

# Illinois Federal Court Rejects Challenges to State and City Vaccine Mandates

AUTHOR: JAMES KEANEY

The two mandates at issue were: (1) a vaccine-or-test mandate issued by Governor Pritzker applicable to healthcare workers; and (2) a vaccine mandate issued by the City of Chicago applicable to City employees. Illinois employers subject to these mandates should continue to comply with them.

The plaintiffs were over 100 employees in the City's Fire, Water, and Transportation Departments. They claimed the mandates violated their "substantive due process, procedural due process, and free exercise rights under the United States Constitution, as well as Illinois law."

The Court rejected all these claims. First, the Court dismissed the substantive due process claim, noting the Seventh Circuit rejected virtually the same claim recently in *Klaasen v. Trustees of Indiana University*, 7 F.4th 592 (7th Cir. 2021). The Court began by noting "there is no fundamental constitutional right at stake when people are required to be vaccinated during a pandemic," so the mandate would be viewed for having a "rational basis" (as opposed to subject to strict scrutiny).

Based on the arguments and evidence before it, the Court concluded that "requiring healthcare workers and public employees to be vaccinated is rationally related to reducing the spread of COVID-19 in Illinois and Chicago"—which the Court characterized as an "unquestionably [ ] compelling interest."

The Court added that a "generous" view of plaintiffs' evidence only shows "the existence of some scientific debate surrounding the degree of immunity provided by the vaccines and whether 'natural immunity' from prior COVID-19 infection provides comparable...protection from the virus. But the existence of debate would mean, by definition, that Defendants' policies are not 'arbitrary and irrational,'" as suggested by the plaintiffs.

The plaintiffs' procedural due process claims fared no better. The Court gave several reasons for rejecting this claim against both the City and State, but generally criticized its lack of specificity. Among other things, the Court noted "there is no federal constitutional right to state-mandated procedures" and the plaintiffs failed to "identify what procedures they believe the Governor owed them" or "what, if any, procedural protections they should be afforded" by the City.

Turning to plaintiffs' free exercise claim that the mandates "unconstitutionally burden their exercise of sincerely held religious beliefs by forcing them either to be vaccinated in violation of those beliefs or lose their jobs," the Court was similarly unpersuaded. In fact, the Court did not proceed to an analysis of the legal argument because plaintiffs failed to even state a claim: "no Plaintiffs have alleged that they have applied for an exemption from [the Governor's mandate], let alone have been denied one. And none of the Plaintiffs who have applied for and been denied an exemption from the City Vaccination Policy have made a good faith attempt to comply with the Policy's exemption process."

Finally, the Court made quick work of the plaintiffs' claims that the mandates violate Illinois law—namely, the Illinois Healthcare Right of Conscience Act ("HCRCA"). The Court reiterated that the Eleventh Amendment—which "bars any 'claim that [a] state official[ ] violated state law in carrying out [his] official responsibilities'"—forecloses such a claim against Governor Pritzker. On the other hand, with regard to the City mandate, the Court concluded their claim would likely fail because the mandate provides for religious exemptions that "neatly track[ ]" the language of the HCRCA and plaintiffs had presented any evidence the City did not comply with the statute.

Unsurprisingly, for much of the same reasons described above, the Court did not find plaintiffs demonstrated irreparable harm or that an injunction would serve the public interest. Accordingly, the Court denied the injunction request.

It remains to be seen whether the plaintiffs will appeal this decision to the Seventh Circuit, so stay tuned and be sure to check back for more updates on this case and other vaccine mandate challenges across the country.