

**Defining the Four Classes of Covid Vaccine Requirements: How Governments Implement
and Limit Covid Vaccine Requirements In The United States**

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Abstract

Covid vaccine requirements are sweeping the nation at an unprecedented pace. States are also constantly changing and updating these requirements. The addition of new rules and technicalities leaves the public feeling confused about what rules may apply to them and how these rules affect their lives. However, these requirements can be split up into two different categories that can lend some clarity to the mix. These categories are Vaccine Passports and Employment Mandates. These categories can be further broken down into private and public passports and employment mandates; thus making four classes of vaccine requirements. Public vaccine passports and employment mandates apply to orders, rules, or regulations; that affect any publicly owned land, establishment, or facility. Private vaccine passports and mandates apply to private businesses. Private and public vaccine passports are items of documentation that the general public needs to enter an establishment, while private and public employment mandates affect those who are employed or are seeking employment. The four classes of vaccines allow states and businesses to pass specific vaccine requirements based on their knowledge of covid; the clarifying of these classes can aid the general public with understanding what the various vaccine requirements aim to accomplish.

Keywords: Covid vaccine requirements, vaccine requirements, vaccine passports, vaccine misinformation, employment mandates, COVID-19, private businesses, public businesses, US law,

Defining the Four Classes of Covid Vaccine Requirements: How Governments Implement and Limit Covid Vaccine Requirements In The United States

As covid vaccine mandates sweep across the nation at the local, state, and federal level, things aren't always as clear as they could be- which leads to public-confusion over mandate interpretations. Much of this confusion breaks down to the lack of language used to classify the types of mandates. While vaccine requirements have long existed with exemptions for school students and health care workers, the scale and speed with which Covid Vaccine Requirements (CVRs) are being rolled out is unprecedented. Further, the implementation of Vaccine Passports by cities such as New York City, and Los Angeles add further confusion to the mix (Key to NYC, 2021; Los Angeles, 2021). This confusion is particularly evident when states seek to ban, prevent, or limit CVRs.

With no clear definitions or classifying language to define the different types of CVRs, confusion and misinformation are sure to spread. Therefore, classifying the different types of CVRs is critical to clarifying the language for the general public, the businesses that are often responsible for enforcing CVRs, and the lawmakers seeking to implement CVRs or bans against them. Upon analysis, research identifies four types of CVRs that have been implemented in response to the Covid-19 Pandemic.

Employment Mandates Versus Vaccine Passports

While both Employment Mandates (EMs) and Vaccine Passports (VP's) are technically implemented through mandates, or official orders, the review of existing legislation has found that they are used to define separate types of CVRs. EMs are mandates that refer to employment, either in the private or public sector. (Arkansas Senate Bill 739, 2021; Executive Order 14042,

2021; Executive Order 14043, 2021). EMs are generally passed at the federal, state, city, or employer level.

Vaccine Passports (VPs), or immunity passports, are requirements that restrict travel and require proof of vaccination to enter public accommodations, private businesses, government buildings, or to travel across state or country borders. (Texas GA-40, 2021; O’Brien, 2021; Nazario, 2021). They are enforced by “...a document, digital record, or software application indicating that a person is immune to a disease, either through vaccination or infection and recovery” (Montana House Bill 702, 2021).

Unlike traditional vaccine mandates, which have long been the terms for employment for jobs in certain industries, beyond limited exemptions, VPs require individuals to constantly carry documentation proving their vaccination status. Often a QR code in a phone application. VPs are generally passed at a local level by businesses, or by the local government, such as city or municipality (Key to NYC, 2021).

The Four Classifications of Covid Vaccine Requirements

There are four types of CVRs that can be identified to aid in the understanding of how federal, state, and municipal governments are passing and restricting CVRs in general. There are two types of VPs, private VPs (Class One) and public VPs (Class Two). There are also two types of EMs, private EMs (Class Three) and public EMs (Class Four).

Class One: Private Vaccine Passports

A Class One (C1) Private Vaccine Passport includes any law or policy which requires vaccine documentation to enter a privately owned business. For example; bars, restaurants, clubs, gas stations, doctors offices, private educational institutions, grocery stores, and/or other privately owned retail establishments that are public accommodations (ADA, 2021).

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C1 requirements are currently implemented through business policies, such as some restaurants in North Carolina, or at the city-wide level through mandates such as those passed in New York City, Los Angeles, and San Francisco (Hanrahan & Krueger, 2021; Key to NYC, 2021; Los Angeles, 2021; San Francisco, 2021). Each example requires individuals to prove their vaccination status in order to enter a privately owned establishment.

