

## HB 244 Prohibits COVID Vaccination Mandates in Public Schools

By Susan Keating Anderson and Katherine Caprez

On Wednesday, Governor DeWine signed HB 244 into law, with an effective date of October 13, 2021. While HB 244's initial provisions addressed school policies related to enrollment of and educational opportunities for military children, just before the summer recess, HB 244 was amended to: (1) prohibit public schools and universities from requiring vaccines authorized for "emergency use" by the FDA; and (2) prohibit public schools and universities from discriminating against individuals who have not received such a vaccine, including a prohibition against excluding such unvaccinated individuals from activities offered to vaccinated individuals. Given that all COVID vaccines available in the US currently bear this designation, the provision effectively – though perhaps temporarily – prohibits all public educational institutions in Ohio from requiring COVID vaccination or creating different requirements for vaccinated and unvaccinated individuals.

After signing HB 244, DeWine voiced his desire for full FDA approval of all COVID vaccines, emphasizing that a good deal of vaccine hesitancy in Ohio is due to the lack of full authorization. Two of the three available COVID vaccines are currently being considered for full FDA approval, and fully approved vaccines are not affected by the new state law. However, some members within the Ohio House's Republican caucus have pushed Speaker Bob Cupp and Governor DeWine to create laws banning mandates on any vaccine, authorized under normal FDA protocols or not. The Governor's signature on HB 244 is seen as a first-step victory for that vocal faction.

For those districts considering implementing a policy to require immunizations against Covid-19 for the 2021-2022 school year, HB 244 does not go into effect until October 13, 2021, after the start of the school year; it is also possible that one or more of the current Covid-19 vaccinations receives full FDA approval prior to the school year, which would take that particular vaccination outside of the HB 244 prohibitions. However, given the controversy that has surrounded Covid-19 protocols since the start of the pandemic, districts can expect push back from members of the school community if they require the vaccine under the current climate; accordingly, districts should take care to carefully analyze the risks and benefits to imposing such a requirement at this juncture and consult legal counsel for an analysis of the potential legal challenges that may arise from such an action.

If you would like more information and insight on this matter, please contact one of the listed Roetzel attorneys.

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