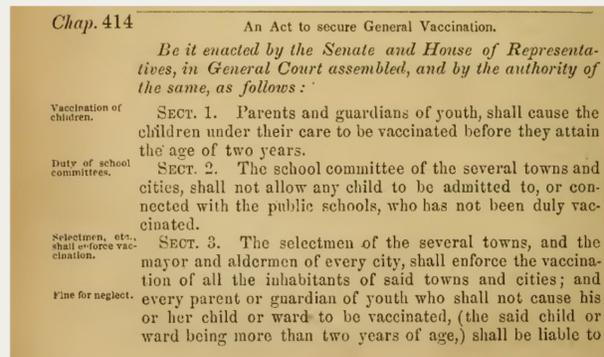
#### 4. **May 1812** – First vaccine mandate for the U.S. Army

The first vaccination mandate for U.S. soldiers has been traced back to May of 1812, when the U.S. Army ordered the smallpox vaccination, the first vaccine, "for all of its soldiers."<sup>[19]</sup> <sup>[20]</sup>

vaccination, the first vaccine, for all of its soldiers.

**Note:** The military has pursued research, testing and mandatory vaccinations of diseases affecting soldiers from Washington's smallpox inoculation order up to the COVID-19 pandemic.<sup>[21]</sup> Since the FDA was not founded until June 30, 1906, and not responsible for vaccine regulation until 1972, the military administered some vaccines that were not FDA approved.<sup>[22]</sup>

**5. May 19, 1855** – Massachusetts enacts “*An Act to secure General Vaccination*” and includes children and students



[Click the image above to see the Act in full.](#)

Massachusetts became the first state to mandate vaccination for the prevention of smallpox transmission in schools when the Massachusetts governor approved “*An Act to secure General Vaccination*” on May 19, 1855, that states:

“Sect. 1. Parents and guardians of youth shall cause the children under their care to be vaccinated before they attain the age of two years.

Sect. 2. The school committee of the several towns and cities shall not allow any child to be admitted to or connected with the public schools who has not been duly vaccinated.

Sect. 3. ... and every parent or guardian of youth who shall not cause his or her child or ward to be vaccinated (the said child or ward being more than two years of age,) shall be liable to a fine of five dollars for each and every year's neglect.”<sup>[23]</sup>

## 1900s

**6. February 20, 1905** – U.S. Supreme Court decides 7-2 in *Jacobson v. Massachusetts* that states have the authority to pass and enforce vaccine mandates

In 1902, Henning Jacobson was a pastor who claimed he had a bad reaction to a smallpox vaccination as a child in his birth country of Sweden and would not comply with a Board of Health of the city of Cambridge order to get revaccinated during an epidemic or pay a \$5 fine (\$173 in 2022 dollars).<sup>[24]</sup> <sup>[25]</sup>

He refused to get vaccinated, was brought to court, convicted, and refused to pay the \$5 fine. Jacobson took his case up to SCOTUS, where it was argued on December 6, 1904; he lost and eventually paid the fine.<sup>[26]</sup> <sup>[27]</sup>

Oyez.org wrote of the 7–2 decision: “The Court held that the law was a legitimate exercise of the state's police power to protect the public health and safety of its citizens. Local boards of health determined when mandatory vaccinations were needed, thus making the requirement neither unreasonable nor arbitrarily imposed.”<sup>[28]</sup>

**6. June 1911** – War Department mandates typhoid vaccine for all troops entering federal service

The vaccine for typhoid fever was mandated next for U.S. soldiers about a dozen years after the vaccine was introduced. When typhoid fever became problematic in the armed forces during the Spanish-American War, “Major Frederick Russell of the U.S. Army Medical School adapted British and German production methods to produce the inactivated, whole-cell, typhoid vaccine supply used by the entire United States,” and voluntary testing among U.S. soldiers began in 1909.<sup>[29]</sup> <sup>[30]</sup> The first typhoid vaccine mandate for “all troops entering federal service” was ordered in June of 1911 by the War Department.<sup>[31]</sup> <sup>[32]</sup>

**8. November 13, 1922** – U.S. Supreme Court decides 8-0 in *Zucht v. King* that state and local authorities can enforce vaccine requirements for entry into public school

In 1922, the SCOTUS case *Zucht v. King* upheld vaccination mandates for entry into public schools. A Congressional Research Service report stated that “in *Zucht v. King*, parents of a child [in Texas] who was excluded from school due to her unvaccinated status challenged the local ordinance requiring vaccination for schoolchildren, arguing that the ordinance violated the Fourteenth Amendment's Equal Protection and Due Process Clauses.”<sup>[33]</sup> The case went to the U.S. Supreme Court where Justice Brandeis delivered the unanimous opinion of the Court:

“Ordinances of the City of San Antonio, Texas, provide that no child or other person shall attend a public school or other place of education without having first presented a certificate of vaccination. Purporting to act under these ordinances, public officials excluded Rosalyn Zucht from a public school because she did not have the required certificate and refused to submit to vaccination. ... Long before this suit was instituted, *Jacobson v. Massachusetts*, 197 US 11, had settled that it is within the police power of a State to provide for compulsory vaccination. That case and others had also settled that a State may, consistently with the Federal Constitution, delegate to a municipality authority to determine under what conditions health regulations shall become operative.”<sup>[34]</sup> <sup>[35]</sup>

