

Confidential DRAFT

Employer policy to require proof of vaccination or weekly COVID testing

RSC - Draft response/discussion points

Union position - Employer policy requiring proof of vaccination or weekly COVID testing is a mandatory subject of bargaining under the Taylor Law - safety, medical record, job requirement, privacy, etc.

1. Employer comply with all applicable Federal, State, Local occupational safety and health laws, regulations and guidances relating to COVID – 19 , including mask requirements inside of Employer facilities by all (vaccinated, non-vaccinated), comply with all applicable NYS DOH Guidance(s) re quarantining and staffing.
2. Respect right of individual employee to raise and pursue lawful objections to policy, including religious objection and/or disability.
3. Negotiate and agree upon terms governing new vaccination/testing policy recognizing that they are interim rules which may need to be revised and modified depending on developing science and facts applicable to the individual workplace. Any rules worked out with employer should carve out right of individuals to pursue their own individual claims – not waiving rights of individuals.
4. Non-precedent setting. Does not establish past practice.

Suggested proposals to consider:

1. Vaccination requirement – If employer requires proof of vaccination, the document showing proof of vaccination must be confidential and maintained separate from the Employee’s personnel file (stored separately). The Employer must respect NYS Law (2588 A) which provides

for up to 4 hours of paid leave to obtain a vaccination in addition to paid leave under the CBA. More paid time to obtain a vaccination may be negotiated. Accommodations should be provided to assist employees obtaining a vaccination. Vaccinations should be paid for by the Employer or otherwise at no cost to employee. This should cover full vaccinations doses. Any health issues resulting from vaccination, requiring absence from work should be covered by paid leave (in addition to leave time under the CBA).

2. Testing – PCR testing only. Employee paid pending receipt of test results. Any required weekly COVID testing should be on paid Employer time and testing paid by employer. Testing results kept confidential stored separately from personnel records. If positive test, employee time quarantining paid for by Employer until negative test obtained.
3. No retaliation against employee for declining vaccination and opting for testing.
4. Carve out for individual rights – “Nothing contained herein shall serve as a waiver of any individual’s rights under any and all Federal, State and/or local laws to object to COVID-19 vaccinations and/or testing.” This agreement is without prejudice to an individual employee’s right(s) to object to COVID-19 vaccination(s) and/or testing under applicable laws, including lawful objections based upon disability and/or religion.