

NATIONAL VETERANS AFFAIRS COUNCIL

American Federation of Government Employees, Affiliated with the AFL-CIO

Out of Many/One Union
AFGE NVAC/AFL-CIO

7S/398512

NATIONAL GRIEVANCE NG-8/27/2021

Date: August 27, 2021

To: Ophelia A. Vicks
Acting Executive Director
Office of Labor-Management Relations
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420
Ophelia.Vicks@va.gov
Sent via electronic mail only

From: Shalonda Miller, Staff Counsel, National Veterans Affairs Council (#53) (“NVAC”),
American Federation of Government Employees, AFL-CIO (“AFGE”)

RE: National Grievance against the Department of Veterans Affairs for its unilateral implementation of a COVID-19 attestation program without first meeting its bargaining obligations

STATEMENT OF CHARGES

Pursuant to the provisions of Article 43, Section 11 of the Master Agreement Between the Department of Veterans Affairs and the American Federation of Government Employees (2011) (“MCBA”), American Federation of Government Employees/National Veterans Affairs Council (“the Union”) is filing this National Grievance against you and all other associated officials and/or individuals acting as agents on behalf of the Department of Veterans Affairs (the “Department” or “VA”), for unilaterally implementing a COVID-19 attestation program without first meeting its bargaining obligations. To date, the Department has failed to remedy this violation, and as such, continues to violate the MCBA and federal law.

Specifically, the Department violated Articles 2, 3, 47, and 49 of the MCBA, 5 U.S.C. § 7116(a), and any and all other relevant articles, laws, regulations, and past practices not herein specified. The Union specifically reserves the right to supplement this grievance based upon the discovery of new evidence or information of which it is not presently aware, or otherwise, as necessary.

STATEMENT OF THE CASE

Background

On July 29, 2021, the Biden-Harris Administration announced that federal employees, and most federal contractors, should attest to their coronavirus/COVID-19 vaccination status or be subject to federal workplace restrictions.¹ That same day, the Administration’s Safer Federal Workforce Task Force (“Task Force”) released new workplace safety guidance that describes the attestation process (*See* “COVID-19 Workplace Safety: Agency Model Safety Principles,” attached as Exhibit “A”). Notably, neither the White House Fact Sheet, nor the Task Force guidance refer to the attestation process as a mandate. Further, the Task Force’s guidance explicitly states that agencies are required to comply with applicable law and collective bargaining agreements when implementing workplace safety plans. *Id. at 2, Information about Vaccination* (“In requesting this information, agencies should comply with any applicable Federal laws, including requirements under the Privacy Act and the Paperwork Reduction Act, and any applicable **collective bargaining obligations.**”) (emphasis added); *id. at 7, Collective Bargaining Obligations* (“Consistent with President Biden’s policy to support collective bargaining, agencies are reminded to satisfy applicable **collective bargaining obligations** under 5 U.S.C. Chapter 71 when implementing workplace safety plans.”) (emphasis added).

On August 17, 2021, the VA’s Office of Labor-Management Relations shared the Task Force’s guidance with the NVAC. On August 18, 2021, the NVAC submitted a demand to bargain ordering the Department to cease and desist any implementation of the Task Force’s guidance, including any attestation process, until its bargaining obligations were met (*See* NVAC Mid-Term Bargaining Committee Demand to Bargain, attached as Exhibit “B”). Nevertheless, on August 20, 2021, via an all-employee bulletin, VA Secretary Denis McDonough announced that the COVID-19 attestation process would be implemented through the Department’s electronic Talent Management System (“TMS”) program. The TMS “attestation” consists of two questions concerning an employee’s vaccination status. According to Secretary McDonough, the VA’s attestation process “is consistent with guidance from the President, the Centers for Disease Control and Prevention and the Safer Federal Workforce Task Force” (*See* “Message from the Secretary,” attached as Exhibit “C”). On August 24, 2021, the Department began placing the attestation questions in bargaining unit employees’ TMS dashboards and requiring the employees to complete the process within 14 calendar days (*See* Attestation of Vaccination Status Frequently Asked Questions,” attached as Exhibit “D”).

This mandatory² attestation process constitutes a change in conditions of employment triggering a duty to bargain with the Union. Further, the Secretary’s claim that the TMS requirement is consistent with the Task Force’s guidance is false, as the guidance plainly states that federal agencies must satisfy their collective bargaining obligations with regard to implementing its guidance.

