



Legislation Text

File #: 21-0297, **Version:** 1

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Lisa Jenkins, Human Resources Director

Briza Morales, Risk Manager

SUBJECT:

Request by Councilmember Montgomery and Mayor Pro Tem Napolitano to Discuss Implementing a Mandatory COVID-19 Vaccination Policy for City Employees (Human Resources Director Jenkins).

DISCUSS AND PROVIDE DIRECTION

RECOMMENDATION:

Staff recommends that the City Council discuss and provide direction regarding implementing a mandatory COVID-19 vaccination policy for City employees.

FISCAL IMPLICATIONS:

There are no fiscal implications associated with the recommended action.

BACKGROUND:

On March 19, 2020, the Governor of the State of California implemented a Safer at Home Order requiring all residents to stay at home except when securing necessary supplies and for continuity of critical and essential services. The State also implemented the Blueprint for a Safer Economy, placing counties into a tiered system that required decreases in new cases and test positivity rates to lift restrictions and move to a less restrictive tier. Los Angeles County was in the most restrictive tier until early 2021, when COVID-19 vaccination distribution began. With an increase in vaccinations, the number of cases and test positivity rates decreased, allowing Los Angeles County to move rapidly through the State's tiered system.

On June 15, 2021, the Safer at Home Order and the State's Blueprint for a Safer Economy was lifted statewide. Los Angeles County Department of Public Health amended the Health Officer Order to reflect the reopening of the State and lifted many of the sector specific restrictions. Some restrictions remain in effect for specific sectors including health care settings, day camps, schools and indoor and outdoor mega events. In addition, the face covering requirements were updated to reflect the Centers for Disease Control face covering requirements. When the State reopened, the goal was to continue distributing vaccinations to obtain herd immunity. However, after June 15, 2021, Los Angeles County experienced an increase in case rates and test positivity, putting the County at a "High Transmission" level. The increase in cases prompted an amended Health Officer Order

requiring face coverings to be worn at all times while indoors regardless of vaccination status. In Manhattan Beach, the number of new COVID-19 cases peaked at 81 the week of July 26 - August 1.

On August 3, 2021, in response to growing concerns over COVID-19 transmissions rates, City Council requested Human Resources to collect the vaccination status of all employees, and establish a mandatory vaccine or weekly testing requirement for unvaccinated employees, and contact the City's employee labor associations to negotiate the impacts of the decision. Human Resources staff promptly obtained updated vaccination status information from employees, coordinated with departments regarding schedules and logistics for testing, secured testing providers, and engaged the employee labor associations. Accordingly, the COVID-19 screening testing program became effective on August 12, 2021 and the City now mandates weekly testing for all employees that are not vaccinated or have not provided a self-attestation form confirming their fully vaccinated status. Testing is offered several times per week at various City facilities and employees are accountable for ensuring they comply with the weekly testing requirement, with supervisor follow up as needed. In addition, fully vaccinated employees may participate in the onsite COVID-19 screening testing on a voluntary basis. Screening testing for vaccinated employees has the potential to identify additional staff with COVID-19 who do not have signs or symptoms, and without known exposure, or those who have recently had an increased exposure risk.

With growing concerns about transmission rates and increasing discussions at the local, state, and federal level surrounding vaccine mandates, at the September 9, 2021 City Council meeting, Councilmember Montgomery and Mayor Pro Tem Napolitano requested staff agendize a discussion regarding a mandatory COVID-19 vaccination policy for City employees. Mayor Stern requested to be the third vote to bring this item back for Council discussion and direction at the soonest possible interval.

DISCUSSION:

Since the beginning of the COVID-19 pandemic, the City has implemented employee safety protocols in compliance with Los Angeles Department of Public Health and the California Occupational Health and Safety Administration to mitigate the potential exposure to COVID-19 at City facilities and events. The City's priority is to protect the health and safety of all City employees and those with whom the employees come into contact. The protocols have included quarantine/isolation guidelines, face-coverings, symptom checks, telework, staggered schedules, sneeze barriers, hand sanitizer, extra cleaning and disinfecting, and equipping staff with personal protective equipment, such as gloves and N-95 respirators. The City has also offered its employees who are symptomatic or have had a COVID-19 exposure same-day COVID-19 testing throughout the pandemic.

As of September 15, 2021, eighty-three percent of City employees have submitted a self-attestation form attesting they are fully vaccinated; this excludes employees out of the workplace, such as on leave or seasonal employees not currently scheduled to work. Five weeks of the screening testing has been completed. Approximately 60 to 70 employees participate in the onsite screening testing weekly, of which approximately 40 employees participate on a mandatory basis. To date, one employee who was not exhibiting symptoms has been identified as COVID positive through the screening testing.

Mandatory vaccination policies are lawful. Agencies who implement a mandatory vaccination policy must consider requests for exemptions as a result of a disability precluding an employee from being

vaccinated, or employees who assert a religious belief. If an employee has an exemption request that is granted for one of these reasons, the City would look to engage in the reasonable accommodation process to determine whether accommodations can be made to enable the employee to perform all the functions of their job.

Should Council direct Staff to research, develop, and implement a mandatory vaccination policy for City employees, all employee labor associations will have the right to request to bargain over the impacts of the decision.

The discussion at hand is whether to direct staff to research, develop, and implement a mandatory vaccination policy for City employees or continue with the mandatory testing for unvaccinated employees. As indicated herein, there are both legal and practical considerations to making such a decision, including negotiable aspects.

CONCLUSION:

Staff recommends the City Council discuss and provide direction regarding implementing a mandatory COVID-19 vaccination policy.

The Council may consider the following options, among others, in relation to this item:

1. Maintain the current policy of mandatory vaccination or weekly testing for unvaccinated employees, including voluntary screening testing for vaccinated employees.
2. Direct the City Manager to develop and implement a mandatory vaccination policy for all employees, including the required outreach to the employee labor associations.

PUBLIC OUTREACH:

After analysis, staff determined that public outreach was not required for this issue.

LEGAL REVIEW:

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.