
Alameda-Contra Costa Transit District

Administrative Regulation No. 203A:

COVID-19 Vaccination Requirements

Issuing Officer: General Manager
Date of Adoption: 1/11/2022
Most Recent Amendment: None
See Also: BP296

Subject Category: Human Resources
Subsection: General
Control Department(s): Human Resources

I. PURPOSE

The 2019 novel coronavirus disease (COVID-19) has brought tremendous health and operational challenges to the District. Since the outset of the March 2020 pandemic, the District has lost more than 335,269 hours of productivity, and 1,673 Employees have taken pandemic related leave, which underscores the astonishing toll COVID-19 has had on our staff and service. New COVID-19 variants, including Delta and Omicron, continue to have a crippling impact.

In winter 2020, AC Transit experienced a nearly four-fold increase in in the number of COVID-positive Employees. Records confirm unvaccinated Employees tested positive for the recent variants at a rate 95% higher than vaccinated Employees. More specific, unvaccinated Employees are at greater risk of contracting and spreading COVID-19 within the workplace, according to the Centers for Disease Control and Prevention ("CDC"), the California Department of Public Health ("CDPH"), and County Health Officers.

Extensive clinical testing has revealed the COVID-19 vaccines are the most effective means of reducing the risk of people spreading the virus, including dramatically limiting disease symptoms, hospitalizations, and deaths. To create a safer and healthier workplace, AC Transit must take swift action to stop the spread of COVID-19.

As a result, on or before January 17, 2022, AC Transit's Board of Directors, Board Officers, and all Employees must now: (1) advance plan their full vaccine regimen; (2) become and remain Fully Vaccinated against COVID-19; and (3) provide proof of vaccination status to Human Resources pursuant to the timeline set forth below.

II. PERSONS AFFECTED

On December 8, 2021, the Board of Directors ("Board") voted to require Board of Directors, Board Officers, and all Employees to be Fully Vaccinated against COVID-19.

III. DEFINITIONS

"Employee" means any AC Transit represented or unrepresented employee, including all full-time and part-time staff.

"Fully Vaccinated" means any person who is two (2) weeks after their second dose in a 2-dose series such as the Pfizer or Moderna vaccines; or two (2) weeks after a single-dose vaccine, such as Johnson & Johnson's vaccine; or other vaccine regimen approved by the CDC.

"Reasonable Accommodation" means that pursuant to the requirements of both Title I of the Americans with Disabilities Act ("ADA") and California's Fair Employment and Housing Act ("FEHA"), a Reasonable Accommodation may include a modification or adjustment to a job, work schedule, hours of work, policies, the work environment (including without limits, location, equipment, or devices), or the way things are usually done during the hiring process.

IV. REGULATION

A. Getting Vaccinated

Employees must submit proof of vaccination as a condition of their employment. Unvaccinated hourly Employees will be compensated for time taken during work hours to get the vaccine, but no more than three hours shall be paid per vaccination shot. If the Employee receives a vaccination shot outside of his or her normal work schedule, the Employee will be paid three hours as time worked.

Employees will receive a maximum of three (3) days of "COVID-19 Vaccine sick leave" for time off taken because of an adverse reaction to vaccination. Any Employee taking "COVID-19 Vaccine sick leave" must submit medical documentation, signed by a treating physician, supporting the need for such leave upon return to work.

All paid leave under this provision is additional to, and separate from, paid leave provided Employees under any collective bargaining agreement (CBA), Board Policy, or state law. All such time off shall be treated as an excused absence and not be counted against employees under the attendance policy.

B. Submission of Vaccination Proof

Submission of proof of vaccination can be done in three (3) ways:

1. Employees may upload clear and unobstructed photos or photocopies of the front and back of their Centers for Disease Control and Prevention (CDC) Vaccine Record Card or a full clear image of their California Digital COVID-19 Vaccine Record (QR code) to the Peoplesoft Employee Self Service dashboard.
2. Employees may drop-off copies of either the CDC card or California QR code, to a secured lockbox inside the General Office's (GO) main lobby at 1600 Franklin Street, Oakland, CA 94612. A photocopier and envelopes will be available to assist their submissions.
3. You may email copies of your CDC Vaccine Record Card or California QR code, to vaccinations@actransit.org.