Violations

¹ *See* White House Briefing Room Fact Sheet: “President Biden to Announce New Actions to Get More Americans Vaccinated and Slow the Spread of the Delta Variant,” available at <https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/29/fact-sheet-president-biden-to-announce-new-actions-to-get-more-americans-vaccinated-and-slow-the-spread-of-the-delta-variant/>. Last accessed on August 25, 2021.

² *See* screenshot of the “COVID-19 Vaccination Information and Attestation,” TMS module which includes a notation that the course is **REQUIRED** (attached as Exhibit “E”).

The Department's actions violate the parties' agreement and federal law. Article 47 of the MCBA states that the Department's bargaining obligation is triggered by the Union's demand to bargain. The Department has an obligation to satisfy that bargaining obligation prior to implementing changes in conditions of employment. Further, Article 49, Section 8 requires that surveys or questionnaires be voluntary, anonymous, and confidential unless otherwise agreed to by the parties, and to bargain, where appropriate. The mandatory attestation process violates these provisions. In addition, by refusing to negotiate in good faith with the Union prior to implementing the new attestation requirements, the Department committed an unfair labor practice under 5 U.S.C. § 7116(a)(1), (5) and (8). Additionally, Article 2 of the MCBA requires that the Department comply with applicable federal statutes and regulations in the administration of matters covered by the MCBA. Therefore, in violating 5 U.S.C. § 7116, as set forth above, the Department also failed to comply with Article 2. Finally, Article 3 encourages the parties to maintain a cooperative labor-management relationship that is based on mutual respect, open communication, consideration of each other's views, and minimizing collective bargaining disputes. By failing to negotiate with the Union prior to implementing the attestation process, the Department renounced its commitments under Article 3 of the MCBA and necessitated further collective bargaining disputes.

Remedy Requested

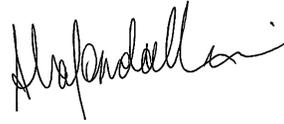
The Union asks that, to remedy the above situation, the Department agrees to the following:

- To cease and desist the further implementation of the attestation process;
- To return to the *status quo* until its bargaining obligations are met;
- To bargain with the Union on the development of workplace safety plans, such as the COVID-19 attestation process, which have a substantial impact on bargaining unit employees' conditions of employment;
- To fully comply with its contractual obligations under Articles 2, 3, 47, and 49 of the MCBA and its statutory obligations under 5 U.S.C. §7116(a);
- To distribute an electronic notice posting, signed by the VA Secretary, to all bargaining unit employees concerning the Department's failure to bargain with the Union, in violation of the MCBA and law; and,
- To agree to any and all other remedies appropriate in this matter.

Time Frame and Contact

This is a National Grievance, and the time frame for resolution of this matter is not waived until the matter is resolved or settled. If you have any questions, please contact the undersigned at the AFGE Office of the General Counsel.

Submitted by,



Shalonda Miller
Staff Counsel, National VA Council
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AFGE, AFL-CIO
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cc: Alma L. Lee, President, AFGE/NVAC
William Wetmore, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC
Thomas Dargon, Jr., Supervisory Attorney, AFGE/NVAC

Exhibit A

Safer Federal Workforce Task Force

COVID-19 Workplace Safety: Agency Model Safety Principles

Issued July 29, 2021

Purpose

The purpose of this document is to provide model safety principles for executive departments and agencies (hereafter, “agency” and collectively, “agencies”) for their COVID-19 workplace safety plans. In Executive Order No. 13991, President Biden established the [Safer Federal Workforce Task Force](#) to oversee the development and implementation of agency COVID-19 workplace safety plans across the Federal Government.

Agencies should incorporate these principles into their existing COVID-19 workplace safety plans. Agencies with onsite contractors should address how the protocols below are being applied to contractor personnel to promote Federal workplace safety in the context of COVID-19.

Overview of Model Principles

The Federal Government is committed to addressing essential work requirements consistent with best public health practices. The Administration’s paramount concern is the health and safety of all Federal employees, onsite contractors, and individuals interacting with the Federal workforce.

The principles presented here are aligned with the latest guidance from the Centers for Disease Control and Prevention (CDC) for [employers](#) and for [fully vaccinated people](#) and the Occupational Safety and Health Administration (OSHA) on [protecting workers](#), based on evolving understanding of the pandemic. These principles will be reassessed over time, as conditions warrant and as CDC guidelines are updated.

