

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE STATE OF WASHINGTON
AND
THE WASHINGTON FEDERATION OF STATE EMPLOYEES**

Office of the Secretary of State – COVID 19 Vaccination Requirements

COVID-19 continues as an ongoing and present threat in Washington State. The measures we have taken together as Washingtonians over the past several months have made a difference and have altered the course of the pandemic in fundamental ways.

It is the duty of every employer to protect the health and safety of employees by establishing and maintaining a healthy and safe work environment and by requiring all employees to comply with health and safety measures. As a result of the above noted situation, and consistent with the Governor's proclamation 21-14.3 all employees of the Office of the Secretary of State are now required to become fully vaccinated or have an approved accommodation, as provided in this Memorandum of Understanding (MOU).

In recognition of the above, the parties agree to the following:

All employees will take the necessary steps to be fully vaccinated by **February 25, 2022** or be approved for a medical or religious accommodation, unless otherwise authorized under this MOU.

The definition of fully vaccinated may in the future include FDA-approved booster shots. The parties agree to meet within thirty (30) calendar days of any announcement that booster shots will become a requirement for continued employment and bargain the impacts in good faith to achieve the health and safety goal.

1. Conditions of Employment and Leave

- a. If the provisions in the following Subsection 1b or 1c do not apply or are not met, and an employee fails to provide proof of being fully vaccinated by February 25, 2022, the employee will be subject to non-disciplinary separation with the last day of employment on February 25, 2022.
- b. If an employee has submitted an exemption request by January 28, 2022, and cooperates with the process, the following will apply:
 - i. If an employee's accommodation request, at the exemption step, is still being reviewed on February 25, 2022, the employee will be authorized to telework if available. Where the employer has determined that telework is not available, the employee will remain in paid status for a period of up to seven (7) calendar days and then will be required to use applicable vacation leave, personal leave day, personal holiday, leave without pay, or a combination of these, after February 25, 2022, until the exemption decision is provided.

- ii. If an employee's exemption request has been approved but an accommodation has not been identified by February 25, 2022, the employee must use applicable vacation leave, personal leave day, personal holiday, leave without pay, or a combination of these, after February 25, 2022, until an accommodation determination is made.
 - iii. If an employee's exemption request is denied or an accommodation is not available, the employee will have fifty-five (55) calendar days to become fully vaccinated, provided that:
 - (1) The employee must provide proof of receiving their first dose within ten (10) calendar days of the determination notification. Failure to provide this proof will result in non-disciplinary separation.
 - (2) The employee must use applicable vacation leave, personal leave day, personal holiday, leave without pay, or a combination of these, during the fifty-five (55) calendar days.
 - (3) The employee must provide proof of being fully vaccinated within the fifty-five (55) calendar days. Failure to provide proof of being fully vaccinated within the fifty-five (55) calendar day period will result in non-disciplinary separation.
- C. If an employee has received their first dose by February 25, 2022, but will not be fully vaccinated by February 25, 2022, the employee will have up to forty-five (45) calendar days, from the date they received their first dose, to become fully vaccinated.
- i. Prior to February 25, 2022, the employee must provide proof of receiving their first dose. Failure to provide this proof will result in non-disciplinary separation with the last day of employment on February 25, 2022.
 - ii. After February 25, 2022, the employee must use applicable vacation leave, personal leave day, personal holiday, leave without pay, or a combination of these, until they become fully vaccinated.
 - iii. The employee must provide proof of being fully vaccinated within the forty-five (45) calendar days. Failure to provide proof of being fully vaccinated within the forty-five (45) calendar day period will result in non-disciplinary separation.
- D. Timeline extensions under Subsections 1b and 1c will not extend non-permanent or project appointment end dates.

- F. Separation Process:
- i. A pre-separation notice for non-vaccination status will be sent to impacted employees by February 4, 2022, via U.S. Mail and work e-mail, if a work e-mail address is available. The notice will include the reason for the intended separation and an opportunity to respond to the pre-separation notice, either at a virtual meeting scheduled by the Employer or in writing if the employee prefers; and that the employee is entitled to Union representation at a pre-separation meeting.
 - ii. The Employer will provide to the Union a list of these employees by February 18, 2022.
 - iii. If the foregoing provisions in Subsection 1b or 1c do not apply or are not met, and an employee fails to provide proof of being fully vaccinated, notice of non-disciplinary separation will be sent to the employee.
 - iv. This process is not precedent setting.

