

Texas Workforce Commission

A Member of Texas Workforce Solutions

Bryan Daniel, Chairman
Commissioner Representing
the Public

Julian Alvarez
Commissioner Representing
Labor

Aaron Demerson
Commissioner Representing
Employers

Edward Serna
Executive Director

December 8, 2021

Dear Texas Employers:

Executive Order GA-40 provides, as a matter of Texas law, that “[n]o entity in Texas can compel receipt of a COVID-19 vaccine by any individual, including an employee or a consumer, who objects to such vaccination for any reason of personal conscience, based on a religious belief, or for medical reasons, including prior recovery from COVID-19.” 46 Tex. Reg. 7295, 7296 (Oct. 11, 2021). Governor Abbott put this protection in place because “the Biden Administration [was] bullying many private entities into imposing COVID-19 vaccine mandates, causing workforce disruptions that threaten Texas’s continued recovery from the COVID-19 disaster.” *Id.* at 7295.

The federal government has sown confusion among employers and employees by issuing a series of COVID-19 vaccine mandates of dubious legality. But the law in Texas is clear on this point: An employer cannot impose a COVID-19 vaccine mandate on an employee who qualifies for an exemption for religious, personal, or medical reasons.

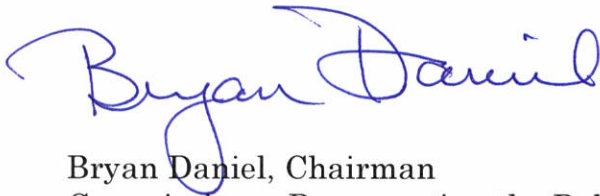
The federal government has attempted to impose vaccine mandates on certain classes of workers, including federal contractors, healthcare workers, and anyone whose employer has at least a hundred employees. To this point, however, the federal courts have rejected these assertions of federal power. Indeed, all three of these federal vaccine mandates are currently enjoined against enforcement in Texas. See *BST Holdings, L.L.C. v. OSHA*, 17 F.4th 604 (5th Cir. 2021); *Louisiana v. Becerra*, No. 3:21-cv-3970 (W.D. La. Nov. 30, 2021); *Georgia v. Biden*, No. 1:21-cv-163 (S.D. Ga. Dec. 7, 2021).

Employers should not mandate that any Texan receive a COVID-19 vaccine without notifying the employee of the necessary exemptions and processing those exemptions in good faith. Employers can use the attached exemption form to ensure compliance.

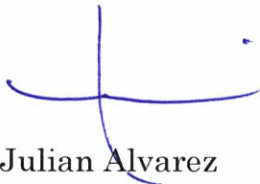
It is unlikely that a claimant will be disqualified from receiving unemployment benefits if the work separation was caused by the employee's failure to receive the COVID-19 vaccine, although each individual case is different. These separations could affect employer contributions to the trust fund and experience ratings when determining yearly tax rates. Information related to unemployment benefits, notices for potential chargebacks, and appeals hearings can be accessed through your Employer Benefit Services portal.

Any employee subjected to a vaccine mandate in violation of Executive Order GA-40 is invited to notify the Texas Workforce Commission at (800) 939-6631 or at vaccine_job_loss@twc.texas.gov. Verified tips from employees who have been impacted by employer mandates will be referred to the appropriate authorities for prosecution.

Sincerely,

A handwritten signature in blue ink that reads "Bryan Daniel". The signature is fluid and cursive.

Bryan Daniel, Chairman
Commissioner Representing the Public

A handwritten signature in blue ink that reads "Julian Alvarez". The signature is stylized and cursive.

Julian Alvarez
Commissioner Representing Labor

A handwritten signature in blue ink that reads "Aaron Demerson". The signature is stylized and cursive.

Aaron Demerson
Commissioner Representing Employers

cc: Governor Greg Abbott

COVID-19 Vaccine Exemption Form

I, _____, request that I be exempt from the COVID-19 (SARS-CoV2) vaccine requirement, based on:

- medical reasons, including prior recovery from COVID-19.

- reasons of personal conscience or religious belief.

Employee Signature

Date