

A Softer Federal Contractor Vaccination Deadline

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The December 8 deadline looms for federal contractors to have their workforces vaccinated against COVID-19.

But according to a recent statement from the White House, federal agency and contractor enforcement against an employee not in compliance with the mandate isn't going to begin immediately. "We're creating flexibility within the system. There is not a cliff here," said Jeff Zients, the White House coronavirus response coordinator. The vaccination mandate for federal contractors was announced in late summer through an executive order from the White House.

In an October 27 press briefing, Zients said he expects federal agencies and contractors "will follow their standard HR processes and that for any of the probably relatively small percent of employees that are not in compliance they'll go through education, counseling, accommodations and then enforcement."

The comments came just before the federal government added new questions and answers to its FAQ page for federal contractors. In the seven new Q&A items, the Safer Federal Workforce Task Force pointed federal contractors to the guidance already provided to federal agencies, whose employees are to be vaccinated by November 22.

That guidance encourages compliance through counseling and education before any disciplinary measures are taken. "Removal occurs only after continued noncompliance," according to the FAQ page. If an agency is considering taking an action to remove an employee, they shouldn't put the employee on administrative leave, but instead should allow the employee to come to work while following all the safety measures for unvaccinated employees.

In addition, the FAQ page refers to accommodations, implying that federal contractors will be able to consider employee accommodation requests to the vaccine. In terms of timing, "[t]he covered contractor may still be reviewing requests for accommodation as of the time that covered contractor employees begin work on a covered contract or at a covered workplace. While accommodation requests are pending, the covered contractor must require a covered contractor employee with a pending accommodation request to follow workplace safety protocols for individuals who are not fully vaccinated."

If you have any questions about any of the updates from the task force, please contact Jennifer Craighead Carey, Jill Welch or anyone in the Barley Snyder Employment Practice Group.

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