Where a locality has imposed additional pandemic-related requirements more protective than those set forth in these model safety principles, those requirements should be followed in Federal buildings and on Federal land in that locality.

Goal

The health and safety of the Federal workforce is the Administration’s highest priority.

Key Updates to Model Safety Principles

Consistent with CDC guidance, in areas of high or substantial transmission (see the [CDC COVID-19 Data Tracker County View](#)), Federal employees, contractors, and visitors must wear a mask inside Federal buildings, except for the limited exceptions discussed in the section on *Face Masks and Physical Distancing* below. Individuals who are not fully vaccinated must wear a mask regardless of community transmission level.

Federal agencies need to ask about the vaccination status of Federal employees and onsite contractors—employees and onsite contractors must sign an attestation confirming their vaccination status, or they will be treated as not fully vaccinated for purposes of safety protocols. Federal agencies also must establish a program to test not fully vaccinated Federal employees and onsite contractors weekly or twice-weekly.

In addition to receiving paid time off to be vaccinated and to deal with any side effects, employees will receive paid time off if they need to accompany a family member being vaccinated.

Fully vaccinated Federal employees and onsite contractors do not need to physically distance or participate in weekly screening testing, and are not subject to any Government-wide restrictions on official travel (although agency travel policies still apply). In areas of high or substantial transmission, they need to wear a mask in public indoor settings in Federal buildings. In areas of low or moderate transmission, they do not need to wear a mask.

Those Federal employees and onsite contractors who are not fully vaccinated or decline to provide their vaccination status must wear a mask, physically distance, and comply with a weekly or twice-weekly screening testing requirement, and are subject to Government-wide restrictions on official travel.

Visitors must provide information on their vaccination status and comply with the requisite safety protocols. Visitors who are not fully vaccinated or decline to provide their vaccination status must provide proof of a negative COVID-19 test from no later than the previous 3 days prior to entry to a Federal building or in-person participation in a Federally hosted meeting, event, or conference. The requirement to provide information on vaccination status and a negative COVID-19 test does not apply to members of the public entering a Federal building or Federal land to obtain a public service or benefit. If they are not fully vaccinated, these visitors must comply with all relevant CDC guidance, including wearing a mask and physically distancing from other people.

Health and Safety

Information about Vaccination

The Administration strongly encourages all Americans who are eligible for vaccination, including Federal employees and contractors, to be vaccinated. Employees will receive paid time off to be vaccinated and to deal with any side effects. Employees will also receive paid time off to accompany a family member being vaccinated. For this purpose, a “family member” is an individual who meets the definition of that term in OPM’s leave regulations (see 5 CFR 630.201).

Given the different safety protocols for individuals who are fully vaccinated and those who are not fully vaccinated, agencies need to ask about the vaccination status of Federal employees and onsite contractors. Employees and onsite contractors must attest to the truthfulness of the response they provide. If an employee or onsite contractor chooses not to provide a response, they will be treated as not fully vaccinated for the purposes of these protocols. In requesting this information, agencies should comply with any applicable Federal laws, including requirements under the Privacy Act and the Paperwork Reduction Act, and any applicable collective bargaining obligations. When an employee or contractor discloses that they are not fully vaccinated or declines to complete the attestation, agencies should treat that individual as not fully vaccinated for purposes of implementing safety measures, including with respect to mask wearing, physical distancing, testing, travel, and quarantine as discussed in further detail below.

Visitors to Federal buildings should also be asked to provide information about vaccination status. In requesting this information, agencies should comply with any applicable Federal laws, including requirements under the Privacy Act and the Paperwork Reduction Act. Visitors who are not fully vaccinated or who decline to provide information about their vaccination status must provide proof of a negative COVID-19 test from no later than the previous 3 days prior to entry to a Federal building. See the section below on *Meetings, Events, and Conferences* for how these visitor requirements apply to in-person participants in meetings, events, and conferences hosted by agencies.

These requirements related to the provision of information about vaccination and provision of proof of a recent negative COVID-19 test do not apply to members of the public entering a Federal building or Federal land to obtain a public service or benefit. If they are not fully vaccinated, these visitors must comply with all relevant CDC guidance, including wearing a mask and physically distancing from other people.

Levels of Community Transmission

For purposes of this guidance, when determining levels of community transmission in a given area, agencies should reference the [CDC COVID-19 Data Tracker County View](#). Agencies can use discretion in determining the counties relevant to the determination of the level of community transmission in a given area for a given Federal facility. For example, agencies may consider the county in which an agency facility is located as well as the transmission levels of surrounding local counties from which employees commute to the facility.

