

## Federal: Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act

On March 3, 2022, President Biden signed the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act ([HR 4445](#)). The act amends the Federal Arbitration Act by allowing employees subject to pre-dispute mandatory arbitration agreements to pursue their claims related to sexual assault or sexual harassment in court. The law also allows workers to choose how to pursue their cases after sexual assault or harassment has occurred. According to the White House [press briefing](#), “[t]his law will affect the more than 60 million workers who are subject to mandatory arbitration clauses in the workplace, often without realizing it until they come forward with a claim against their employer. President Biden has long spoken against forced arbitration clauses in employment contracts, and today marks an important milestone in empowering survivors of sexual assault and sexual harassment and protecting employee rights.”

The White House also [live broadcasted the signing](#) and the Chair of the U.S. Equal Employment Opportunity Commission (EEOC) also released a [statement](#) about the act.

## Federal: HSA Telehealth Relief Extended Under Appropriations Act

On March 15, 2022, President Biden signed the Consolidated Appropriations Act, 2022 ([HR 2471](#))(CAA 2022) with a provision that temporarily allows high deductible health plans (HDHP) to cover telemedicine services without a deductible from April 1, 2022, through December 31, 2022, and without health savings account (HSA) eligibility disruption. This is essentially an extension of the CARES Act provisions that expired on December 31, 2021, with a gap for calendar year plans from January 2022 through March 2022 when the standard deductible applies.

## Federal: New DOL Employer Resources to Prevent Retaliation

On March 10, 2022, the U.S. Department of Labor published the following new resources to assist in preventing retaliation against employees who assert their workplace rights or cooperate with Wage and Hour Division (WHD) investigations:

- [Field Assistance Bulletin No. 2022-2](#): Protecting Workers from Retaliation
- [Unlawful retaliation presentation](#)
- [Retaliation website](#)

Employers cannot retaliate against a worker for exercising their rights. Retaliation happens when an employer (through a manager, supervisor, administrator, or directly) fires an employee or takes any other type of adverse action against them for engaging in protected activity. An **adverse action** is an action that would discourage a reasonable employee from bringing up their concerns about a possible violation of their rights or discourage them from taking part in other related protected activity. Retaliation can have a negative impact on overall employee morale.

## Federal: Updated EEOC Guidance on Religious Accommodations and Vaccines

On March 1, 2022, the federal Equal Employment Opportunity Commission (EEOC) updated [section L](#) of its COVID-19 guidance about vaccinations and Title VII religious objections to COVID-19 vaccine requirements.

The EEOC enforces Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits employment discrimination based on religion. This includes a right for job applicants and employees to request an exception, called a religious or reasonable accommodation, from an employer requirement that conflicts with their sincerely held religious beliefs, practices, or observances. If an employer shows that it cannot reasonably accommodate an employee's religious beliefs, practices, or observances without undue hardship on its operations, then they are not required to grant the accommodation. Read more about [Section 12: Religious Discrimination](#) and EEOC [Guidelines on Discrimination Because of Religion](#).

Although other laws, such as the Religious Freedom Restoration Act, also may protect religious freedom in some circumstances, the EEOC's guidance only describes employment rights and obligations under Title VII and specifically addresses:

- That employees with a religious objection to getting the COVID-19 vaccine must tell their employer about it—when requesting an accommodation from getting it—and how.
- That generally, employers should accept an employee's assertion of their religious at face value but could make a factual inquiry for additional supporting information if it questions it.
- How an employer shows that it would be an “undue hardship” to accommodate an employee's request for religious accommodation.
- When an employer grants some employees a religious accommodation from a COVID-19 vaccination requirement because of their sincerely held religious beliefs, practices, or observances, it is not required to grant all such requests.
- When there is more than one reasonable accommodation that would effectively resolve the conflict between the vaccination requirement and the employee's sincerely held belief, etc., that an employer may choose which accommodation to offer.
- The obligation to provide religious accommodations absent undue hardship and that it is a continuing obligation that allows for changing circumstances.