**9. January 31, 1944** – U.S. Supreme Court decides 5-4 in *Prince v. Massachusetts* that the government may restrict parental control over their children

While this case involved a challenge to a Massachusetts child labor law by a Jehovah's Witness who brought a nine-year-old girl to hand out literature while accepting monetary contributions, it has been cited in vaccine mandate cases.<sup>[36]</sup> The ruling pointed to laws

regarding compulsory vaccination as an example that the rights of parents and children to exercise religion were not absolute.<sup>[37]</sup>

The ruling stated, in part, that a parent “cannot claim freedom from compulsory vaccination for the child more than for himself on religious grounds. The right to practice religion freely does not include liberty to expose the community or the child to communicable disease or the latter to ill health or death.”<sup>[38]</sup> <sup>[39]</sup>

#### **10. 1980** – All 50 states have vaccine mandates for K-12 public schools

Following the first mandatory vaccination requirement of public school students in 1855, many states implemented vaccine requirements for students in the early 1900s.<sup>[40]</sup> In 1977, the federal government started a Childhood Immunization Initiative with the goal of getting more children vaccinated against diseases such as diphtheria, measles, and pertussis.<sup>[41]</sup> By 1980, all 50 states required vaccinations for K-12 public schools.<sup>[42]</sup>

In addition, all 50 U.S. states allow medical exemptions from vaccine requirements, and may have other exemptions for religious or personal beliefs or immunity exemptions, and 36 states have an additional clause that an unvaccinated student may be excluded from attending school in the event of a disease outbreak or epidemic, with some states specifying exclusion for the unvaccinated during a *vaccine-preventable* disease outbreak.

## 2000s

#### **11. June 30, 2015** – California eliminates personal belief exemptions from K-12 public school vaccine requirements

Following a rise in measles outbreaks in California, including at Disneyland, state lawmakers passed a bill removing the ability for parents to claim a personal belief exemption to avoid vaccinating their kids attending public schools. Governor Jerry Brown signed the bill on June 30, 2015, leaving only medical exemptions from vaccine requirements.<sup>[43]</sup>

#### **12. July 28, 2021** – Google becomes the first major tech company to announce vaccine mandates

On July 28, 2021, Google announced that employees returning to its work on-site when its offices reopened would be required to have the COVID-19 vaccine. Facebook and Lyft quickly followed suit.<sup>[44]</sup>

#### **13. August 20, 2021** – San Francisco becomes first city to enforce vaccine mandates for access to restaurants and other indoor establishments

San Francisco becomes first city to require “proof of full vaccination for indoor activities like dining at restaurants, drinking at bars and working out at gyms” starting on August 20, 2021.<sup>[45]</sup><sup>[46]</sup>

#### **14. August 23, 2021** – FDA approves the first COVID-19 vaccine

The FDA had granted emergency-use authorization to the Pfizer-BioNTech COVID-19 vaccine on December 11, 2020.<sup>[47]</sup> On August 23, 2021, the FDA gave full approval to the vaccine for ages 16 and older. The vaccine was marketed as Comirnaty (koe-mir'-na-tee). According to the FDA, “The result of a person receiving this vaccine is that their immune system will ultimately react defensively to the virus that causes COVID-19. The mRNA in Comirnaty is only present in the body for a short time and is not incorporated into – nor does it alter – an individual’s genetic material.”<sup>[48]</sup>

#### **15. August 24, 2021** – Mandatory vaccination of military service members against COVID-19

On August 24, 2021, the Secretary of Defense directed the mandatory vaccination of service members against COVID-19.<sup>[49]</sup> <sup>[50]</sup> Pentagon spokesman John Kirby said some service members will be exempt due to medical concerns and “some can apply for a religious accommodation.”<sup>[51]</sup>

#### **16. September 9, 2021** – Biden issues “Executive Order on Requiring Coronavirus Disease 2019 Vaccination for Federal Employees”



*Remarks by President Biden on Fighting the COVID-19 Pandemic, September 2021. Photo credit: The Whitehouse.*

On September 9, 2021, Biden issued the “Executive Order on Requiring Coronavirus Disease 2019 Vaccination for Federal Employees” requiring mandatory COVID-19 vaccinations for federal employees as defined in the order, noting that “the best way to slow the spread of COVID-19 and to prevent infection by the Delta variant or other variants is to be vaccinated.”<sup>[52]</sup>

#### **17. September 9, 2021** – Biden gives a speech on his plan to have businesses with 100-plus employees require proof of vaccination or regular testing

In an effort to have more Americans vaccinated, President Joe Biden, in a speech on September 9, 2021, announced a COVID-19 action plan with six points, including working with the Labor Department’s Occupational Safety and Health Administration (OSHA) on requiring businesses with 100-plus employees to ensure the workforce is vaccinated or having regular testing. <sup>[53]</sup> <sup>[54]</sup>

requiring businesses with 100 plus employees to ensure the workforce is vaccinated or having regular testing.