Telework and Remote Work

Agencies should utilize telework and remote work consistent with the principles set forth in [OMB Memorandum M-21-25](#) and agency plans for reentry and post-reentry.

COVID-19 Coordination Team

Each agency should maintain its COVID-19 Coordination Team, as detailed in [OMB Memorandum M-21-15](#). This team should, at a minimum, include a representative from: each component agency (if applicable); the appropriate human resources office(s); occupational safety and health experts; executive leadership; legal counsel; and a public health expert. If such a public health expert does not exist at the agency, the Safer Federal Workforce Task Force will designate someone. The team should meet regularly to review compliance with agency COVID-19 workplace safety plans and protocols, consider potential revisions to agency COVID-19 workplace safety plans and protocols pursuant to guidance from the Safer Federal Workforce Task Force and current CDC guidelines, and evaluate any other operational needs related to COVID-19 workplace safety. The team should coordinate all decisions with Facility Security Committees, as appropriate. For privately owned facilities leased by the Federal Government, the team must coordinate with the General Services Administration (GSA), where appropriate, and the lessor's designated representative.

Face Masks and Physical Distancing

Individuals who are not fully vaccinated must wear a mask regardless of community transmission level. In areas of high or substantial transmission, fully vaccinated people must wear a mask in public indoor settings, except for limited exceptions discussed in this section.

In areas of low or moderate transmission, in most settings, [fully vaccinated](#) people generally do not need to wear a mask or physically distance in Federal buildings or on Federal land, except where required by Federal, State, local, Tribal, or territorial laws, rules, or regulations. Fully vaccinated individuals might choose to wear a mask regardless of the level of transmission for a variety of reasons. Nothing in CDC guidance precludes an employee from wearing a mask, if the employee so chooses. CDC's guidance for mask wearing and physical distancing in specific settings, including [healthcare](#), [transportation](#), [correctional and detention facilities](#), and [schools](#), should be followed, as applicable.

Federal employees and onsite contractors who are not fully vaccinated or who decline to provide their vaccination status—or who are in an area of substantial or high transmission—must [wear a mask](#) that [covers their nose and mouth](#), and that is in accordance with current CDC guidance. CDC [recommends](#) the following: disposable masks, masks that fit properly (snugly around the nose and chin with no large gaps around the sides of the face), masks made with breathable fabric (such as cotton), masks made with tightly woven fabric (i.e., fabrics that do not let light pass through when held up to a light source), masks with two or three layers, and masks with inner filter pockets. Agencies should not allow novelty or non-protective masks, masks with ventilation valves, or face shields as a substitute for masks.

Individuals who are not fully vaccinated or who decline to provide information about their vaccination status—including employees, onsite contractors, and those visitors who are required to provide vaccination status—must maintain distance [and](#) properly wear masks. To the extent practicable, individuals who are not fully vaccinated or who decline to provide information about their vaccination status should maintain a distance of at least six feet from others at all times, consistent with CDC guidelines, including in offices, conference rooms, and all other communal and work spaces.

In the vast majority of cases, employees who are not vaccinated due to disability or religious practices or beliefs will be able to follow the safety protocols for not fully vaccinated individuals as a reasonable accommodation. In the rare case where they cannot, or where it is otherwise required by law, other reasonable accommodations should be made, barring undue hardship. Some individuals may require accommodations under applicable law relating to masking requirements, and such accommodations should be in accordance with existing [Equal Employment Opportunity Commission guidance](#).

For individuals who are required to wear a mask:

- Appropriate masks should be worn consistently and correctly (over mouth and nose).
- Appropriate masks should be worn in any common areas or shared workspaces (including open floorplan office space, cubicle embankments, and conference rooms).
- In general, people do not need to wear masks when outdoors. However, [consistent with CDC guidance](#), those who are not fully vaccinated should wear a mask in crowded outdoor settings or during outdoor activities that involve sustained close contact with other people who are not fully vaccinated.
- Agencies may provide for exceptions consistent with CDC guidelines, for example, when an individual is alone in an office with floor to ceiling walls and a closed door, or for a limited time when eating or drinking and maintaining distancing in accordance with CDC guidelines.

Masked individuals may be asked to lower their masks briefly for identification purposes in compliance with safety and security requirements.

Masks do not provide the same level of protection as respirators and should not replace personal protective equipment required or recommended at the workplace.