2. Medical or Religious Exemptions and Accommodation Process

- a. Employees will inform their Human Resources (HR) representative, either verbally or in writing, to request a medical or religious exemption and accommodation.
 - i. Accommodation request forms will be posted to the agency's Staff Site and will be provided to employees upon request.
 - ii. When an employee requests a form, the Employer will provide the form within three (3) business days of the request.
 - iii. Employees are strongly encouraged to submit completed necessary materials no later than January 28, 2022, to better ensure their requests are processed timely. However, to the extent that requests are received after that date, the Employer will continue processing requests received through February 25, 2022.
- b. Based on the information submitted, the Employer will determine whether a medical or religious exemption is approved.
 - i. The employee will be notified in writing of the exemption determination.
 - ii. If the Employer requires a second medical opinion in the exemption process, the Employer will cover all associated costs. The medical appointment, including travel time, will be considered work time.

- iii. If the employee's request for an exemption is approved, their request will proceed to the accommodation process.
- c. If an employee's request for a medical or religious exemption is approved, the Employer will determine whether an accommodation can be provided, the form of the accommodation, and the duration of the accommodation.
 - i. The Employer will conduct a diligent review and search for possible accommodations within the agency. The Employer will attempt to accommodate the employee in their current position prior to looking at accommodations in alternative vacant positions. If an alternative vacant position is available, this reassignment will be offered as an option for employee to consider in the accommodation process if an accommodation is not available in the current position. The Employer will consider telework in its determination.
 - ii. An employee requesting accommodation must cooperate with the Employer in the interactive process and discuss the need for and possible form of any accommodation.
 - iii. The employee will be notified in writing of the accommodation determination.
 - iv. If the employee declines the accommodation offered by the Employer, the employee will be subject to non-disciplinary separation, except as provided under Subsections 1b and 1c.
- d. All information disclosed to the Employer during the accommodation process will be kept in a confidential medical file only. This information will only be accessed or shared by the Employer on a need-to-know basis.
- e. Upon request, an employee will be provided a copy of the information they submitted for their accommodation request.
- f. An employee separated due to disability will be placed in the General Government Transition Pool Program if they submit a written request to the agency's HR Office in accordance with WAC 357-46-090 through -105. Following a disability separation, individuals may request reemployment in accordance with the requirements of WAC 357-19-475.

3. Vaccination Verification

All information disclosed to the Employer during the vaccination verification process will be stored in the employee's confidential medical file only. This information will only be accessed or shared by the Employer on a need-to-know basis.

4. Vaccine Access and Education

- a. Vaccination education may be provided on work time where reasonable, operationally possible by and with established affinity groups, or other venues where possible and as soon as possible.
- b. Employees who have difficulty accessing vaccinations, due to their remote location or other circumstance, will inform their supervisor or HR representative as soon as possible. The Employer will assist in identifying vaccination sites upon request.
- c. Time spent traveling to the vaccination site and time spent receiving the vaccine are considered hours worked, not to exceed eight (8) hours per vaccination dose, except in extraordinary circumstances, such as when the vaccination is not available locally, and subject to Appointing Authority approval. The Employer may require that the time be supported by documentation.

5. Workplace Safety

- a. The Employer will continue to follow established protocols regarding masking and screening requirements using DOH, L&I, and CDC guidance as well as applicable federal or state mandates and Agency policy.
- b. If the Employer requires an employee to get a COVID-19 test, it shall be done on the Employer's time and expense.
- c. If an employee is required to isolate or self-quarantine, and there is no telework option available, and the employee's accrued sick leave is at risk of falling under forty (40) hours, they may request shared leave.

6. Personal Leave Day

After February 26, 2022, and no later than March 31, 2022, employees' leave accounts will be credited one (1) additional personal leave day. This personal leave day has no cash value and must be taken by June 30, 2023.

7. Agency Plan and Emergency Contracting

Any formalized agency plan developed by the Employer regarding staffing impacts due to vacancies created by the vaccination directive will be provided to the Union as soon as administratively feasible. The Union may request to meet to discuss questions regarding the provided formalized agency plan.

Any emergency contracting out due to short staffing as result of this mandate will supplement and not supplant bargaining unit positions.

8. Retirement

If an employee is not fully vaccinated by February 25, 2022 and has provided verification from the Department of Retirement Systems (DRS) that they have submitted retirement paperwork, the employee may use accrued leave or leave without pay until their retirement date. This provision expires on April 30, 2022.

The use of accrued leave shall be subject to the definitions and provisions contained in the Collective Bargaining Agreement.

9. Leave without pay taken in accordance with this MOU will not impact seniority dates.
10. By mutual agreement, any grievance pertaining to provisions in this MOU will be expedited.

The provisions of this MOU shall expire on April 30, 2022 and may be renewed upon mutual agreement.

The provisions contained in this MOU shall take effect upon Union ratification of a Tentative Agreement.

TENTATIVE AGREEMENT REACHED

For the Employer:

For the Union:



1/21/22

Scott Lyders, OFM
Labor Negotiator

Date

Brandon Crawford
WFSE/AFSME Council 28
Labor Advocate

Date