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Welcome!

Vaccine Mandate for P-12 Educators... Now what?

Dr. Kimberly C. Chambers
Director of Human Resources - Adlai E. Stevenson High School District 125
Executive Director, IASPA



Phillip H. Gerner, III, Partner
Robbins Schwartz



Format for Today's Webinar

Legal Piece

Phil will discuss the requirements of the mandate and suggestions for implementation from a legal perspective.

School Administrator Piece

Kim will discuss the "to do" list for school administrators in each section as well as decisions her district made and strategies she is using for implementation.

**Please keep your microphone muted.
Use the chat feature to ask questions.**

10 days

First things first...Your district needs to chose:

Require or Test - strict interpretation of the Executive Order

Will your district require the vaccine and if employees are unwilling or unable to comply, allow them to test weekly?

- You will need to monitor compliance with weekly testing for all unvaccinated employees for as long as the EO is in effect.
- No concerns about replacing employees who resign/are terminated
- Unvaccinated employees need to quarantine after exposure - need more substitutes

We'll call this "little r" require



First things first...Your district needs to chose:

Require or Discipline - goes above and beyond the Executive Order

Will your district require the vaccine, and other than medical/religious exemptions (unable), move to progressive discipline and termination for employees unwilling to be vaccinated?

- More vaccinated individuals keeps everyone safer
- Need monitor compliance with vaccination until your deadline
- Need to monitor compliance with weekly testing for those with exemptions
- Concerns about replacing employees who do not comply (hello labor shortage!)
Spoiler alert: our best guess is that we may lose 5 employees (of 588 total) - 0.85%
- Vaccinated employees do not need to quarantine after exposure (unless symptomatic) - need fewer substitutes

We'll call this "big R" Require



Whether your district chooses to
Require or require,
you will still need to monitor compliance -
either with testing or with vaccination.

We'll be talking about information which applies to both scenarios:

- Working with your unions
- Communicating with your employees
- Gathering vaccination information from employees
- Considering medical and religious exemptions
- Adhering to standards for discipline



“School Personnel” Definition

- Any person who is employed by, volunteers for, or is contracted to provide services for a school or school district (P-12) **AND**
- Is in close contact (fewer than 6 feet) with other persons in the school for more than 15 minutes at least once a week on a regular basis.
- Includes: teachers, administrators, support staff, contracted food service/custodial/bus drivers, parent volunteers, coaches, sponsors, etc.
- Does not include: delivery personnel (UPS, FedEx, USPS) - can anyone think of any others?



Deadlines

All school personnel must have, at a minimum, the first dose (if Pfizer, Moderna) or the only dose (if J & J) by September 5. Employee must be fully vaccinated within 30 days of the first dose if a two-dose series (Pfizer, Moderna).

If your district plans to “require”:

- You must ensure compliance with the testing mandate
- Failure to comply with the testing mandate would be subject to disciplinary action for insubordination up to and including termination of employment

If your district plans to “Require”:

- Select a compliance deadline (10/15 for SHS)
- Ensure compliance with testing until employee is fully vaccinated
- Failure to comply with the vaccine mandate would be subject to disciplinary action for insubordination up to and including termination of employment

Communication with Unions - Duty to Bargain?

- The vaccine mandate can be assumed to be a change in the employees’ “Terms and Conditions of Employment”
- This mandate, and resultant procedures, must be impact bargained upon request
- IEA/IFT Joint Statement: “Collaborative discussions between our unions and employers are critically necessary to ensure that our members’ concerns are addressed and that they have a voice in how safety policies are applied.”

SHS’s Conversations with our Associations

- We agreed in theory about the importance of the vaccine
- We communicated prior to our mandate
 - Timeline for compliance
 - Consequences for non-compliance
- Each time I send a reminder email to those who are not vaccinated, I share the language with the two Association presidents as an FYI

Communications with Employees

- Communications are important - both for legal reasons and to maintain your district's culture (as much as possible)
- Pre-write all of your communications; update as needed
- Share your communications with your Union (no surprises)
- Provide notice to all employees (Initial written notice to all employees regarding the mandate):
 - Indicate your district's mandate (require vs Require)
 - Explain how to submit evidence of vaccination status
 - Note that requests for medical and religious exemptions will be considered - how will employees understand the process?
 - Explain how to be tested onsite weekly or to submit evidence of outside testing
- Provide written notices specifically to non-vaccinated employees
 - First notice: more friendly and supportive
 - Send your card now! Here's where to find a vaccination appointment! Here's how to be tested! 😊
 - Second notice: a little more strongly worded 😞
 - Include "failure to comply with this directive will result in discipline up to and including termination of employment"
 - Subsequent notices: more strongly worded 😞



Testing the "Unable" & the "Unwilling"

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Personnel be
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- At SHS we are requiring twice-weekly, onsite testing
 - Binex (nasal swab) - free from Lake County Health Dept
 - Safeguard (saliva-based) - we purchase
- Will you offer on-site testing?
- If you allow it, to whom will employees send their results from outside testing?
- Who will track the testing and results?
- Who will ensure compliance?
 - After missed test, reminder and then progressive discipline (category of employment impacts this process)