Testing

Agencies must establish a program to test Federal employees and contractors working onsite who are not fully vaccinated, or who decline to provide information about their vaccination status, for COVID-19 weekly or twice-weekly. Agencies do not need to regularly test employees and contractors who are fully vaccinated.

Contact Tracing

The agency's COVID-19 Coordination Team will collaborate with and support the contact tracing programs of local health departments to help identify, track, and manage contacts of COVID-19 cases.

The team will engage in coordination with facilities staff to implement infection control and workplace safety efforts once informed of a known or suspected case of COVID-19 (due either to specific symptoms or a positive test).

The team should ensure that the agency makes disclosures to local public health officials, as required or necessary, to provide for the health and safety of Federal employees, contractors, and the general public, in accordance with local public health mandates. If COVID-19 cases occur within a specific building or work setting, it will be the responsibility of that agency's COVID-19 Coordination Team (or a field office or agency component designee) to determine—in consultation with local public health officials—appropriate next steps. Agencies should be transparent in communicating related information to the workforce, as relevant and appropriate; disclosures must be consistent with Federal, State, and local privacy and confidentiality laws and regulations.

Travel

Federal employees should adhere strictly to CDC [guidelines](#) before, during, and after travel.

For Federal employees who are fully vaccinated, there are no Government-wide restrictions on travel (although agency travel policies still apply).

For Federal employees who are not fully vaccinated or who decline to provide information about their vaccination status, official domestic travel should be limited to only necessary mission-critical trips. International travel should also be avoided, if at all possible, unless it is mission critical (e.g., military deployments, COVID-19 response deployments or activities, diplomats traveling, high-level international negotiations that cannot occur remotely). Heads of agencies should issue specific guidance to account for the particulars of their agency's mission.

Meetings, Events, and Conferences

Should an agency intend to host an in-person meeting, conference, or event that will be attended by more than 50 participants—regardless of whether participants include members of the public—the agency must first seek the approval of its agency head, in consultation with the agency's COVID-19 Coordination Team.

In-person attendees at any meetings, conferences, and events hosted by an agency, regardless of size, must be asked to provide information about vaccination status. In requesting this information, agencies should comply with any applicable Federal laws, including requirements under the Privacy Act and the Paperwork Reduction Act. In-person attendees who are not fully vaccinated or decline to provide information about their vaccination status must provide proof of a negative COVID-19 test completed no later than the previous 3 days and comply with masking and physical distancing requirements for individuals who are not fully vaccinated consistent with the requirements for visitors in the *Face Masks and Physical Distancing* section above. In-person attendees in areas of high or substantial transmission must wear a mask in public indoor settings regardless of vaccination status.

Symptom Monitoring

If Federal employees, onsite contractors, or visitors have symptoms consistent with COVID-19, they should not enter a Federal workplace.

Federal employees and contractors working on site should regularly complete virtual or in-person health checks (ask about symptoms, close contact with someone with SARS-CoV-2 infection, and SARS-CoV-2 testing and diagnosis status). The agency will use this information to assess the individual's risk level and

to determine whether the individual should be allowed entry to the workplace. Visitors may be asked to complete symptom screening before entering a Federal facility. In developing these tools, agencies may adapt the one developed by [CDC](#).

Any individual, regardless of vaccination status, who develops [any symptoms consistent with COVID-19](#) during the workday must immediately isolate, wear a mask (if the individual is not already doing so and one is available), notify their supervisor, and promptly leave the workplace. Agencies should have processes in place to provide advice and support to supervisors on any related reporting or human resources requirements.

Quarantine, Isolation, and Steps for Fully Vaccinated Individuals Following Exposure to Someone with Suspected or Confirmed COVID-19

Any individual with a suspected or confirmed case of COVID-19 will be advised to isolate, [pursuant to CDC guidelines](#), and in compliance with State, local, and Tribal laws and regulations. Personnel who are not fully vaccinated and who have had a close contact with someone who has tested positive for COVID-19 should follow [CDC](#) and State, local, and Tribal guidance for quarantine.

Individuals who have been fully vaccinated and have had close contact with someone with suspected or confirmed COVID-19 should get tested 3-5 days after exposure, even if they do not have symptoms. They should also wear a mask indoors in public for 14 days following exposure or until their test result is negative. If their test result is positive, they should isolate for 10 days.