**18. September 17, 2021** – CDC says unvaccinated account for over 90% of COVID-19 hospitalizations and deaths

A CDC report released September 17, 2021, found that 92% of COVID-19 hospitalizations and 91% of COVID-19 deaths in the U.S. occurred among people who were not fully vaccinated.<sup>[55]</sup> Dr. Rochelle Walensky, Director of the CDC, said the data gathered during the Delta variant showed that unvaccinated people were "about four and a half times more likely to get COVID-19, over 10 times more likely to be hospitalized, and 11 times more likely to die from the disease."<sup>[56]</sup>

**19. October 1, 2021** – California becomes the first state to mandate the COVID-19 vaccine for schools

In a press release on October 1, 2021, Governor Gavin Newsom "announced plans to add the COVID-19 vaccine to the list of vaccinations required to attend school in-person when the vaccine receives full approval from the Food and Drug Administration (FDA) for middle and high school grades, making California the first state in the nation to announce such a measure. Following the other first-in-the-nation school masking and staff vaccination measures, Governor Newsom announced the COVID-19 vaccine will be required for in-person school attendance—just like vaccines for measles, mumps, rubella and more."<sup>[57]</sup>

**20. October 29, 2021** – U.S. Supreme Court declines 6-3 in *John Does 1–3, et al. v. Janet T. Mills, Governor of Maine, et al.*, to block Maine's vaccine mandate for health care workers

SCOTUS denied an emergency request to block Maine's COVID-19 vaccine mandate for health care workers who wanted to claim religious exemptions.<sup>[58]</sup>

The state had previously allowed some religious exemptions from vaccine requirements, but in 2019 did away with all non-medical exemptions.<sup>[59]</sup>

**21. November 4, 2021** – Biden Administration issues emergency regulation requiring that staff at health care facilities participating in the Medicare and Medicaid programs get the COVID-19 vaccine

The Centers for Medicare & Medicaid Services announced that staff at health care facilities that receive Medicare and Medicaid funds must be fully vaccinated against coronavirus by January 4, 2022, a requirement that could apply to more than 17 million health care workers across the United States.<sup>[60]</sup>

**22. December 6, 2021** – New York City becomes the first city to announce private sector vaccine mandates and expands indoor vaccine mandate program to include children aged 5-11

New York City's "Key to NYC" Covid-19 vaccine mandate for indoor dining, gyms, and entertainment venues took effect on September 13, 2021, requiring proof of at least one vaccine dose for everyone age 12 and older.<sup>[61]</sup> On December 14, 2021, the order expanded to cover kids between 5 and 11 years old. Mayor Bill de Blasio also announced on December 6, 2021, that two vaccine doses will be required for everyone 12 and older starting December 27, 2021.<sup>[62]</sup> <sup>[63]</sup>

Also announced to begin on December 27, 2021 is a "first-in-the-nation" vaccine mandate for all private sector workers in the city.<sup>[64]</sup>

**23. December 13, 2021** – U.S. Supreme Court declines 6-3 in *Dr. A, et al., Applicants v. Kathy Hochul, Governor of New York, et al.* to block New York's COVID-19 vaccine mandate for health care workers.<sup>[65]</sup>

SCOTUS refused to block New York state's vaccine mandate for health care workers who claim religious objections in a 6-3 decision.

Justice Gorsuch wrote a dissent in support of the vaccine mandate challengers "because their religion teaches them to oppose abortion in any form, and because each of the currently available vaccines has depended upon abortion-derived fetal cell lines in its production or testing."<sup>[66]</sup>

New York Attorney General Letitia James stated that there are no aborted fetal cells in the vaccines, and that the fetal cell lines used for vaccine testing were grown in a lab and "are thousands of generations removed from cells collected from a fetus in 1973."<sup>[67]</sup>

SCOTUS previously denied requests for emergency relief without referral to the full court for cases involving vaccine mandates for students at Indiana University (August 2021), for employees in New York City public schools (October 2021), and for hospital workers in Massachusetts (November 2021).<sup>[68]</sup>



COVID-19 vaccine and record card. Photo credit: Justinite / Pixabay

**24. January 7, 2022** – U.S. Supreme Court holds a special hearing on vaccine mandates

On January 7, 2022, SCOTUS began to hear oral arguments related to two of Biden's vaccine mandates: a requirement for workers at companies with more than 100 employees to be fully vaccinated or get tested weekly, and a requirement for health care workers at facilities receiving federal funding to be vaccinated against coronavirus.<sup>[69]</sup>

**25. January 13, 2022** – U.S. Supreme Court blocks vaccine mandate for large companies but upholds mandate for health care facilities

On January 13, 2022, SCOTUS issued two rulings on vaccine mandates. In the case *National Federation of Independent Business v. Department of Labor*, SCOTUS voted 6-3 to block the Biden administration's requirement that workers at companies with 100 or more employees be vaccinated or tested weekly. The mandate would have applied to over 80 million U.S. workers. In the case *Biden v. Missouri*, SCOTUS voted 5-4 to allow the vaccine mandate for employees of health care facilities that receive federal funding to take effect. The mandate applies to an estimated 10.3 million health care workers.<sup>[70]</sup>

