

Court of Appeals of Ohio, Eighth District
County of Cuyahoga

In Re:)
)
ORDER REGARDING VACCINATION) JOURNAL ENTRY
REQUIREMENT FOR ALL STAFF)

The Judges of the Court of Appeals of Ohio, Eighth District, make the following findings of fact:

WHEREAS, on this 24th day of September 2021, the life, safety, and welfare of the residents of Cuyahoga County are in jeopardy due to the outbreak of a deadly infectious respiratory disease identified as the Coronavirus disease (COVID-19); and,

WHEREAS, the Centers for Disease Control (CDC) and the Cuyahoga County Board of Health (CCBH) recommend that all eligible people become vaccinated against the spread of COVID-19; and,

WHEREAS, the Court is committed to ensuring safe workspaces for its staff and the public served by the Court's departments and agencies by requiring all employees to comply with health and safety measures; and,

WHEREAS, the Supreme Court of Ohio has regularly relayed the importance of subordinate Ohio courts taking affirmative measures to ensure the safety of parties, witnesses, counsel, staff, and members of the public by taking measures to reduce the spread of COVID-19 (*see, e.g.*, Guidance of May 7, 2020; Guidance of December 10, 2020; *St. Vincent Charity v. Paluscsak*, 2021-Ohio-1203 (April 16, 2021)(concurrency); *In re: Disqualification of Fleege*, 161 Ohio St.3d 1263, 2020-Ohio-5636, ¶ 8 (Dec. 10, 2020)); and

WHEREAS, throughout the COVID-19 pandemic, this Court, through its prior orders, has taken important steps to protect public health while ensuring continued access to justice and essential court services, including observing social distancing measure, holding proceedings remotely, suspending many in-building operations, and promulgating emergency rules and orders as necessary; and

WHEREAS, on Monday, August 23, 2021, the Food and Drug Administration (FDA) approved the COVID-19 Pfizer vaccine for the prevention of COVID-19 in anyone 16 years and older; and,

WHEREAS, Cuyahoga County is currently reporting high transmission rates, as defined by the CDC, and vaccinations, being readily available provide the best protection of

employees from infection with COVID-19, and the requirement of vaccinations is consistent with the provision of and maintaining a safe workplace; and

WHEREAS, all court employees, regardless of their current work setting, need to be prepared to come to their worksite at any time necessary to meet the operational needs of the court; and

WHEREAS, while COVID-19 continues to spread, it is appropriate to update policies for Court staff.

IT IS THEREFORE ORDERED:


1. To reduce the spread of COVID-19 in Court buildings; to maintain the efficiency and uninterrupted provision of Court services; and to protect the health of staff and visitors, all eligible employees must be fully vaccinated no later than January 1, 2022. Fully vaccinated is considered as being at least two weeks after having received either the single dose Johnson and Johnson vaccination or both doses of either the Pfizer or Moderna vaccinations.
2. By October 29, 2021, all judges, employees, and Court interns/externs working for the Court who have received vaccinations as required by the COVID-19 vaccination protocols¹, and who have not already provided proof of vaccination, shall provide proof of vaccination to the Court's Executive Assistant Jeanne Gallagher (jpg@8thappeals.com). Proof of vaccination will be kept in a confidential file. Acceptable forms of proof include the following: a fully completed CDC COVID-19 Vaccination Record Card or photo of the card, documentation of vaccination from a health care provider or electronic health record, state immunization information system record, or other form subject to the approval of the Court. Personal attestation is not an acceptable form of verification of COVID-19 vaccination.
3. Unvaccinated Court employees must follow one of the following processes:
 - a. Any unvaccinated employee who chooses to receive the Pfizer or Moderna vaccine must relay this status to the Court's Deputy Court Administrator Bridget O'Brien (bmo@8thappeals.com), or other authorized administrator, as directed, by November 1, 2021. They must likewise initiate the vaccination process and provide proof of receipt of the first dose by November 19, 2021 to the Court's Executive Assistant Jeanne Gallagher (jpg@8thappeals.com) and provide proof of receiving the second dose by December 10, 2021.
 - b. Any unvaccinated employee who chooses to receive the Johnson & Johnson vaccine must relay this status to the Court's Deputy Court Administrator Bridget O'Brien (bmo@8thappeals.com), or other authorized administrator, as directed,

¹ The U.S. Food and Drug Administration has issued full approval of the Pfizer and emergency use approval of the Moderna mRNA vaccine protocol, both requiring two vaccinations, and the Johnson and Johnson has emergency use approval for a single vaccination protocol.

by November 1, 2021. They must likewise initiate the vaccination process and provide proof of receipt by December 10, 2021 to the Court's Executive Assistant Jeanne Gallagher (jpg@8thappeals.com).

- c. Any unvaccinated employee who intends to request a medical or religious exemption should initiate this process with the Court's designated ADA Coordinators, who are the Court's Executive Assistant Jeanne Gallagher (jpg@8thappeals.com) and Deputy Court Administrator Bridget O'Brien (bmo@8thappeals.com), or other authorized person, as may be directed.
 - d. Vaccination records received by the Court will be maintained confidentially and separate from the employee personnel file.
4. Presentation by the employee of a forged or otherwise falsified vaccination card or record will subject the employee to disciplinary action separate and apart from any potential sanctions under this policy. It should be noted that forgery of a vaccination card is a federal offense.
5. Any employee who believes he/she/they has a qualifying medical condition or sincerely held religious belief must contact the Court's Executive Assistant Jeanne Gallagher (jpg@8thappeals.com) to begin the exemption process by November 1, 2021.
 - a. No employee who requests an exemption will be subject to retaliation.
 - b. Requests for exemption will require supporting documentation.
6. Requests for medical or religious exemption will be determined in accordance with the law and on an individualized basis. Where an employee is exempt from this mandate, reasonable accommodations may include but are not limited to the following requirements: wearing a mask, obtaining viral testing regularly, socially distancing, adjusting work schedule or relocating office.
7. Any employee who timely submits a request for exemption and who still has a pending request for exemption on January 1, 2022, will be given 45 calendar days after the date a decision is given to become fully vaccinated if the exemption is denied. The deadline to become fully vaccinated will be communicated in writing to the employee.
8. Failure to comply with deadlines set forth in this order will result in disciplinary action, including being placed on unpaid leave, in accordance with the Court's disciplinary procedure. Any employee who does not have an approved or pending exemption and fails to become fully vaccinated by January 1, 2022, will be removed from employment in accordance with the Court's disciplinary procedure.

IT IS SO ORDERED.



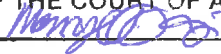
HON. MARY J. BOYLE
ADMINISTRATIVE & PRESIDING JUDGE

Sept. 24, 2021

DATED

RECEIVED FOR FILING

SEP 24 2021

CUYAHOGA COUNTY CLERK
OF THE COURT OF APPEALS
By  Deputy