

COVID-19 Mandatory Vaccination Ordinance

Last, Best, and Final Offer Over Outcomes for Non-Reporting and Non-Compliance

Consequences Presented October 14, 2021

General Provisions¹

The procedures described herein shall apply only to corrective action for violations of Ordinance No. 187134 (“COVID-19 Vaccination Requirement for All Current and Future City Employees”) and shall not apply to violations of other City policies or MOU provisions.

Any corrective action that results from implementation of these procedures will not be considered in future disciplinary decisions for violations outside of Ordinance No. 187134.

Any employee who is terminated for non-compliance with the City’s COVID-19 vaccination requirement shall not be prohibited from seeking reemployment with the City, subject to any COVID-19 vaccination requirement(s).

For sworn employees employed by the Los Angeles Police Department (LAPD), those employees must also pass all required reinstatement background processes conducted by the City or LAPD and can only be reinstated to a position as governed and permitted by the Civil Service Rules of the City of Los Angeles.

The City shall continue in its efforts to provide fact-based education to all City employees, regardless of vaccination status, about the benefit of the COVID-19 vaccination. The City will undergo all efforts to ensure that information is provided to the entire workforce, including in person informational sessions.

An employee who is on an approved leave of absence prior to and returns to work after October 20, 2021, shall have: 24 hours from the date of their return to work to report their vaccination status if their status had not been reported; and, 10 business days from the date of their return to work to file an intent to seek a medical or religious exemption if they so choose. If an employee fails to report their vaccination status within the 24-hour period or declare an intent to file an exemption within the 10-business day period, they shall be non-compliant with the vaccination mandate.

If the City Council determines that the safety protocols and measures instituted around and to address the COVID-19 pandemic as contained in the Ordinance are no longer necessary to preserve the health, safety, and wellbeing of the City’s workforce and the public it serves, and as a result revokes or rescinds the declared emergency regarding the COVID-19 pandemic, the City Council may (can’t pre-commit future City Council) suspend the provisions of the Ordinance, except that the City shall require all employees hired after that point in time to be vaccinated from COVID-19.

¹ With minor modifications with regard to police sworn to achieve conformity with City Charter provisions applicable only to them.

COVID-19 Mandatory Vaccination Ordinance

Last, Best, and Final Offer Over Outcomes for Non-Reporting and Non-Compliance

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Non-Compliance with the Vaccination Mandate

Employees shall be deemed non-compliant with the vaccination mandate if they have failed to become fully vaccinated **and** have not filed an intent to seek a medical or religious exemption by October 20, 2021.

An employee who does not submit proof of their full vaccination status by October 20, 2021 and has not submitted a request for exemption will be issued a Notice of Mandatory COVID-19 Vaccination Policy Requirements ("Notice"). The Notice will instruct the employee to submit proof of full compliance, i.e., being fully vaccinated, no later than the close of business on Saturday, December 18, 2021. "Full compliance" shall mean having had at least 14 days pass since an employee received the final dose of a two-dose COVID-19 vaccine series (Moderna or Pfizer BioNTech) or a single dose of a one-dose COVID-19 vaccine (Johnson & Johnson/Janssen).

Each employee issued a Notice shall be required to sign the Notice and to comply with its terms as outlined above and herein. Failure to sign or comply with the requirements of the Notice shall constitute failure to meet a condition of employment and shall result in appropriate and immediate corrective action.

During the time period between October 20 and December 18, 2021, when an employee is undergoing the vaccination process, they will be responsible for contacting the City to update their vaccination status, i.e., from unvaccinated to partially vaccinated and from partially vaccinated to fully vaccinated.

The following terms (1 – 5 below) shall apply to an employee who is not fully vaccinated and who has agreed to the terms of the Notice.

1. An employee shall assume responsibility for using their own compensated time to manage an absence from the workplace due to COVID-19 infection or exposure. This does not preclude an employee from filing a claim for workers' compensation benefits, as appropriate;
2. The employee must test for COVID-19 twice per week;
3. To facilitate the testing process for the employee and ensure that test results are reported accurately and timely, all testing shall be administered by the City or a vendor of the City's choosing. The employee shall be required to test through the City or its vendor. No third-party tests shall be substituted for tests provided for by the City or its vendor;

COVID-19 Mandatory Vaccination Ordinance

Last, Best, and Final Offer Over Outcomes for Non-Reporting and Non-Compliance

Consequences Presented October 14, 2021

4. The employee shall reimburse the City \$260 per pay period for four tests at \$65 each. Reimbursement shall be made on a biweekly basis through an employee's paycheck, e.g., through a negative payroll deduction; and
5. The employee shall test on their own time, i.e., not on paid work time.

If an employee does not show proof of full compliance by the close of business on December 18, 2021, the employee will be subject to corrective action. For sworn employees employed by the Los Angeles Fire Department who proceed to a Board of Rights, the City will abide by all applicable Charter and other legal requirements. For sworn employees employed by the LAPD who proceed to a Board of Rights to determine their fitness for duty, the City will abide by all applicable Charter and other legal requirements.