**26. January 31, 2022** – FDA approves a second COVID-19 vaccine for people age 18 and older

On January 31, 2022, the FDA approved a second COVID-19 vaccine, manufactured by Moderna, which began marketing under the name Spikevax. As with the approval Pfizer's Comirnaty, the FDA stated that it conducted a "rigorous evaluation" of the potential for side effects of myocarditis and pericarditis, noting an increased risk seven days following the second dose for men ages 18-24. Most people's symptoms resolved, but some required intensive care. The FDA "determined that the benefits of the vaccine outweigh the risk of myocarditis and pericarditis in individuals 18 years of age and older."<sup>[71]</sup>

**27. February 2, 2022** – Army announces plans to discharge service members who have not gotten the COVID-19 vaccine

On February 2, 2022, the U.S. Army said that soldiers who refuse to be vaccinated against COVID-19 and have not received a waiver will be discharged from service. At that point, an estimated 96% of active troops had gotten vaccinated; among the rest, 5,900 had temporary exemptions and 3,350 soldiers refused to be vaccinated.<sup>[72]</sup>

Federal judges in various cases about religious exemptions soon issued rulings to stop some firings while lawsuits were in progress.<sup>[73]</sup>

**28. February 17, 2022** – Fifteen religious exemptions have been granted across all branches of the military

Six Marines and nine members of the Air Force had been granted exemptions from the COVID-19 vaccine mandate, while the Army and Navy had not granted any religious exemptions, out of an estimated 16,000 religious waiver requests.<sup>[74] [75]</sup>

The Air Force reported 1,500 medical exemptions and an estimated 2,300 administrative exemptions for service members who are leaving the military soon.<sup>[76]</sup>

The Navy granted 252 temporary and 11 permanent medical exemptions, and 500 administrative exemptions.<sup>[77]</sup>

The Marine Corps granted an estimated 400 administrative exemptions and 250 medical exemptions.<sup>[78]</sup>



Sailors assigned to the USS New Orleans receive COVID vaccines. Photo credit: U.S. Indo-Pacific Command / Flickr

**29. February 22, 2022** – U.S. Supreme Court rejects a challenge to Maine's health care worker COVID-19 vaccine mandate

On February 22, 2022, SCOTUS denied a petition to review lower court rulings that upheld Maine's health care worker COVID-19 vaccine mandate that only allows for medical exemptions (vote count unknown). The court rejected an emergency request from the same plaintiffs, a group of Maine health care workers who want the state to include religious exemptions, in November 2021 by a 6-3 vote.<sup>[79]</sup>

**30. February 23, 2022** – Google lifts COVID-19 vaccine mandate for employees

On February 23, 2022, Google, which had been among the first companies to announce a vaccine mandate for its workers, reversed the policy as it prepared to reopen offices. Workers who are not vaccinated will be required to wear masks and submit negative COVID-19 tests regularly in order to return to the office.<sup>[80]</sup>

**31. March 25, 2022** – U.S. Supreme Court Grants Partial Stay Allowing Pentagon to Consider Vaccination Status in Operational Decisions

On March 25, 2022, SCOTUS issued a temporary block of a federal trial court order in *Austin v. US Navy SEALs*. The 6-3 ruling allowed the military to factor in the COVID-19 vaccination status of Navy SEALs when making deployment decisions, including reassigning unvaccinated SEALs. Justice Alito and Justice Gorsuch dissented, and Justice Thomas, who was in the hospital until the day of the ruling, noted that he would dissent. The Navy SEALs argued that the military COVID-19 vaccine mandate disregarded their religious beliefs.<sup>[81]</sup>

**32. April 7, 2022** – 5th Circuit Court of Appeals reinstates federal employee vaccine mandate

On April 7, 2022, the 5th Circuit Court of Appeals reinstated Biden's mandate that federal workers must get the COVID-19 vaccine or seek a religious or medical exemption. A federal judge in a Texas district court issued a nationwide injunction in January preventing the government from enforcing the mandate, which applies to an estimated 3.5 million people. The appeals court vacated the injunction and ordered the lower court to dismiss the case.<sup>[82] [83]</sup>

**33. April 18, 2022** – U.S. Supreme Court allows Defense Department to discipline unvaccinated Air Force officer

On April 18, 2022, the SCOTUS denied an application for an injunction pending appeal by a 6-3 vote. The [two-sentence ruling in \*Dunn v. Austin, et al.\*](#) noted that Justice Thomas, Justice Alito, and Justice Gorsuch would have granted the injunction. The case was filed by Jonathan Dunn, an air force lieutenant colonel, chose not to get the COVID-19 vaccine based on religious grounds. Dunn asked the Supreme Court for an injunction against disciplinary action against him while his litigation made its way through the lower courts.<sup>[84]</sup>

Dunn had previously gotten other required vaccines. He responded to a denial of his COVID-19 vaccine exemption request by sending a memo to a major general that just read, "NUTS!" (interpreted as "go to hell," according to a government representative). The Air Force removed Dunn from command, citing Dunn's memo as justification independent of his vaccine refusal.<sup>[85]</sup>

**34. April 21, 2022** – Analysis estimates that vaccines could have prevented 234,000 COVID-19 deaths

A Kaiser Family Foundation analysis released on April 21, 2022, estimated that 234,000 COVID-19 deaths since June 2021 could have been prevented by vaccination. June 2021 is the date by which researchers thought all U.S. adults could have received primary vaccination (two shots of Moderna or Pfizer/one shot of Johnson & Johnson). Since then, 60% of all adult COVID-19 deaths in the United States were vaccine preventable. While the study did not include booster shot data, the authors noted that boosters would have prevented even more deaths of both vaccinated and unvaccinated people.<sup>[86]</sup>