Confidentiality and Privacy

All medical information collected from individuals, including vaccination information, test results, and any other information obtained as a result of testing and symptom monitoring, will be treated in accordance with applicable laws and policies on confidentiality and privacy, and will be accessible only to those with a need to know. Agencies should consult their Senior Agency Officials for Privacy on matters related to the handling of personally identifiable information and identify a point of contact for all questions relating to personal medical information.

Workplace Operations

Occupancy

Agencies may establish occupancy limits for specific workplaces as a means of facilitating physical distancing. Note that by reducing the number of people in a space, occupancy limits also increase the heating, ventilation, and air conditioning delivery of outdoor air per person.

Environmental Cleaning

Agencies should ensure regular cleaning of common use, high-touch, and high-density spaces, such as lobbies, restrooms, elevators, and stairwells. Office space that is in regular use is to be cleaned regularly, and in accordance with [CDC guidelines](#). Wipes and other [Environmental Protection Agency-approved disinfectants](#) will be made available for use by individuals to wipe down workstations and related personal property. Physical barriers, such as plexiglass shields, may be installed, where appropriate.

In the event of a suspected or confirmed case of COVID-19 in the workplace, agencies should ensure enhanced environmental cleaning of the spaces that the individual occupied or accessed in accordance with CDC and, where applicable, GSA guidance, which provides as follows:

- If fewer than 24 hours have passed since the person who is sick or diagnosed with COVID-19 has been in the space, clean and disinfect the space.
- If more than 24 hours have passed since the person who is sick or diagnosed with COVID-19 has been in the space, cleaning is enough. You may choose to also disinfect depending on certain conditions or everyday practices required by your facility.
- If more than 3 days have passed since the person who is sick or diagnosed with COVID-19 has been in the space, no additional cleaning (beyond regular cleaning practices) is needed.

If enhanced cleaning is required, wait as long as possible (at least several hours) before cleaning and disinfecting. Extended wait periods allow increased opportunity for viral deactivation to occur naturally, while also allowing time for aerosols to settle, prior to surface disinfection.

The agency’s COVID-19 Coordination Team will determine the appropriate scope of workplace closures needed—in some cases, it may be a suite or individual offices or part of a floor, in other cases, it may include an entire building.

Hygiene

Hand sanitizer stations are to be available at the building entrance and throughout workspaces. Hand sanitizers should contain at least 60% alcohol and be manufactured in accordance with the requirements of the U.S. Food and Drug Administration (FDA). Ingredients should be listed on a “Drug Facts” label. Agencies should ensure the hand sanitizer is not on the FDA’s [do not use](#) list.

Ventilation and Air Filtration

Modifications to ventilation systems should be considered in accordance with CDC [guidance](#), especially as building population density increases. To the maximum extent feasible, indoor ventilation will be optimized to increase the proportion of outdoor air and improve filtration. Deployment of portable high-efficiency particulate air (HEPA) cleaners should be considered for higher-risk spaces (e.g., health clinics).

Collective Bargaining Obligations

Consistent with President Biden’s policy to support collective bargaining, agencies are reminded to satisfy applicable collective bargaining obligations under 5 U.S.C. Chapter 71 when implementing workplace safety plans. Agencies are also strongly encouraged to communicate regularly with employee representatives on workplace safety matters.

Exhibit B



**AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
NATIONAL VETERANS AFFAIRS COUNCIL #53
Affiliated with the AFL - CIO
Mid-Term Bargaining Committee**

**Oscar L. Williams Jr., Chair
2nd Exec. V-President
29 Lake Street
Danville, IL 61832-6101**

**Bill Wetmore, Member
3rd Exec. V-President
2319 Alava Court
Waldorf, MD 20603**

**Willie Haywood, Member
6th Dist. Rep., NVAC
17705 Garden Blvd.
Cleveland, OH 44128**

**Tinita Cole, Member
NVAC Nat., Rep.
VAMC Dayton
Dayton, OH 45428**

August 18, 2021

Ophelia A. Vicks, Acting Executive Director
Office of Labor Management Relations (LMR)
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Subject: COVID -19 Attestation and TMSM Training

Dear Ms. Vicks:

In accordance with Article 47, Section 2, C, of the Master Agreement, the National VA Council #53 is formally demanding to bargain on the COVID-19 Attestation and TMSM Training as cited above within the Department. Please provide the NVAC's Mid-Term Bargaining team with any/all information/data concerning the cited subject above. The negotiations of this subject should normally begin no later than twenty (20) workdays after the Management's Chief Negotiator in this matter receives our demand to bargain.

