

MOTION BY SUPERVISOR SHEILA KUEHL

February 8, 2022

Amending the Los Angeles County Code to Enhance Compliance with and Enforcement of the County's COVID-19 Vaccination Policy

Since the onset of the COVID-19 pandemic, governments and employers throughout the country have taken action to mitigate the spread of COVID-19. In particular, as COVID-19 vaccines became widely available, both public and private employers have required their employees to be vaccinated against COVID-19. The County followed suit on August 4, 2021, when the Chair of the Board of Supervisors (Board) issued an order calling for the establishment of a policy requiring all County employees to submit proof of full vaccination against COVID-19. On August 10, 2021, the Board ratified the Chair's order and directed the establishment of the vaccination policy for all County employees. The Board was determined to increase the County workforce's vaccination rate to combat the elevated risk presented by the highly transmissible Delta variant and to prepare for the County's imminent reopening of its buildings to the public.

Pursuant to the Board's directive, the County issued its COVID-19 Vaccination

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Policy, effective October 1, 2021 (Policy). The Policy requires all County employees to be fully vaccinated against COVID-19 and submit proof of full COVID-19 vaccination unless they have been granted a medical or religious exemption. Employees who are not fully vaccinated are required to submit to regular COVID-19 testing, but testing does not excuse employees from the vaccination requirement in the absence of an exemption. The County facilitated compliance with the Policy by establishing a streamlined process through which employees could submit their vaccination information and, if unvaccinated, undergo regular COVID-19 testing paid for by the County.

Nevertheless, Countywide compliance with the Policy remains a challenge four months after its issuance. As of February 1, 2022, only 81.5% (82,298) of the County's approximately 100,000 employees were fully vaccinated. Vaccination rates also vary dramatically from department to department. For example, while more than 90% of the employees in approximately one dozen County departments are fully vaccinated, less than 60% of the employees in the Sheriff's Department are fully vaccinated. Unsurprisingly, approximately 74% of the more than 5,000 COVID-19-related workers' compensation claims filed by County employees as of January 29, 2022, have been filed by employees in the Sheriff's Department. This data illustrates vaccinations' vital role in limiting the spread of COVID-19 and thus, the urgent need to increase vaccination rates across the entire County workforce.

A key factor contributing to uneven compliance with the Policy is that the County's Civil Service Rules currently vest disciplinary authority individually in each County department head, who is solely responsible for ensuring that his or her

department's employees comply with the Policy's requirements and for taking corrective action in instances of noncompliance. This delegation of responsibility to each individual department head has allowed for inconsistent application and enforcement of the Policy and wide variety from department to department.

Increased compliance with the Policy is critical to combatting the COVID-19 emergency, as the virus remains an ongoing and evolving threat to the County workforce and community. The Omicron variant continues to mutate and has spread rapidly in the United States and in the County. Evidence of the continuing COVID-19 emergency can also be seen in recent actions by the state to reduce the spread of the virus in workplaces and public settings. On December 13, 2021, the California Department of Public Health issued guidance requiring all individuals statewide to wear masks in indoor public settings regardless of vaccination status. And on December 16, 2021, the state Occupational Safety & Health Standards Board readopted a revised version of its COVID-19 Prevention emergency temporary standards governing workplaces in California.

In the face of the ongoing threat that COVID-19 presents, the Board must take action to ensure that the Policy's requirements are being consistently enforced across the County's departments. To achieve this goal, authority to enforce the Policy as to a department's employees must be vested not only in the head of that department but also in the Director of Personnel, who under the County Charter and Civil Service Rules is already responsible for administering the County's civil service system.

Lastly, given the role that a department's high-ranking employees other than department heads play in supporting implementation of the Policy within their

departments, the Board must ensure that only employees who are compliant with the Policy and have fulfilled their responsibilities to enforce it are appointed to unclassified positions in County departments.

I, THEREFORE, MOVE that the Board of Supervisors:

1. Direct County Counsel, in consultation with the Chief Executive Officer and Director of Personnel, to submit at this Board's March 15, 2022 regular meeting amendments to the Civil Service Rules that would provide the Director of Personnel, or the Director's designee, overriding authority to discipline the employees of any County department for noncompliance with the County's Policy or directives related to the Policy for this Board's consideration;
2. Direct the Director of Personnel, in collaboration with the Chief Executive Officer and County Counsel, to develop any changes to the County's Policy or other policies or procedures needed to enable the Director of Personnel or Director's designee to enforce the Policy on a countywide basis;
3. Direct the Chief Executive Officer to engage with the County's labor partners regarding the effects of:
 - 1) The amendments to the Civil Service Rules that would provide the Director of Personnel or the Director's designee overriding authority to discipline the employees of any County department for noncompliance with the County's Policy or directives issued relating to the Policy; and

- 2) Any changes to the County's Policy or other policies or procedures needed to enable the Director of Personnel or Director's designee to enforce the Policy on a countywide basis; and
4. Direct County Counsel, in consultation with the Chief Executive Officer and Director of Personnel, to submit at this Board's March 15, 2022 regular meeting, an ordinance amending the Los Angeles County Code to prohibit the appointment of unclassified employees who are noncompliant with or have failed to enforce the Policy or directives related to the Policy.