**35. June 30, 2022** – U.S. Supreme Court rejects a challenge to New York's health care worker COVID-19 vaccine mandate for the second time

On June 30, 2022, SCOTUS denied a writ certiorari in the case of *Dr. A. v. Hochul*, leaving in place New York's vaccine mandate for health care workers that does not contain a right to religious exemption. Justices Clarence Thomas, Neil M. Gorsuch and Samuel A. Alito Jr dissented.<sup>[87] [88]</sup>

**36. August 18, 2022** – U.S. District Court in Florida grants class-wide preliminary injunction on behalf of members of the Marine Corps who were declined religious exemptions from the COVID-19 Vaccine Mandate

On August 18, 2022, United States District Judge Steven D. Merryday, ruling in *Colonel Financial Management Officer, et al., v. Lloyd Austin, Secretary of Defense, et al.*, granted a class-wide preliminary injunction in favor of members of the United States Marine Corps who were refused religious exemption under the military's COVID-19 vaccine mandate. Under the preliminary injunction, the defendants are prohibited from "(1) ... enforcing against a member of the class any order, requirement, or rule to accept COVID-19 vaccination, (2) from separating or discharging from the Marine Corps a member of the class who declines COVID-19 vaccination, and (3) from retaliating against a member of the class for the member's asserting statutory rights under RFRA [Religious Freedom Restoration Act]."<sup>[89]</sup>

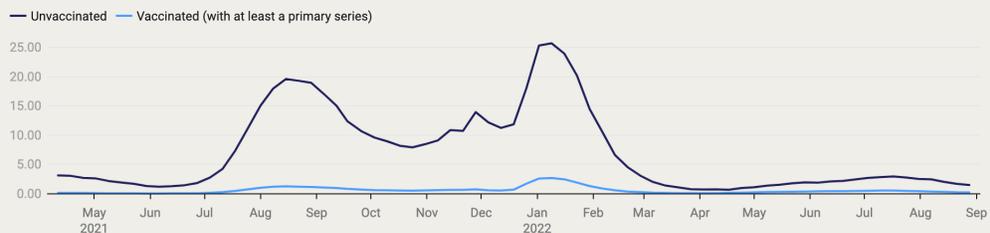
On **September 14, 2022**, the Marine Corps released interim guidance in response to this injunction, stating that, "the Marine Corps will not enforce any order to accept COVID-19 vaccination, administratively separate, or retaliate against Marines in the class for asserting statutory rights under the Religious Freedom Restoration Act (RFRA)."<sup>[90]</sup>

A similar class-action lawsuit is currently in progress for members of the United States Air Force.<sup>[91]</sup>

**37. August 28, 2022** – CDC statistics show that in August 2022, unvaccinated Americans had a six times greater risk of dying of COVID-19 than their vaccinated counterparts<sup>[92]</sup>

### Rates of COVID-19 Deaths in the United States by Vaccination Status (Ages 6+), April 8, 2021 – August 28, 2022

This chart shows the rates of COVID-19 deaths per 100,000 people. In August 2022, unvaccinated Americans had a six times greater risk of dying from COVID-19 compared to those with at least a primary series of vaccinations.\*



\* A "primary series" is the initial dose(s) of a COVID-19 vaccine. For Pfizer and Moderna mRNA vaccines, the primary series is two vaccine doses. For the Johnson & Johnson (J&J) COVID-19 vaccine, the primary series is a single vaccine dose.

Chart: A-Mark Foundation • Source: CDC • [Get the data](#) • [Download image](#) • Created with [Datawrapper](#)

**38. September 20, 2022** – New York City announces scheduled lifting of vaccine mandate for private sector employees

On September 20, 2022, New York City, the last jurisdiction that maintains an all-encompassing vaccine mandate for the private sector, announced that from **November 1, 2022**, private employers "will be able to make their own decisions on whether to require their employees to be vaccinated against COVID-19."<sup>[93]</sup> The public sector mandate remains in place.

**39. October 3, 2022** – SCOTUS rejects challenge to President Biden's vaccine mandate for workers in healthcare facilities that receive federal funds

On October 3, 2022, the Supreme Court denied a petition for certiorari in the case of *Missouri v. Biden*, leaving in place a vaccine mandate for workers in most federally funded healthcare facilities.<sup>[94]</sup>

**40. May 1, 2023** – Biden-Harris Administration announces scheduled lifting of vaccine mandate for Federal employees, Federal contractors and international air travelers

On May 1, 2023, the Biden-Harris Administration announced that, "the Administration will end the COVID-19 vaccine requirements for Federal employees, Federal contractors, and international air travelers at the end of the day on **May 11 [2023]**, the same day that the COVID-19 public health emergency ends. Additionally, HHS and DHS announced today that they will start the process to end their vaccination requirements for Head Start educators, CMS-certified healthcare facilities, and certain noncitizens at the land border."<sup>[95]</sup>

Challenges to government and private vaccine mandates are ongoing. The information in this report is intended to give a brief overview