Please cease and desist any implementation until the bargaining obligation has been met. The above named NVAC's Mid-Term Bargaining Team may requesting a briefing over the cited subject above, before sending any proposals. If you have any questions, please call me at (217) 554-4979.

Sincerely,

Oscar L. Williams, Jr.
Chairperson, Mid-Term Bargaining Committee
2nd Executive Vice President
National VA Council #53

cc: Alma L. Lee, President National VA Council #53
NVAC Executive Committee

AFGE: Good Government We Are Ready

Exhibit C

From: Office of the Assistant Secretary for Information and Technology <OITallhands@va.gov>

Sent: Friday, August 20, 2021 4:45 PM

Subject: Message From the Secretary

Forwarded on behalf of the Secretary

Attestation of Vaccination Status

I start with a heartfelt thank you for your tireless work. I acknowledge how difficult it is working during a pandemic with its attendant risk and stress. Yet through it all you have ensured that the Department of Veterans Affairs (VA) now provides more care and more benefits to more Veterans than at any time. I thank you for that.

Earlier this month, we took the step of mandating vaccines for all Veterans Health Administration (VHA) personnel who visit VHA facilities, work at VHA facilities or directly interact with and serve our Veterans. And we did that for one reason: it's the best way to keep Veterans and VA employees safe.

Today, we are continuing our efforts to prevent the spread of Coronavirus Disease 2019 (COVID-19) by asking every VA employee to attest to their vaccine status—a step that is consistent with guidance from the President, the Centers for Disease Control and Prevention and the Safer Federal Workforce Task Force.

You will have four options in this attestation process—fully vaccinated, received first dose of a two-dose vaccine, unvaccinated or choose not to say. Employees who have not been vaccinated or choose not to attest to being fully vaccinated will be required to comply with weekly COVID-19 testing, wear a mask, maintain feasible physical distancing and adhere to travel restrictions. Fully vaccinated colleagues will continue to follow the guidance as outlined by the Safer Federal Workforce Task Force. Additional guidance on weekly COVID-19 testing procedures is forthcoming.

The process for attestation is as follows:

- **Where do I attest?** Attestations will be made in the [Talent Management System](#) (TMS).
- **When do I need to attest?** VA will collect employee attestation information in two phases, beginning today. Phase One will focus on supervisors and begins Thursday, August 19, 2021. Phase Two will focus on the employee workforce and will begin Tuesday, August 24, 2021.
- **How long will I have to attest?** Once assigned in TMS, employees will have 14 calendar days to complete the attestation form from TMS assignment.
- **Who will know my attestation status?** The information provided is protected under the Privacy Act and only those individuals who have a need to know for the information, such as your supervisor, will know whether, based on your attestation, you will be required to comply with the requirements and restrictions for weekly testing, wearing a mask, physical distancing and traveling.

You can find more information about the process in [VA's Attestation of Vaccination Status frequently asked questions \(FAQ\)](#).

As a reminder for those of you who have not yet received the COVID-19 vaccine, all VA employees are eligible to be vaccinated without charge at any of our [facilities](#). You will receive four hours of paid administrative leave after attesting that you have been vaccinated. You will also receive four hours of paid administrative leave to receive the vaccine or if you accompany a family member to get vaccinated. If you have any outstanding questions about the vaccine, you can find more information about its safety and effectiveness in [these FAQs](#) or view clinician and Veteran videos [here](#).

I'll say it again: the best way to prevent the spread of COVID-19 is to be vaccinated. And given the emergence of the Delta variant, a more dangerous and transmissible form of COVID-19, vaccinations are now more critical than ever for protecting Veterans, their families, caregivers, survivors and all of our employees. So, please, get vaccinated and share with us that you have done so.

Thank you to those of you who have already been vaccinated, and to those of you who will get vaccinated now. There is no better way to keep Veterans or our colleagues safe.

Denis McDonough

**PLEASE PRODUCE LOCALLY FOR ALL THOSE WHO DO NOT
ROUTINELY ACCESS EMAIL DUE TO THEIR SPECIALTIES.**



Exhibit D

Attestation of Vaccination Status Frequently Asked Questions

Q1: Why am I being asked to attest to my vaccination status?

A1: The Safer Federal Workforce Task Force (SFWTF), COVID-19 Workplace Safety: Agency Model Safety Principles issued on July 29, 2021, require Federal agencies to ask about the vaccination status of Federal employees. Employees must complete an attestation confirming their vaccination status, or they will be treated as not fully vaccinated for purposes of safety protocols.