The Human Resources Department shall be responsible for tracking proof of vaccination and, upon reasonable cause, may inquire regarding the proof of vaccination submitted to verify that the Employee is Fully Vaccinated under either a one or two shot vaccination course. This may include comparing the information on the proof of vaccination with employment records. All

information regarding employee vaccine status shall be kept in a confidential file that shall have limited access.

C. Compliance

Employees who refuse to provide proof of COVID-19 vaccination or falsify a vaccination record will be issued notice of intent to terminate, subject to the requirements and procedures of the applicable CBA or Board Policy 296.

1. Process

The appropriate department personnel, Human Resources, Labor Relations, and Legal Departments, are responsible for enforcing the vaccination requirement through the applicable disciplinary process. Upon implementation, the District will send each union a weekly list identifying by classification only, its members identified as not in compliance with the mandate.

During the pending disciplinary procedures, Employees will remain in service and be available to work, but will be subject to masking, and other related health requirements of unvaccinated individuals entering AC Transit property. Disciplinary procedures will be discontinued if an Employee becomes Fully Vaccinated prior to completion of the disciplinary process. Challenges to discipline under this Regulation are subject to expedited arbitration under the applicable provisions of the CBA between AC Transit and ATU Local 192. Non-ATU employees are subject to their applicable grievance procedures.

Employees whose exemption requests have been denied will be considered compliant if they submit proof of having received an FDA approved COVID-19 vaccine shot within seven (7) calendar days of their denial, or who, for good cause, obtain an extension of time to do so, and complete their course of vaccination within the vaccination timetables set forth by the CDC.

2. Resignation/Retirement in Lieu of Termination

Unvaccinated Employees, subject to disciplinary termination for non-compliance under this policy, may elect to resign or retire in lieu of termination, with the following options:

Leave Balance Usage - Unvaccinated Employees who elect resignation or retirement in lieu of termination for non-compliance may receive payment at the time of separation for all accrued vacation, compensatory, and floating holidays (Accrued Time). Before separation, the Employee may elect to take paid time off and utilize accrued vacation, compensatory, and floating holidays. After leave balances are exhausted or the unvaccinated Employee elects to separate and receive payment for all Accrued Time, the Employee will resign or retire from the District to avoid termination. Any accruals earned during the Employee's use of Accrued Time will not extend an Employee's time with the District; instead, it will be cashed out. Employees must request separation in lieu of vaccination in writing by March 16, 2022, and understand that their separation from employment becomes effective following the use of their Accrued Time balances or upon their election to separate from the District and receive a payout of Accrued Time balances pursuant to this provision. Any and

all tax deductions will apply to the Accrued Time cash-out.

Rehire Rights - Unvaccinated Employees who elect to resign in lieu of termination for non-compliance under this policy also have the option of returning to their former job classification within 12 months of their separation date, provided that (1) they submit proof of Full COVID-19 Vaccination prior to returning to work; and (2) an open approved position in the job classification held at the time of their separation is available. If no open approved position in the Employee's prior job classification is available when Employee submits proof of Full Vaccination, and an approved position in that job classification becomes available within (six) 6 months of submitting proof of vaccination, the District will notify the employee and give them (five) 5 days to accept the position. A re-offer of employment will be considered in the order that the proof of vaccination submission was received. Employees returning to work will be credited with all previous years of service for the purpose of pay step/pay rate, leave accrual rates, and service time for retiree healthcare. Issues related to seniority will be outlined by each labor union, discussed with the District, and memorialized separately.

For Employees who resign from the District under this provision, the District agrees it will not contest a claim for unemployment insurance through the Employee Development Department ("EDD").