## Historical and Current Opposition to Vaccine Mandates

### Historical Opposition to Vaccine Mandates

There has been opposition to vaccine mandates since around the time the first mandate was introduced. During the time Gen. Washington made his inoculation mandate, Virginia and other areas either banned or regulated inoculation because improper quarantine procedures could cause an outbreak.<sup>[96] [97]</sup>

- In the 1870s, according to Martin Kaufman in "The American Anti-Vaccinationists and Their Arguments," when smallpox was a rising concern again, "anti-vaccinationists" stoked fears about the vaccine and were successful in lobbying several states to repeal their "compulsory vaccination" laws.<sup>[98]</sup> According to the same article, the New England Anti-Compulsory Vaccination League was founded in 1882 and others followed.
- Opposition to a 1902 vaccination order issued in Cambridge, Massachusetts, led to the U.S. Supreme Court decision in *Jacobson v. Massachusetts* on February 20, 1905, upholding the legal authority and enforcement of state and local vaccine mandates and orders.
- On November 13, 1922, the U.S. Supreme Court decided in *Zucht v. King* that state and local authorities can enforce vaccine requirements for entry into public school after a case was brought opposing a Texas school vaccine mandate.
- The 1965 case, *United States v. Chadwell*, was brought before the Navy Board of Review court (now the Navy-Marine Corps Court of Criminal Appeals) when two marines declined the smallpox, typhoid, paratyphoid, and influenza vaccines because of their religious beliefs. The court ruled that the "military could order servicemembers to receive vaccinations, even over religious objection."<sup>[99] [100]</sup>
- On May 18, 1998, U.S. Department of Defense Secretary William S. Cohen mandated the anthrax vaccine for the entire U.S. military after first reviewing the vaccine for safety and other standards for two years.<sup>[101]</sup> Hundreds of soldiers opposed the vaccine and penalties ranged from loss of rank to loss of their military career.<sup>[102]</sup> In 2003 a lawsuit questioning FDA approval halted the mandate, it was started again, then another court stopped the mandate again in 2004.<sup>[103]</sup> According to an article in *Army Times*, "Federal courts brought a halt to the program in 2004 because the FDA had not licensed the vaccine, failed to follow its own rules in the vaccine's review and allowed the DoD to use the vaccine for an 'unapproved use.' But by 2005, the FDA made the court-directed changes and the program resumed."<sup>[104]</sup>

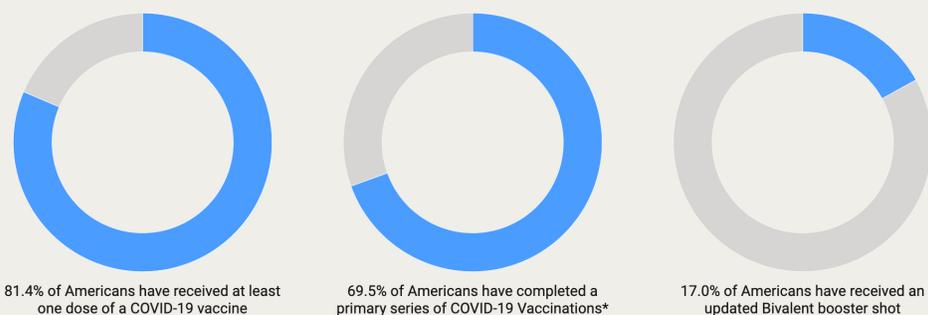
### Current Opposition to Vaccine Mandates

COVID-19 has killed over a million people (1,134,300) in the U.S. as of July 1, 2023.<sup>[105]</sup>

Following the availability of several COVID-19 vaccines, federal, state, and local governments implemented varying requirements that people be vaccinated to work in certain occupations (such as health care and teaching) or to access public spaces (such as indoor dining and gyms).

As of May 10, 2023, 81.4% of Americans had received at least one dose of a COVID-19 vaccination with 69.5% having completed a primary series.<sup>[106]</sup> A "primary series" is the initial dose(s) of a COVID-19 vaccine. For Pfizer and Moderna mRNA vaccines, the primary series is two vaccine doses. For the Johnson & Johnson (J&J) COVID-19 vaccine, the primary series is a single vaccine dose. The CDC stopped updating their tally of total COVID-19 vaccine doses administered on May 11, 2023.

### COVID-19 Vaccination Rates in the United States, as of May 10, 2023



\* A "primary series" is the initial dose(s) of a COVID-19 vaccine. For Pfizer and Moderna mRNA vaccines, the primary series is two vaccine doses. For the Johnson & Johnson (J&J) COVID-19 vaccine, the primary series is a single vaccine dose.

Chart: A-Mark Foundation • Source: CDC • [Get the data](#) • [Download image](#) • Created with [Datawrapper](#)

Opposition to COVID-19 vaccine mandates arose immediately.