Class Two: Public Vaccine Passports

A Class Two (C2) Public Vaccine Passport includes any law or policy which requires vaccine documentation to enter any publicly owned land, establishment, or facility. This includes health departments, departments of motor vehicles, public educational institutions, departments of labor, courtrooms, parks, restrooms, and/or other publicly owned establishments.

Currently C2 requirements only exist in the city of Los Angeles, which has a mandate “requiring vaccination for individuals who enter City buildings” (Los Angeles, 2021).

Class Three: Private Employment Mandate

A Class Three (C3) Private Employment Mandate includes any law or policy which requires a Covid vaccine as a term of employment at a private business, whether the requirement is from the business itself or by a government agency. For example, Amtrak, and Delta Airlines have implemented company wide C3 vaccine requirement policies. (Amtrak, 2021; Delta, 2021)

President Biden’s Executive Order 14042 (2021), which requires that all federal contractors receive the Covid vaccine or submit to weekly testing, is an example of a C3 vaccine requirement passed by a government agency that affects employment in the private sector.

Class Four: Public Employment Mandate

A Class Four (C4) Public Employment Mandate includes any law or policy which requires a Covid vaccine as a term of employment in a public position. These requirements have been implemented through President Biden’s Executive Order 14043 (2021). This is a C4

requirement that affects employment in the public sector by requiring that all federal employees be vaccinated or submit to testing.

C4 requirements are also mandated and blocked at the city, county, and state levels of government. New York City implemented a C4 requirement when it mandated that all city employees receive Covid vaccines as a condition for their continued employment (NYC Workplace, 2021), 2021). Many states have instituted similar C4 requirements. These states include Hawai'i and Washington, which both implemented mandates on state employees (Hawai'i, 2021; Washington, 2021). *See Table 1 and Table 2.*

Implementing CVR Bans and Restrictions

Many states have passed bans on certain CVRs, but they still have not limited Covid vaccine requirements in other areas. While others have limited all 4 classes of CVR's, or banned them entirely. For example, before any vaccine passports or mandates were passed in the US, On April 29th, 2021 Arkansas passed legislation that banned C2 public vaccine passports, or those issued by state and local governments (Arkansas Senate Bill 615, 2021). Arkansas did not ban C1 private VP's.

Soon after in May of 2021, Florida passed legislation that banned both classes of VPs for patrons of all establishments in the state with Florida Senate Bill 2006 (2021). The ban applied to C1 and C2 vaccine requirements and created a fine for businesses or government entities that implement or require a VP under Florida Public Health Code 64-8.001 *Penalties for COVID-19 Vaccine Documentation Requirements* (2021). However, these restrictions on CVR's did not include a ban on employment mandates, Classes three, and four.

“A business entity, as defined in s. 768.38 to include any business operating in this state, may not require patrons or customers to provide any documentation certifying

COVID-19 vaccination or post-infection recovery to gain access to, entry upon, or service from the business operations in this state.” (Florida Senate Bill 2006, 2021)

In the months following the ban on VP’s both Arkansas, and Florida passed further legislation that related to EM’s. In October 2021, Arkansas passed an act that required an opt-out policy for all employees in the state, private and public. Their opt-out, or required exemption mandated that employers allow employees to have a testing alternative to a vaccine mandate (Arkansas Senate Bill 739, 2021).

In November 2021, Florida followed up with an act which required private employers to allow employees to be exempt, or opt-out of any C3 private EM’s, should they meet one of the five broad exemptions. Further, Florida prohibited any public employer from mandating any C4 vaccine requirements, with or without exemptions, and nullified any laws that said otherwise (Florida House Bill 1-B, 2021).

On the other hand, in July 2021, Montana took a different approach as the first to ban all four types of CVRs with Montana House Bill 702 (2021). The bill declares it is an unlawful, discriminatory practice to enforce any of the four classes of CVRs. Part (a) of Section 1 bans all four classes of CVRs by making it illegal for a person or governmental agency to deny goods, services, or employment opportunities based on a person’s vaccination status or whether or not they have an immunity passport (Montana House Bill 702, 2021). Parts (b) and (c) of Section 1 reinforce the ban on C2, C3, and C4 CVRs by declaring that it is unlawful for an employer or public accommodation to refuse employment or discriminate based on vaccination status or whether or not they have an immunity passport. In doing so, the state banned both types of Employment Mandates, and both types of immunity or Vaccine Passports (Montana House Bill 702, 2021).

