



Ohio law prohibits COVID-19 vaccination mandates for public schools; Outlaws mandates of vaccines without “full” FDA approval and “discrimination” against unvaccinated

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On July 14, 2021, Governor Dewine signed [House Bill \(H.B.\) 244](#) into law. The new law becomes effective 90 days after the governor’s signature. Under H.B. 244, public schools may not:

- Discriminate against an individual who has not received such a vaccine, including by requiring the individual to engage in or refrain from engaging in activities or precautions that differ from the activities or precautions of an individual who has received such a vaccine.
- Require an individual to receive a vaccine for which the Food and Drug Administration (FDA) has not granted full approval.

Significantly, the anti-discrimination language in H.B. 244 will require schools to implement a one-size-fits-all method of infection control. Public schools will not be permitted to require those who are unvaccinated to take infection control measures—including masking, testing and quarantine—which are different than those measures required of persons who are vaccinated. The law requires schools to treat individuals who are vaccinated the same as those who are unvaccinated. This will have a direct impact on the ability to require unvaccinated individuals to wear masks, undergo testing or quarantine.

In addition, the law prevents public schools from mandating that students or employees receive any of the vaccines currently approved by the FDA under Emergency Use Authorization; including the Pfizer-BioNTech, Moderna, and Janssen (Johnson &

Johnson) COVID-19 vaccines. Such prohibition applies regardless of whether a school incorporates a process for granting exemptions from vaccination based on religious, medical or philosophical grounds. It is not expected that any of the vaccines will have “full” FDA approval by the start of the 2021-2022 school year. Pfizer-BioNTech submitted a rolling application for “full” FDA approval in early May 2021. Moderna submitted its application in early June 2021. The FDA goal for priority application review and approval is [6 months](#).

As schools prepare for the opening of the 2021-2022 school year, they will have to reconsider any plans for vaccination mandates and differential infection control policies encouraged by public health agencies including the Centers for Disease Control and Prevention. Schools should consider whether it is necessary to put back into place general infection control measures previously set aside when it was permissible to require those who are unvaccinated to follow different rules. The law does not affect the ability of schools to request voluntary disclosure of vaccination status or to implement one-size-fits-all infection control measures.

Authors



Nicole M. Donovan

Partner

Columbus

614.227.4866

ndonovsky@bricker.com



Robert T. Kent

Of Counsel

Cleveland

517.208.1460

rkent@bricker.com