Some people oppose the mandates because of the COVID-19 vaccine itself, for reasons including a fear that the new vaccines were rushed into use without sufficient research into their long-term impacts and could cause death or serious illness.<sup>[107]</sup> There are also religious and ethical objections to the vaccine having been developed using cell lines with a link to aborted fetal tissue.<sup>[108]</sup> Other people might trust the vaccine itself, but object to what they see as an attack on their civil liberties and personal freedoms.<sup>[109]</sup>

### Legal challenges and other protests to vaccine mandates included:

- On September 14, 2021, Arizona Attorney General Mark Brnovich filed the first lawsuit in the country "against the Biden Administration's radical actions requiring COVID-19 vaccines."<sup>[110]</sup>
- On September 16, 2021, 24 Attorneys General (21 from red states and three from blue states) signed a letter to President Joe Biden.<sup>[111]</sup>

"We, the Attorneys General of 24 states, write in opposition to your attempt to mandate the vaccination of private citizens. On September 9, you announced that you would be ordering the Department of Labor to issue an emergency temporary standard, under the Occupational Safety and Health (OSH) Act, which would mandate that private sector employers require most of their employees to either get a COVID-19 shot, submit to weekly testing, or be fired. ... We thus urge you to reconsider your unlawful and harmful plan and allow people to make their own decisions. If your Administration does not alter its course, the undersigned state Attorneys General will seek every available legal option to hold you accountable and uphold the rule of law."<sup>[112]</sup>

- As of September 17, 2021, governors in a dozen states had enacted bans on various COVID-19 vaccine mandates.<sup>[113]</sup> <sup>[114]</sup>
- On September 23, 2021, Air Force officers, a Secret Service agent and others filed a lawsuit in the U.S. District Court in Washington to halt federal and military COVID-19 vaccine mandates.<sup>[115]</sup>
- On November 10, 2021, attorneys general in 10 states filed a lawsuit against the Biden administration over the vaccine mandate for staff members at health care facilities that participate in the Medicare and Medicaid programs.<sup>[116]</sup>
- On January 23, 2022, thousands of people gathered in Washington, DC, to protest vaccine mandates. Speakers such as Robert F. Kennedy, Jr., compared vaccine mandates to life in Nazi Germany.<sup>[117]</sup>
- On February 4, 2022, 16 states challenged the federal health care worker vaccine mandate in a Louisiana court, arguing that the mandate is unconstitutional and unnecessary due to lowered vaccine effectiveness against the new COVID-19 variant.<sup>[118]</sup>
- As of February 18, 2022, more than 60 service members had joined lawsuits challenging the military's process for dealing with COVID-19 vaccine religious exemption requests.<sup>[119]</sup>
- On February 23, 2022, ten states filed a renewed lawsuit in a Missouri federal court arguing against the federal vaccine mandate.<sup>[120]</sup>
- In September 2022, the number of lawsuits opposing COVID-19 vaccine mandates surpassed 1,000.<sup>[121]</sup>

## Summary

The above shows that vaccine mandates, opposition to vaccine mandates, and concerns about the vaccines themselves are not new issues in the United States.

Vaccine mandates have been imposed by state and local governments since the 1800s, and mandates to inoculate against disease started at the founding of the country before vaccines were introduced.

Even though vaccine mandates do not require a person to get a vaccination, they do penalize those who choose not to get vaccinated. There may be exemptions for medical, religious, or personal reasons.

Opposition to vaccine mandates has come from states and private citizens since around the time vaccines were first mandated.

On three separate occasions, in 1905, 1922, and 2022, the U.S. Supreme Court upheld the authority of state and local governments to enforce vaccine mandates. In 2022, SCOTUS also blocked a government vaccine mandate.

In late February 2022, many cities began relaxing vaccine verification requirements for indoor venues such as restaurants as COVID-19 case numbers started to decrease.<sup>[122]</sup>

We hope the information above adds a bit of history to the current news about vaccine mandates in general and COVID-19 specifically.

## APPENDIX: The 50 States' Mandated Vaccines (and Exemptions) for K-12 Public Schools

By 1980, all 50 states required some vaccinations for K-12 public schools, and still do as of December 14, 2021.<sup>[123]</sup> Proof of vaccination is mandated for polio, diphtheria, tetanus & pertussis, and measles and rubella (mumps is mandated in every state except Iowa).<sup>[124]</sup>

All 50 U.S. states allow for medical exemptions from vaccine requirements, and may have other exemptions for religious beliefs, personal beliefs, or existing immunity.<sup>[125]</sup> <sup>[126]</sup> Receiving an exemption generally means that the unvaccinated student will be allowed to attend school, but 36 states have an additional clause that an unvaccinated student may be excluded from attending school in the event of a disease outbreak or epidemic, with some states specifying exclusion for the unvaccinated during a vaccine-preventable disease outbreak.<sup>[127]</sup>

**This information is for research purposes only and not a legal guide or for people looking for information regarding enrollment rules or a guide for K-12 enrollment.** Table is current as of 9/27/2021.

