

EMPLOYMENT ALERT

**The OSHA Vaccination and Testing Emergency Temporary Standard
January 5, 2022**

The Maine Department of Labor has announced that the Board of Occupational Safety and Health will hold a special meeting on January 18th at 9 a.m. via Zoom to consider adoption of a rule replicating the new OSHA ETS. They report that BOSH is expected to adopt an emergency rule effective immediately. This rule will impact public sector employers with 100 or more employees.

Maine Department of Labor will be responsible for enforcing the new rule. It has announced that it intends to exercise enforcement discretion by requiring compliance with certain requirements of the rule by February 17th and the entire rule by March 19th. Apparently, details will be shared upon adoption of the rule on January 18th.

The Maine Department of Labor announcement was conspicuously silent on the fact that the fate of the OSHA ETS rests with the U.S. Supreme Court. A hearing has been scheduled by the Supreme Court on January 7th, just days before January 10th when the first OSHA ETS deadlines for private sector employers take effect. Presumably if the Supreme Court stays the OSHA ETS, BOSH may take a different approach. We will have to wait and see.