



WEST VIRGINIA LEGISLATURE  
STATE CAPITOL  
CHARLESTON, WEST VIRGINIA 25305

**CRAIG BLAIR**  
PRESIDENT

August 27, 2021

**ROGER HANSHAW**  
SPEAKER

The Honorable Patrick Morrissey  
West Virginia Attorney General  
State Capitol Complex  
Bldg. 1, Room E-26  
Charleston, WV 25305

**RE: Opinion Request Regarding Vaccination Mandates and Passports**

Dear Attorney General Morrissey,

Pursuant to W.Va. Code § 5-3-1, I hereby request your opinion as to the permissibility of certain vaccination mandates, as have been issued in other jurisdictions, under the Constitution of the State of West Virginia. Specifically, your written opinion is requested with respect to the following questions:

- Does the W.Va. Constitution prohibit the State of West Virginia from mandating the vaccination of state employees?
- Does the W.Va. Constitution prohibit the State of West Virginia from requiring “vaccine passports”, as have been required in other jurisdictions, in order to enter either public or private establishments throughout the state? For purpose of this request, a vaccine passport would be any certification or required verification through some documentary or electronic means that would make access to some public accommodation or service dependent upon proof of a required vaccination status.
- Does the W.Va. Constitution prohibit private organizations or businesses from implementing either mandatory employee vaccinations or the use of vaccine passports in order to frequent the establishment? Would legislation, similar to measures which have been passed in other jurisdictions, prohibiting private organizations or businesses from implementing either mandatory employee vaccinations or the use of vaccine passports violate the U.S. and/or W. Va. Constitutions?

As you know, there has been an increasing amount of public discussion of late regarding the policies of mandatory vaccinations and vaccination passports. Other jurisdictions have taken various approaches to these issues. With the quickening spread of the COVID-19 Delta variant, it would be extremely helpful to better understand how such policies may implicate the W.Va. Constitution and W.Va. Code § 15-5-6, which as you know provide extremely broad latitude to the Executive Branch during a declared state of emergency.

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Your timely written opinion as to the applicability of these policies, the interplay between the W.Va. Constitution and other relevant provisions of state law, would be greatly appreciated.

If you have questions or need additional information in order to respond to this Opinion Request, please do not hesitate to contact Counsel to the Speaker of the House of Delegates Dan Greear.

Sincerely,



Craig P. Blair  
President of the Senate



Roger Hanshaw  
Speaker of the House of Delegates