



LOCAL UNION 6

International Brotherhood of Electrical Workers

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October 22, 2021

To: IBEW 6 Members employed by City & County of San Francisco and SFMTA

From: John J. Doherty, BM/FS IBEW Local 6

RE: City/SFMTA Mandatory Vaccination Policy

Although IBEW Local 6 has requested that the City and the SFMTA cease and desist with their implementation of the Mandatory Vaccination Policy until after completing “effects bargaining” with the Union, it has become abundantly clear to us that the City and the SFMTA are moving forward with the policy. We have demanded that the City fulfill its legal obligation to complete bargaining prior to moving forward, and we will likely be engaged in both the grievance procedure and possibly the PERB process to ensure the City/SFMTA follow their legal obligations.

While we remain engaged in the Meet and Confer process, we believe it appropriate to provide some updated information that may be helpful as members make their decisions on vaccination.

It has been reported through multiple media sources that neither the City nor the SFMTA have approved any medical or religious exemptions. We have not seen any exemption requests in our bargaining units that would prove otherwise. If you have submitted an exemption request on medical or religious grounds, and it has been denied, and you believe that the department’s determination on your request for an exemption violates protections for employees with disabilities or religious beliefs, you have the right to file an internal discrimination complaint with DHR’s Equal Employment Opportunity Division for a determination by the Human Resources Director. The determination on an individual appeal is appealable to the Civil Service Commission.*

Under the City’s policy, if the department denies an employee’s request for an exemption after the deadline for full inoculation, the employee shall have forty-eight (48) hours after issuance of the department’s denial to receive their first dose of any of the three approved COVID-19 vaccines, report their vaccination status to the City (using either People and Pay or emailing their Department’s Human Resources), and inform their supervisor and their Department’s Human Resources when they will return to work (no later than the minimum number of days to reach full vaccination status). The employee shall not return to work until they are fully vaccinated (six weeks for Moderna, five weeks for Pfizer, or two weeks for Johnson and Johnson.) The City shall permit the use of an employee’s non-sick accruals to maintain their pay during the leave of absence and during the period that they must remain off work until they are fully vaccinated.

Please note that the law allows the employer to require vaccination for employees in public service, provided it does not discriminate or fail to provide reasonable accommodations as applicable.

For that reason, the Union is not pushing back on the Mandatory Vaccination Policy but is insisting that the City follow the legally required Meet & Confer process over the effects of the policy. We have made several reasonable proposals to the City to ameliorate those effects, including strengthening of contracting provisions to match the City/STMFTA's own requirements and a proposal that any covered employee be allowed to use their accrued PTO (excluding Sick Pay unless supported by a doctor's note) for the duration of any appeal of permanent separation or denied accommodation request. Neither the City nor the SFMTA have agreed to either proposal as of yet.

Further Updates will be provided when available.

* **Outside of the City's internal process, if you believe you are being discriminated against based on sincerely held beliefs or a medical condition, you have the right to file a DFEH and/or EEOC complaint, as applicable.**

EEOC information can be found here: <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws#K.12>

“Under the ADA, Title VII, and other federal employment nondiscrimination laws, may an employer require all employees physically entering the workplace to be vaccinated against COVID-19? (Updated 10/13/21)

The federal EEO laws do not prevent an employer from requiring all employees physically entering the workplace to be fully vaccinated against COVID-19, subject to the reasonable accommodation provisions of Title VII and the ADA and other EEO considerations...”

DFEH

Information regarding Vaccination exemptions under California Department of Fair Employment and Housing can be found here: https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2020/03/DFEH-Employment-Information-on-COVID-19-FAQ_ENG.pdf