



RAY CURRY, *PRESIDENT*

FRANK STUGLIN, *SECRETARY-TREASURER*

VICE-PRESIDENTS: CHUCK BROWNING • TERRY DITTES • CINDY ESTRADA

September 27, 2021

TO: All Local Unions

RE: **COVID-19 Vaccination Mandates**

Greetings:

Earlier this month, President Biden announced that soon some employers will be mandated to require full vaccination of their workers. While the President's announcement provided some details, much is still yet to be determined, and these mandates are not yet effective. Some initial guidance based on what we currently know is provided below. Additional communication will be forthcoming once the government releases more information.

I. The White House's Workplace Vaccination Plan

The plans announced last week have four major components that will likely affect UAW-represented workplaces:

- A. **Private Employers With 100 or More Workers** – OSHA is working on an emergency temporary standard (ETS) mandating that private sector employers with 100 or more workers require full vaccination or weekly testing. It may take OSHA several weeks or months to complete this ETS, so we do not yet have more details. However, the ETS will likely apply to many, if not most, of the private employers with UAW-represented workers.
- B. **Federal Contractors** – President Biden issued an Executive Order requiring vaccination of federal employees and has directed that it extends to contractors that do business with the federal government. The Department of Defense, National Institutes of Health, and other agencies are in the process of drafting regulations for contractors in their sectors, which may apply to UAW-represented workplaces with federal contracts.
- C. **Healthcare Employers** – The Centers for Medicare and Medicaid Services (CMS) is drafting an emergency rule requiring vaccination for healthcare workers in settings that receive Medicare/Medicaid reimbursement. It is likely that this rule will impact UAW-represented workers at hospitals, clinics, nursing homes, skilled nursing facilities, and other clinical healthcare settings. It is unclear whether it will be broader and cover other non-clinical healthcare settings.

- D. **Head Start** – The Department of Health and Human Services is drafting a rule requiring vaccination for teachers and staff at Head Start and Early Head Start programs.

II. Response To Employer Action

Until the various rules described above are finalized,¹ the UAW's bargaining position continues to be that vaccination is strongly encouraged, but a personal choice. However, some employers have already attempted to mandate vaccination, and more may follow in response to the White House's announcement. Until government mandates are effective, both the employer's decision to require vaccination for bargaining unit employees, and the effects of that decision, are mandatory subjects of bargaining. Accordingly:

- If an employer presents a concrete plan or policy requiring vaccination, you should demand to bargain over both the decision to mandate vaccination and the effects of that decision. If an employer refuses to bargain over the decision to mandate vaccination and/or the effects of that decision, you should file a grievance. Please contact your Servicing Representative or Regional Director, so that they can secure any necessary assistance from the Health and Safety and Legal Departments.
- In some situations, it may be appropriate to file a charge with the National Labor Relations Board; however, due to recent Board decisions a grievance may be the best option. Before proceeding with a charge, please contact your Servicing Representative or Regional Director to obtain legal assistance.
- Consistent with the UAW's position on vaccination as a personal choice, if the membership in a particular unit overwhelmingly favors requiring vaccination, your approach to any employer action should be modified as appropriate.
- Prior to finalizing any agreement on these issues, please contact your Servicing Representative or Regional Director so that it may be reviewed by the Legal and Health and Safety Departments.
- Pursuant to Article 19 of the UAW Constitution, any negotiated agreement that supplements the collective bargaining agreement must be ratified by the membership.

If an employer has presented a concrete plan or policy requiring vaccination, some issues that may be addressed in effects bargaining include:

- Options for testing in lieu of vaccination for workers who choose not to be vaccinated;
- Paid time for obtaining the vaccine, and paid time if unable to immediately return to work after receiving the vaccine;
- Access to leave without pay, temporary layoff with recall rights, accrued time off, and/or continuation of medical benefits for workers who choose not to get vaccinated;
- Non-disciplinary separation for workers who choose not to get vaccinated;
- Clear protocols for providing proof of vaccination;
- Confidentiality of medical records;
- Regular reports to the Union;
- Testing, including the type of test (rapid or PCR), location, paid time to obtain tests if not done at the worksite, etc.;

¹ Some states have issued more limited mandates, generally applying to specific groups like state workers, schools, and/or hospitals and nursing facilities. If you have members covered by a state-level mandate, or questions about mandates in your state, please contact your Servicing Representative for assistance.

- Quarantine, including the circumstances requiring quarantine and paid time during quarantine;
- Contact tracing;
- Accommodation for workers with religious objections or disabilities, including the process for requesting and reviewing accommodations;
- Making alleged violations of any vaccination/testing requirements subject to the contractual discipline/grievance process; and
- Duration.

Finally, a reminder that regardless of vaccination, other workplace safety issues related to COVID-19 should continue to be discussed, including but not limited to continued safety protocols for masking/PPE, social distancing, ventilation, and accommodation of workers with disabilities. If you need help in assessing health and safety protocols, please contact your Servicing Representative or Regional Director to obtain assistance from the Health and Safety Department.

In solidarity,

A handwritten signature in black ink that reads "Ray Curry". The signature is written in a cursive, flowing style.

Ray Curry
President

RC:bw

opeiu494

cc: International Executive Board
Assistant Regional Directors
Top Administrative Assistants
Tim Bressler
Todd Brien
Steve Zimmerla