Gathering Vaccination Proof

- In order to ensure compliance with the mandate, the District must collect evidence of full vaccination by providing one of the following:
 - a CDC COVID-19 vaccination record card or photograph of the card;
 - documentation of vaccination from a health care provider or electronic health record
 - state immunization records.
- The vaccination documentation is considered a medical record. Be sure to store this medical information with other protected health information.
- Start with a list of all of your employees, contractors, etc. - know who you are missing!
- We used a Google Form to collect information and had people provide a copy of their vaccination card via the form. Some chose to email or bring their card to the office for scanning. (all options ok with us!)
- Created a google sheet with name, department, role, and YES/NO for status
 - Google Sheet is used to notify those with a “need to know” of vaccination status
- If contact tracing is needed, then the nurse verifies the vaccination information in I-Care

Medical Exemptions

“Individuals are exempt from the requirement to be fully vaccinated against COVID-19 if (1) vaccination is medically contraindicated, including any individual who is entitled to an accommodation under the Americans with Disabilities Act or any other law applicable to a disability-related reasonable accommodation...”

Utilize the interactive ADA process.

- We notified everyone that we would consider medical exemptions (and continue to include in each reminder email)
- I made myself available to meet with employees
- We provided a Google Doc with everything they need to know about applying for a medical exemption:
 - Information on how to apply
 - Physician’s Certification
 - Letter requesting the Exemption (I provided the exact language I need to receive)
 - Timeline
 - All submissions received by 9/10 would receive an answer by 9/17 (4 weeks before the 10/15 deadline for full compliance)
 - Next Steps
 - If approved, need for additional mitigation strategies
 - If not approved, vaccine will be required and failure to comply will result in disciplinary action

Religious Exemptions

“...or (2) vaccination would require the individual to violate or forgo a sincerely held religious belief, practice, or observance.”

The IL Admin Code states (**Section 665.510 Religious Objection**):

The grounds for the religious objection must set forth the specific religious belief that conflicts with the examination, test, immunization or other medical intervention. The religious objection stated need not be directed by the tenets of an established religious organization. However, general philosophical or moral reluctance to allow physical examinations, eye examinations, immunizations, vision and hearing screenings, or dental examinations does not provide a sufficient basis for an exception.

Utilize the interactive ADA process.

- We notified everyone that we would consider religious exemptions (and continue to include in each reminder email)
- I made myself available to meet with employees
- We provided a Google Doc with everything they need to know about applying for a religious exemption:
 - Information on how to apply
 - Personal Statement (religious/sincerity)
 - Third Party Affidavit
 - Letter requesting the Exemption (I provided the exact language I need to receive)
 - Timeline
 - All submissions received by 9/10 would receive an answer by 9/17 (4 weeks before the 10/15 deadline for full compliance)
 - Next Steps
 - If approved, need for additional mitigation strategies
 - If not approved, vaccine will be required and failure to comply will result in disciplinary action

Discipline for Non-Compliance (for testing or vaccine mandate)

- Failure to following an administrative directive is insubordination and subject to discipline.
- Review your CBAs and Board Policy and follow best practice:

Employee Group	Progressive Discipline	Due Process	Just Cause	Notice of Remedial Warning
At-Will Employees	No	No	No	No
Support Staff with CBA	Yes	Yes	Check CBA	No
Administrators with contracts	Yes	Yes	Check contract	No
Non-Tenured Faculty	Yes	Yes	Check CBA	No
Tenured Faculty	Yes	Yes	Check CBA	Yes



- As a reminder, if the District approves a medical or religious exemption to the vaccine mandate, the employee continues to be required to test weekly for COVID.
- Granting a medical or religious exemption does not exempt the employee from the testing mandate.
- If an unvaccinated employee fails to comply required weekly testing, they must be excluded from school.

Discipline for Non-Compliance (for testing or vaccine mandate)

- Know exactly how you will handle each classification of employee before you ever need to do so.
- Follow your CBAs.
- Make a discipline flow chart!
 - For SHS:
 - At will employees - dismissal
 - Support Staff employees (CBA) - progressive discipline then dismissal
 - Administration - progressive discipline then dismissal
 - Non-Tenured teachers - progressive discipline then dismissal
 - Tenured teachers - progressive discipline, notice to remedy, then dismissal
 - My flow chart includes pre-meetings, whether union representation is permitted, Board Meeting Dates on which dismissal or notices of remedial warning would be issued, etc.
 - This allows for consistency at a time when emotions will be running high!
 - Share this with your Union/s. Discuss. Take their input.

Final Thoughts

- Work with your labor groups
- Make yourself available to meet with employees and share information
- Communicate, communicate, communicate



Questions?

Need PD credit? Check your email for the evaluation form. Complete that, and you will be sent the Evidence of Completion Form.

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