

## **Letter of Agreement COVID Vaccine Mandate**

This Agreement is between the State of Oregon, acting through its Department of Administrative Services (Employer) and the SEIU Local 503, OPEU (Union).

This Letter of Agreement shall supersede any conflicting provisions in the collective bargaining agreements for the duration of the Letter of Agreement. This Letter of Agreement expires on June 30, 2022 or when Executive Order 21-29, COVID-19 Vaccination Requirement for Executive Branch, is terminated by the Governor, whichever is later.

In recognition of Executive Order 21-29 issued by the Governor on Aug 13, 2021 the parties agree to the following:

### **Section 1. Vaccine Education.**

The Employer agrees to provide resources to its employees and to post information from accredited health care institutions, agencies or practitioners explaining the Covid-19 vaccine, why vaccination is useful and to answer concerns or questions concerning vaccination. The Employer agrees to distribute and/or post any information approved by OHA about COVID-19 vaccination from the Union that meets these criteria using email, internet and social media resources

### **Section 2. Vaccine Provision.**

- (a) Where feasible, the Employer shall seek to provide on-site COVID-19 vaccination for employees. The Employer shall provide the employees and the Union with notice as to when such on-site vaccination shall occur.
- (b) If onsite vaccination is not feasible, the Employer will provide employees with information, updated weekly, about where they can obtain a COVID-19 vaccine that is near the worksite. If vaccination is available only through registration via a website, the Employer agrees to provide employees with access to a computer or cell phone to register.

### **Section 3. Authorized Vaccine Products.**

The Employer will accept any COVID-19 vaccination that has been either fully approved by the Food and Drug Administration or authorized for emergency use.

### **Section 4. Leave for Vaccination.**

- (a) Agencies shall provide work time for employees to receive their COVID-19 vaccination(s) and/or allow employees to flex their schedules to get the vaccine(s) on work time, when possible. Employees who cannot receive the vaccine(s) during their regular work hours-will be compensated pursuant to Article 32 – Overtime, if applicable, for the time it takes to receive the vaccine(s).
- (b) Employees who suffer adverse reactions to the COVID-19 vaccine and are unable to work shall:
  - (i) Use accrued sick leave (SL) for the first eight (8) hours necessary to recover.

- (ii) If an employee does not have enough accrued sick leave to cover the entirety of their shift, they shall use the accrued sick leave they have, and any remaining balance shall be coded as miscellaneous paid leave (MPL).
  - (iii) After the first missed shift the employee is still unable to work, the employee shall use their accrued sick leave for the remainder of time needed to recover from the vaccine.
  - (iv) If an employee's accrued sick leave has been exhausted, the employee will be granted additional MPL for the time needed to recover, as indicated by the employee's health care provider.
  - (v) An employee utilizing accrued sick leave to recover from vaccination may be required to provide documentation from their healthcare provider pursuant to Article 56 - Sick Leave. If an employee utilizes MPL beyond the hours allowed in section (b)(ii), above, the employee shall be required to provide documentation from a health care provider after one (1) day of being unable to work.
- (c) If the federal or state Occupational Safety and Health Administration develop rules that require more generous leave for the purposes stated in (a) and (b) above, this LOA will be revisited to be compliant with those rules.

#### **Section 5. COVID Hardship Donations.**

- (a) An employee who has been vaccinated or who has received an exception may request donated leave when quarantining or recovering after a COVID diagnosis. Employees must provide documentation of the COVID diagnosis or the need to quarantine. Employees may request a maximum of eighty (80) hours for these purposes.
- (b) The following provisions shall apply:
  - a. Employees must have exhausted all of their accrued leave prior to requesting donated leave.
  - b. DAS will solicit donations on a statewide basis. Interagency donations are subject to restrictions on the use of dedicated funding sources and/or other legitimate business reasons. Authorization for transfer of donated leave shall not be unreasonably denied.
  - c. Employees may donate accrued vacation or compensatory time.
  - d. Employees may donate accrued sick leave as long as they maintain a sick leave balance of at least sixty (60) hours.

#### **Section 6. Proof of Vaccination.**

- (a) Proof of vaccination may include but is not limited to a COVID-19 vaccination record card, a copy or digital picture of the vaccination record card, or a print-out from the Oregon Health Authority's immunization registry.
- (b) The Employer shall keep all such records separate from the rest of the employees' personnel files and shall request that no other medical information be disclosed along with proof of the vaccine. The Employer shall not disclose whether any individual is vaccinated, but may disclose such information if it is de-identified and in the aggregate (i.e. 95% of its employees have been vaccinated).

### **Section 7. Exceptions to the vaccine requirement.**

- (a) The Employer is expected to make reasonable accommodations in order to comply with the Americans with Disabilities Act and Title VII of the Civil Rights Act, and state law equivalents, for individuals unable to be vaccinated due to disability, qualifying medical conditions, or a sincerely held religious belief. All such individuals shall go through the exception process through Workday and are subject to an interactive process with their Agency's human resource staff. Reasonable accommodations may include, but are not limited to, remote work or telework (where possible), transfer of positions, shift changes or physical modifications to the employee's work area. A written request for an exception must be submitted on or before October 18, 2021.
- (b) The exception process is not subject to the grievance and arbitration procedure. However, nothing precludes the employee from submitting a complaint to the Bureau of Labor and Industries (BOLI) or pursuing other legal recourse.

### **Section 8. Employees in-process or unvaccinated as of October 18, 2021.**

- (a) Employees who have begun, but not completed, the vaccination process as of October 18, 2021, shall be given a grace period until November 30, 2021 to fully complete the vaccination process before the Employer takes any personnel action. The employee shall notify the Employer of their status and expected date of full vaccination. During the time leading up to full vaccination, employees shall be allowed to work remotely. If remote work is not possible, employees shall be allowed to use vacation or compensatory leave or leave without pay (at the employee's choice) until full vaccination status is reached.
- (b)
  - (i) Employees who have entered into the exception process on or before October 18, 2021 will be allowed to complete the exception application process before the employer takes any personnel action.
  - (ii) After October 18, 2021, if the employee's request for an exception is denied, the employee will be given an opportunity to get vaccinated before the Employer takes personnel action. The first dose of the vaccine must be received within seven (7) calendar days of the denial. The employee must complete the full series of the vaccine.
  - (iii) The employee will be allowed use of vacation or compensatory leave or leave without pay as outlined in section 8(a) above between the time of denial and when full vaccination status is reached.
- (c) The Chief Human Resource Office will provide guidance to agencies in order to ensure consistent handling of any potential personnel action related to employees not meeting vaccination requirements.

### **Section 9. Reopening.**

To ensure the health and safety of all workers at the workplace, the Employer shall delay the reopening of State offices until at least January 1, 2022.

For the State:



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Nettie Pye, State Labor Relations Manager  
Department of Administrative Services, LRU

09/20/21

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Date

For the Union:



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Melissa Unger, Executive Director  
SEIU, Local 503, OPEU

9/20/21

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Date