D. Exemptions

Employees seeking a COVID-19 vaccine exemption must submit an exemption request form (attached) to Leave Management at leavemanagementdepartment@actransit.org. A triage team consisting of Leave Management, Human Resources, Legal, and the applicable department management will review each request, communicate with the affected Employee, engage in the interactive process, and determine whether any form of reasonable accommodation is available. Unvaccinated Employees who have had COVID-19 and are in a waiting period before vaccination, based on their physician's advice, are exempt from the Regulation during the waiting period. Vaccine exemptions as reasonable accommodations for a medical or sincerely held religious belief will be determined on a case-by-case basis. The District will follow all applicable laws in considering requests for exemptions. Bargaining unit employees have the right to request Union representation at all meetings regarding exemptions and the interactive process.

All information regarding Employee COVID-19 vaccination status and exemptions will be maintained in a confidential medical file. Access to information regarding Employee vaccination status is strictly limited to a need-to-know basis, such as for the purpose of enforcing testing, masking, or close contact quarantine, and other safety requirements.

1. Process

Employees seeking COVID-19 vaccine exemption must complete all required forms. Supporting documentation may be required. Employees seeking this exemption shall submit the required forms pursuant to the timeline set forth below. Vaccine exemption requests will be reviewed and decided on a rolling basis, but in no event later than March 17, 2022.

Employees with pending exemption requests will remain in service, available to work, and will be subject to masking and other health related requirements of unvaccinated individuals entering AC Transit properties.

In all cases where a vaccine exemption request is denied or it is found that accommodations cannot be made, disciplinary proceedings for failure to comply with this policy will be held in abeyance until seven (7) calendar days, or longer if an extension is granted for good cause, after a decision is made, to allow the Employee time to begin the COVID-19 vaccination process. An Employee whose vaccine exemption request is denied may also elect to use any accrued leave banks or elect one of the voluntary separation options listed above within seven (7) calendar days, or longer if an extension is granted for good cause, of receiving the denial.

The District will send a weekly list to each labor union its members, identified by classification only, who have requested an exemption, including the following information:

- the type of requested exemption;
- whether the exemption was granted or denied; and
- the date the exemption was granted or denied; if denied, whether the denial was based on District's inability to reasonably accommodate.

While the District will consider all Employee requests, AC Transit retains the discretion to determine whether an accommodation is reasonable, available, and what accommodation to provide. The District will abide by all applicable laws and guidance provided by the Department of Fair Employment and Housing and the Equal Employment Opportunity Commission governing Reasonable Accommodations and Religious Exemptions in making these determinations.

2. Complaints

If the unvaccinated Employee believes there has been a violation of their Employee rights under the District's Equal Employment Opportunity Policy, or if the Employee believes they have been subject to discrimination, harassment, and/or retaliation, the Employee may file a complaint with the Equal Employment Opportunity Officer in the Department of Civil Rights and Compliance, who shall issue a written recommendation on the complaint to Employee, with a copy to the union representing the Employee, within 10 business days of receipt. The District shall be entitled to an automatic extension of 10 days if needed. Employees will not be placed on paid administrative leave while the complaint is under review.

E. Timeline

January 14, 2022 – Last day to recoup the \$100 vaccine incentive

February 15, 2022 – Last day to submit COVID-19 Vaccine Exemption Form

March 16, 2022 – Last day to elect voluntary separation in lieu of termination

March 17, 2022 – Last day to complete and submit proof of COVID-19 vaccination

V. MATERIAL CHANGES:

The District agrees to meet and confer over any material changes.

VI. RESPONSIBILITIES

All Employees are responsible for submitting proof of COVID-19 vaccination in accordance with the Timeline set forth above in Section E. The District is responsible for reviewing exemption requests, communicating with Employees, engaging in the interactive process, and determining whether any form of reasonable accommodation is available.

VII. ATTACHMENTS

Exemption Request Forms

Approved by:



Michael A. Hursh, General Manager
Alameda-Contra Costa Transit District



EMPLOYEE REQUEST FOR REASONABLE ACCOMMODATION - MEDICAL (COVID-19 Vaccination Exemption)

Employee Name	Employee ID#
Job Code and Title	Department
Division/Unit	Supervisor/Manager

AC Transit is committed to equal employment opportunities for all employees and a work environment that is free of unlawful harassment, discrimination, and retaliation. AC Transit will provide reasonable accommodations to qualified individuals with disabilities in accordance with the federal Americans with Disabilities Act and the California Fair Employment and Housing Act.