At any time on or before December 18, 2021, an employee decides, in lieu of being vaccinated, to resign, retire, or, in the case of sworn personnel who are currently enrolled in the Deferred Retirement Option Program (DROP), exit DROP, the employee may show proof of filing resignation, retirement, or DROP exit paperwork with a date certain to their appointing authority, at which time they shall remain out of the workplace until such date. Proof must be provided to the appointing authority no later than December 18, 2021. From the time that the employee provides proof of intended resignation, retirement, or DROP exit and the date of the actual date of occurrence, the employee may use one of three types of time available to them in order to remain on active payroll, including and limited to: (1) accrued vacation time; (2) compensated time off, e.g., banked overtime; or, (3) Leave Without Pay.

Exemptions from the Vaccination Mandate

Employees who file an intent to seek a medical or religious exemption on or before October 20, 2021, will be considered compliant with the Ordinance during the pendency of the exemption and accommodation process. Accordingly, the City shall not issue the Notice and/or take employment action against an employee who is duly subject to the exemption and accommodation procedures.

Employees who have reported a vaccination status of "not vaccinated" and who file exemption paperwork and are awaiting the result of the City's evaluation process shall be subject to the same terms applicable to employees who are not fully vaccinated and who have received a Notice, including and limited to items 2, 3, 4, and 5 as stated above.

Each employee who is required to test while awaiting the determination by the City of their exemption request shall be required to sign a Notice and to comply with its terms as

COVID-19 Mandatory Vaccination Ordinance

Last, Best, and Final Offer Over Outcomes for Non-Reporting and Non-Compliance

Consequences Presented October 14, 2021

outlined above and herein. Failure to sign and fulfill the conditions of the Notice shall constitute failure to meet a condition of employment and shall result in appropriate and immediate corrective action.

If an employee who reported a vaccination status of “not vaccinated” and who filed for an exemption is ultimately granted that exemption by the City, then the City shall reimburse the employee for the costs for testing as required above.

Exemption Approval: An approved exemption may be based on a disability, medical condition or a sincerely held religious belief. An approved deferral exemption may be based on a recent COVID-19 diagnosis or treatment. If an employee’s exemption is approved the employee must register with Bluestone for testing at (a website to be provided) and adhere to the City’s COVID-19 Workplace Safety Standards. In addition, the employee must adhere to all workplace screening requirements and safety protocols when in a City facility or work location and/or when in contact with other City employees or members of the public while working. They must also comply with any reasonable accommodations that result from good faith, interactive discussions, as applicable. Per the Ordinance, an employee who is granted an exemption must also test for COVID-19 once per week, which shall be paid for by the City and be done on paid time, i.e., not the employee’s time.

Employees who are granted a medical deferral based upon on a recent COVID-19 diagnosis or treatment shall be granted up to a ninety (90) day period of time to fully recover prior to being required to be vaccinated and enroll for the twice-weekly testing as stated herein. The ninety (90) day period of time shall begin the day after the first negative test following the initial positive test results.

Exemption Denial: If an employee’s exemption request is denied, the employee may appeal the determination to the employee’s appointing authority within five (5) business days of the date of the notice of the denial. The employee may amend their application to address written reasons for the denial. The appointing authority will review and decide on the appeal request which will be sent without information that would lead to the identity of the employee.

If an exemption appeal is denied or an employee does not file an appeal within five (5) business days of the date of the denial, the employee shall be issued a Notice of Mandatory COVID-19 Vaccination Policy Requirements and may choose to resign, retire, or exit DROP, all in good standing in lieu of discipline, or comply with the following timelines to be in compliance with the vaccination mandate.

COVID-19 Mandatory Vaccination Ordinance

Last, Best, and Final Offer Over Outcomes for Non-Reporting and Non-Compliance

Consequences Presented October 14, 2021

1. Within fourteen (14) calendar days from the notice of denial of their exemption or expiration date of their medical deferral, the employee shall submit proof that they have received the first dose of a two-dose COVID-19 vaccine or a single dose of a one-dose COVID-19 vaccine. During this time, the employee continues to work and shall be required to test twice weekly consistent with the terms for employees subject to Notice requirements, including and limited to 2, 3, 4, and 5 as stated above. This proof of vaccination must include the date that the employee received the vaccination.
2. The employee will have no more than twenty-eight (28) calendar days from the date of having received the first dose of a COVID-19 vaccine of a two-dose regimen to receive the second dose of a two-dose vaccine regimen.
3. The employee must update their vaccination status within no more than five (5) business days from the date of having received the second dose of a two-dose vaccine regimen by submitting proof that the employee received a complete dosage of a vaccine against COVID-19. If either of the dates above falls on a weekend or observed holiday, the deadline for providing the required proof is due on the next business day.

Expiration of Exemption or Deferral: If an employee's exemption or deferral approval has an end date and the employee no longer qualifies for exemption, the employee shall adhere to the same processes and procedures as outlined above for Exemption Denial.

Separation from City Service

An employee who elects to resign during any time in this process shall do so in good standing in lieu of discipline.

If employees who resign, retire or are terminated become vaccinated for COVID-19 subsequent to their separation from City service or if the mandatory vaccination order is lifted, these employees will be eligible for rehire in the same classification in which they had standing immediately prior to their separation from City service.

For sworn employees employed by the LAPD, those employees must also pass all required reinstatement background processes conducted by the City or LAPD and can only be reinstated to a position as governed and permitted by the Civil Service Rules of the City of Los Angeles.