Similar to Arkansas and Florida, Texas banned VP's before requiring broad exemptions on EM's, however it used the executive branch rather than the legislative to do so. Texas governor Greg Abbot issued four Executive Orders; Texas GA-35, Texas GA-38, Texas GA-39, and Texas GA-40 (2021)- the first 3 banning different classes of CVRs, and the 4th creating a broad exemption for all 4 classes. Texas GA-35 (2021) banned C2 CVRs for vaccines which are subject to "emergency use authorization", and in a limited sense, C1 CVRs for vaccines authorized under "emergency use authorization" as well. Further, the order only applied to private businesses which received public funding. Private businesses which were not receiving public funding could still issue VP's. Texas GA-38 (2021) reiterated and expanded the language of the earlier Order; it introduced "vaccine passports" to the language of the order. The third order, Texas GA-39 (2021) *relating to prohibiting vaccine mandates and vaccine passports*, removed the caveat that made it only apply to vaccines authorized under "emergency use authorization". Finally, Texas GA-40 (2021) officially created a broad exemption for people to refuse all four types of CVRs. Unlike the approach in Montana which banned all 4 CVR classes. Texas essentially created a prohibition on completing any individual to receive a Covid-19 vaccine for "any reason of personal conscience."

"No 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. I hereby suspend all relevant statutes to the extent necessary to enforce this prohibition." (Texas GA-40, 2021)

Conclusion

In conclusion, classifying the different types of Covid Vaccine Requirements will help the general public understand what the law actually is, the extent to which the law applies, and what the law does not apply to. Further, this system of classification can help lawmakers achieve their goals. Whether they are seeking to implement, or prohibit, covid vaccine requirements. This system of classification can help limit the confusion, and spread of misinformation that the rapidly developing vaccine requirements and their limitations may cause.

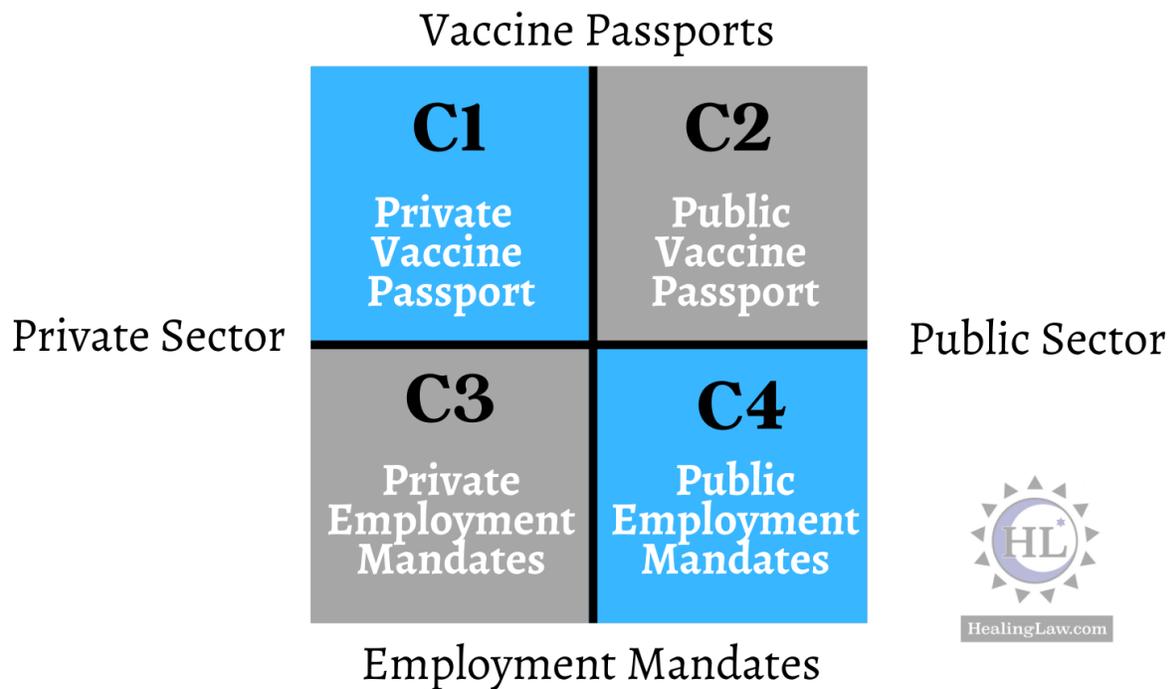
Table 1

Table of Covid Vaccine Mandate Classes

Class Number	Class Name
<i>C1 (Class 1)</i>	<i>Private Vaccine Passport</i>
<i>C2 (Class 2)</i>	<i>Public Vaccine Passport</i>
<i>C3 (Class 2)</i>	<i>Private Employment Mandate</i>
<i>C4 (Class 4)</i>	<i>Public Employment Mandate</i>

Table 2

The 4 Classifications of Covid Vaccine Requirements



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