EMPLOYEE CERTIFICATION

I have a disability or medical condition that prevents me from receiving any COVID-19 vaccine. To be eligible for this exemption, I understand that I must provide to AC Transit a written medical certification signed by a physician, nurse practitioner, or other licensed medical professional practicing under the license of a physician, stating that I qualify for the exemption and indicating the probable duration of my inability to receive the vaccine (or if the duration is unknown or permanent). The written medical certification should **not** identify the underlying medical condition or disability.

I received and reviewed information regarding AC Transit's Administrative Regulation requiring COVID-19 vaccination for all employees. I understand that a review of my exemption request may be required, and I agree to cooperate fully in this process. I further understand that if my request is approved, I am obligated to report any changes in my disability status which may require a re-evaluation of this request. Granting of this request does not signify approval of any future reasonable accommodation request for any other position within AC Transit.

I hereby certify that I make this request based on my disability or medical condition that prevents me from complying with COVID-19 vaccination requirements. I understand that any falsified information can lead to disciplinary action, up to and including termination of employment. I further understand that AC Transit is not required to provide this exemption accommodation if doing so would pose a direct threat to myself or others in the workplace, if it is found to be unreasonable, or would create an undue hardship.

Employee Signature

Date

For HR Use Only:

Date Received: ____/____/20____

Religious Certification Received: Yes ☐ No ☐

Date Religious Certification Received: ____/____/20____



EMPLOYEE REQUEST FOR RELIGIOUS ACCOMMODATION (COVID-19 Vaccination Exemption)

Employee Name	Employee ID#
Job Code and Title	Department
Division/Unit	Supervisor/Manager

AC Transit is committed to equal employment opportunities for all employees and a work environment that is free of unlawful harassment, discrimination, and retaliation. Consistent with this commitment, AC Transit complies with all laws protecting employees' religious beliefs, practices, and observances. When requested, AC Transit will provide an exemption or reasonable accommodation for employees' sincere religious beliefs, practices, and observances, which prohibit the employee from receiving a COVID-19 vaccination, provided the requested accommodation is reasonable and does not create an undue hardship for AC Transit or pose a direct threat to the health and/or safety of the employee or others in the workplace.

AC Transit requires all employees to be fully vaccinated against COVID-19. However, a religious exemption may be granted to AC Transit employees who: (1) hold a sincere religious belief that conflicts with the vaccination requirement, (2) complete this request form, and (3) provide any information needed to support the exemption request.

EMPLOYEE CERTIFICATION

I request an exemption from AC Transit's requirement that I be fully vaccinated against COVID-19. I make this request based on my sincere religious belief(s), practice(s), or observance(s). My beliefs conflict with the vaccination requirement, and I certify the following is true:

1. My religion or belief system is (enter name or description): _____
2. I have held this belief(s) system, or practiced and observed this religion since (enter date or year): _____
3. My religion, belief system, or practice requires me to abstain from the COVID-19 vaccination because (describe the specific tenet, practice, or observation that conflicts with the COVID-19 vaccination requirement and/or explain how you follow it): _____
4. If your religion, belief system, or practice requires you to abstain from the COVID-19 vaccination, but not other types of vaccinations, please describe the specific tenet, practice, or observation that expressly conflicts with the COVID-19 vaccination (attach a separate sheet if needed).
5. If requested, I can provide a written statement, an affidavit or other documents from a religious leader, or other person describing my beliefs and practices, including information regarding when I embraced the belief or practice, as well as when, where, and how I have adhered to the belief, practice, observance. YES ☐ NO ☐

Employee Signature

Date

For HR Use Only:

Date Received: ____/____/20____

Religious Certification Received: Yes ☐ No ☐

Date Religious Certification Received: ____/____/20____