Q2: Is the COVID-19 Attestation course in the Talent Management System (TMS) mandatory?

A2: No, providing the information is voluntary, although employees are encouraged to complete the attestation. Employees who do not complete the attestation will receive TMS reminders similar to when other training is not completed by the due date. However, if you fail to provide this information, you will be treated as not fully vaccinated for purposes of implementing safety measures, including with respect to mask wearing, physical distancing, testing, travel and quarantine.

Q3: What happens if I don't complete the COVID-19 Attestation?

A3: There is no penalty for not completing the COVID-19 Attestation. However, making a false statement on the form in TMS could result in administrative action. Checking "I decline to respond" does not constitute a false statement.

Q4: Is there a timeframe to complete the COVID-19 Attestation in TMS?

A4: Yes, employees have 14 calendar days to complete COVID-19 Attestation certification in TMS.

Q5: Who sees the information I provide?

A5: The manager(s) you have listed in the TMS will be able to see your responses to the questions and that you completed the COVID-19 Attestation. Employees will need to identify in TMS the manager that this information will go to as a step in the TMS attestation process.

Q6: How is the information I provide used?

A6: The information is used to ensure you are following the relevant safety protocols for your status. If you are not fully vaccinated, the information is used to estimate the volume of testing for the agency testing program.

Q7: What if I am claiming a religious or medical exemption?

A7: When completing the COVID-19 Attestation, please select either "I have not been vaccinated" or "I decline to respond." Employees do not need to disclose the specific religious or medical exemption.

Q8: What if I am a remote worker or teleworker?

A8: SFWTF requires agencies to collect information from all employees to include remote workers and teleworkers. The agency needs this information if/when you come on to the worksite to apply the relevant safety protocols.

Q9: What does it mean to be treated as not fully vaccinated?

A9: If you do not select the statement “I am fully vaccinated” you are treated as not fully vaccinated which means you must wear a mask indoors, physically distance, limit travel to mission critical operations, and be tested for COVID-19 weekly if working at a VA facility.

Q10: Am I required to submit any documentation with the COVID-19 Attestation?

A10: No. You do not have to submit any documentation. You are only asked to answer the questions truthfully.

Q11: If my vaccination status changes, how do I update my COVID-19 Attestation?

A11: You can update your attestation by logging into TMS and selecting the link to “Update Your Attestation” in the custom COVID-19 Attestation tile. When you complete the form again your information is automatically updated.

Q12: What happens after I complete the COVID-19 Attestation?

A12: You are required to comply with the safety protocols for your vaccination status. If you are not fully vaccinated, you must comply with the agency program for testing, must wear a mask indoors, physically distance, and limit travel to mission critical operations.

Q13: Will employees receive authorized absence (AA) for completing the COVID-19 Attestation?

A13: No, employees will not receive AA for completing the attestation. Employees should complete the attestation during duty hours. However, employees who are fully vaccinated may be eligible for a one-time use of four hours of AA for certifying they are fully vaccinated. See [OCHCO Bulletin: Paid Time Off for VA Employees Fully Vaccinated Against COVID-19](#) for more information.

Q14: I received my COVID-19 vaccine at the VA. Doesn't the VA already have this information? Why do I have to complete this COVID-19 Attestation?

A14: Information in VA's Occupational Health Records System cannot be disclosed without a release of information from the employee. VA is using this process to comply with the SFWTF Model Safety Principles.

Q15: I am a VHA healthcare worker. I am required to get the COVID-19 vaccine under VHA Directive 1193. Why do I need to complete the COVID-19 Attestation?

A15: Your data is stored in VA's Occupational Health Records System and cannot be released without a release of information from the employee. Therefore, we request you complete the TMS requirement attesting to your vaccination status.

Q16: What if I have questions about VHA Directive 1193?

A16: If you have questions about VHA Directive 1193, you should talk to your supervisor and servicing human resource office. If they have questions, they will coordinate with Workforce Management and Consulting.

Q17: What if I have questions about the COVID-19 Attestation?

A17: Please contact vaco058worklife@va.gov with questions.

Exhibit E



■ Part of ASH-Hu Non-Clinical

9/6/2021 | **REQUIRED**

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COVID-19 Vaccination Information and Attestation

VA 4615474

■ Part of COVID Information and Attestation

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