**Table: Mandated Vaccines (Columns B, C, D) and Exemptions (Column E)**

	A. State (Most recent date / school year for vaccine requirements information)	B. Polio	C. Diphtheria, Tetanus, Pertussis, Dtap, Tdap, DTP, Td	D. Measles, Rubella	E. (M) Medical, (R) Religious, (PB) Personal Belief, (I) Immunity
1.	Alabama <sup>1</sup> (2021-2022)	√	√	√	M, R, I
2.	Alaska <sup>2</sup> (2021-2022)	√	√	√	M, R, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for polio, diphtheria, tetanus, measles, rubella
3.	Arizona <sup>3</sup> (2021-2022)	√	√	√	M, R, PB, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for polio, diphtheria, tetanus, pertussis, measles, rubella
4.	Arkansas <sup>4</sup> (Effective date September 1,	√	√	√	M, R, PB, I Proof of immunity (doctor note, lab results,

	2014; website accessed September 27, 2021)				other) accepted in place of vaccine measles, rubella
5.	California <sup>5</sup> (2021-2022)	√	√	√	M
6.	Colorado <sup>6</sup> (May 2021)	√	√	√	M, R, PB, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for DTaP, Td, measles, rubella
7.	Connecticut <sup>7</sup> (2021-2022)	√	√	√	M, R, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for measles, rubella
8.	Delaware <sup>8</sup> (Website accessed September 27, 2021)	√	√	√	M, R, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for measles, rubella
9.	Florida <sup>9</sup> (March 8, 2021)	√	√	√	M, R, I
10.	Georgia <sup>10</sup> (June 11, 2021)	√	√	√	M, R
11.	Hawaii <sup>11</sup> (May 29, 2020)	√	√	√	M, R, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for diphtheria, tetanus, measles, rubella
12.	Idaho <sup>12</sup> (2020-2021)	√	√	√	M, R, PB
13.	Illinois <sup>13</sup> (Fall 2021)	√	√	√	M, R, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for rubella
14.	Indiana <sup>14</sup> (2021-2022)	√	√	√	M, R, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for polio, measles, rubella
15.	Iowa <sup>15</sup> (Website directs to PDF dated January 2017)	√	√	√	M, R, I
16.	Kansas <sup>16</sup> (2021-2022)	√	√	√	M, R, I
17.	Kentucky <sup>17</sup> (Website accessed September 27, 2021)	√	√	√	M, R, I
18.	Louisiana <sup>18</sup> (October 2019)	√	√	√	M, R, PB
19.	Maine <sup>19</sup> (June 2021)	√	√	√	M, I
20.	Maryland <sup>20</sup> (2021-2022)	√	√	√	M, R, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for polio, measles, rubella
21.	Massachusetts <sup>21</sup> (May 26, 2021)	√	√	√	M, R, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for measles, rubella
22.	Michigan <sup>22</sup> (December 11, 2019)	√	√	√	M, R, PB, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for measles, rubella
23.	Minnesota <sup>23</sup> (August 2021)	√	√	√	M, R, PB, I
24.	Mississippi <sup>24</sup> (June 2020)	√	√	√	M, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for measles, rubella
25.	Missouri <sup>25</sup> (2021-2022)	√	√	√	M, R, I
26.	Montana <sup>26</sup> (September 2019)	√	√	√	M, R
27.	Nebraska <sup>27</sup> (Website accessed September 27, 2021)	√	√	√	M, R, I
28.	Nevada <sup>28</sup> (2021-2022)	√	√	√	M, R, I
29.	New Hampshire <sup>29</sup> (2021-2022)	√	√	√	M, R, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for measles, rubella
30.	New Jersey <sup>30</sup> (2021-2022)	√	√	√	M, R, I

(September 2021)

31.	New Mexico <sup>31</sup> (2021-2022)	√	√	√	M, R, I
32.	New York <sup>32</sup> (2021-2022)	√	√	√	M, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for measles, rubella
33.	North Carolina <sup>33</sup> (Website updated July 23, 2020)	√	√	√	M, R, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for measles, rubella
34.	North Dakota <sup>34</sup> (2021-2022)	√	√	√	M, R, PB, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for measles, rubella
35.	Ohio <sup>35</sup> (Fall 2020)	√	√	√	M, R, PB
36.	Oklahoma <sup>36</sup> (2021-2022)	√	√	√	M, R, PB, I
37.	Oregon <sup>37</sup> (2021-2022)	√	√	√	M, R, PB, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for measles, rubella
38.	Pennsylvania <sup>38</sup> (2021-2022)	√	√	√	M, R, PB, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for measles, rubella
39.	Rhode Island <sup>39</sup> (Website accessed September 27, 2021)	√	√	√	M, R
40.	South Carolina <sup>40</sup> (2021-2022)	√	√	√	M, R, I
41.	South Dakota (July 16, 2021) <sup>41</sup>	√	√	√	M, R, I
42.	Tennessee <sup>42</sup> (January 2020)	√	√	√	M, R, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for measles, rubella,
43.	Texas <sup>43</sup> (2021-2022)	√	√	√	M, R, PB, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for measles, rubella
44.	Utah <sup>44</sup> (2021-2022)	√	√	√	M, R, PB, I Immunity exception for DTaP/DT with note from doctor of prior infection
45.	Vermont <sup>45</sup> (2021-2022)	√	√	√	M, R, I
46.	Virginia <sup>46</sup> (Website accessed September 27, 2021)	√	√	√	M, R, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for measles, rubella
47.	Washington <sup>47</sup> (2021-2022)	√	√	√	M, R, PB, I
48.	West Virginia <sup>48</sup> (PDF accessed September 27, 2021)	√	√	√	M, I
49.	Wisconsin <sup>49</sup> (2021-2022)	√	√	√	M, R, PB, I Proof of immunity (doctor note, lab results, other) accepted in place of vaccine for measles, rubella
50.	Wyoming <sup>50</sup> (June 30, 2021)	√	√	√	M, R, I

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