



**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

IN RE:

COVID-19 PUBLIC HEALTH
EMERGENCY AND COURT POLICY
RE: VACCINATION AND TESTING

GENERAL ORDER NO. 637

This court issues this General Order as another in a series of General Orders in response to the Coronavirus Disease 2019 (COVID-19) Pandemic in the Eastern District of California and elsewhere, making the following findings and orders:

WHEREAS, COVID-19 continues to spread in the Eastern District of California and nationwide and has not been suppressed;

WHEREAS, the Centers for Disease Control and Prevention (CDC), California Department of Public Health (CDPH) and other public health authorities recommend COVID-19 vaccines to maximize protection against COVID-19 and to minimize the spread of the virus that causes COVID-19 and its variants, including the highly transmissible Delta variant;

WHEREAS, the CDC and other public health authorities recommend specific health and safety protocols for fully vaccinated people and unvaccinated people, respectively;

WHEREAS, public health data indicate that vaccinated persons who experience breakthrough COVID-19 infections may transmit the virus but for shorter periods of time than unvaccinated persons;

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WHEREAS, on July 26, 2021, Governor Newsom of the State of California announced that all state employees and workers in health care and high-risk congregate settings are required to be fully vaccinated or be subject to testing requirements;

WHEREAS, on September 9, 2021, President Biden announced a plan to increase COVID-19 vaccination rates that includes requiring all federal executive branch employees including members of the U.S. Marshals Service and the U.S. Attorney's Office, as well as contractors and workers in many health care settings, to be fully vaccinated and also requiring all employers with 100 or more employees to ensure their workforce is fully vaccinated or tested on a weekly basis;

WHEREAS, as of September 2021 COVID-19 was the second leading cause of death in the United States;

WHEREAS, studies so far show that vaccinated people are 8 times less likely to be infected and spread the virus and 25 times less likely to experience hospitalization or death;

WHEREAS, the total number of employees of the Eastern District of California's District Court, Bankruptcy Court, Probation and Pretrial Services Offices is nearly 400 individuals;

WHEREAS, many of the employees in the Eastern District of California, District Court, Bankruptcy Court, Probation and Pretrial Services have children under 12 years of age who are currently unable to receive the COVID-19 vaccines;

WHEREAS, maintaining the health and safety of judges, employees, volunteers, on-site contractors, litigants, counsel, and members of the public that enter the courthouses and court facilities of the Eastern District of California remains a critical priority if the court is to continue its essential operations, dispensing justice and protecting the public safety through supervision of pretrial and postconviction releasees; and

WHEREAS, implementing a vaccination and testing policy is necessary to combat the further spread of COVID-19, contribute to preventing the emergence of further variants and protect the health and safety of individuals in the courthouses and court facilities of the Eastern District of California and those interacting with the judiciary workforce.

THEREFORE, to protect public health and safety, the Court orders as follows:

1. The attached “Policy Regarding COVID-19 Vaccination and Testing” is adopted effective immediately.
2. As circumstances may change, the Court may modify the attached policy and give notice to affected individuals, without further order of the Court.

IT IS SO ORDERED.

Dated: November 1, 2021.

FOR THE COURT:



CHIEF UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
UNITED STATES BANKRUPTCY COURT
PROBATION AND PRETRIAL SERVICES OFFICES
EASTERN DISTRICT OF CALIFORNIA**

Policy Regarding COVID-19 Vaccination and Testing

INTRODUCTION

The United States District Court, United States Bankruptcy Court, and the Probation and Pretrial Services Offices for the Eastern District of California are committed to combatting the spread of the COVID-19 virus and its variants and protecting the health and safety of both the Court community and the Eastern District of California. Accordingly, the Court finds that it is necessary and appropriate to adopt this policy requiring all judges, employees, volunteers, and onsite judiciary contractors to be fully vaccinated against COVID-19, as defined below, unless they are granted a medical or religious exemption. Individuals who are granted a medical or religious exemption from the vaccination requirement are required to comply with the Court's safety protocols for unvaccinated individuals, including undergoing twice-weekly testing for COVID-19.

VACCINATION POLICY

Mandatory Vaccination Requirement

All judges, employees (including chambers staff) and volunteers (including interns, externs and judicial fellows) of the United States District Court, United States Bankruptcy Court, Probation Office, and Pretrial Services Office for the Eastern District of California (the "Court"), regardless of telework status, and all judiciary contractors working onsite at a courthouse, Probation Office, or Pretrial Services Office ("Court Facility"), in the Eastern District of California, must be fully vaccinated against COVID-19. Resources are available to find free vaccines at <https://myturn.ca.gov/> and <https://www.vaccines.gov/>.

Mandatory Vaccination Status Reporting

To facilitate effective administration of the vaccination requirement all judges, employees, volunteers, and onsite judiciary contractors are required to report their vaccination status by submitting an attestation form and providing proof of vaccination to their court unit's Human Resources department.

JUDGES, EMPLOYEES AND VOLUNTEERS: All judges, employees and volunteers must provide proof of their current vaccination status, regardless of their telework status, by **November 15, 2021**. Those employees and volunteers who initially report they are in the process of being vaccinated must submit proof of vaccination once fully vaccinated. Future employees and volunteers must provide proof of full vaccination at least one week before their start date.

Individuals who decline to disclose their vaccination status will be treated as not fully vaccinated for purposes of this policy, which means they must either get fully vaccinated or obtain an exemption to the vaccination requirement. Failure to do either will result in adverse action, including but not limited to, being placed on leave without pay and up to and including termination of employment.

Timely return of a completed Confidential Vaccination Status Attestation form is a mandatory condition of employment. Any employee who fails to return the completed form as required will be placed on leave without pay until the employee returns the completed form. Any volunteer who fails to return the completed form as required will be suspended until the volunteer returns the completed form. Misrepresentation about vaccination status will result in disciplinary action, up to and including termination of employment.

CONTRACTORS: Judiciary contractors must provide proof of vaccination to Human Resources when working at any Court Facility. The U.S. Postal Service and other courier services delivering mail and packages to the judiciary are exempt from completing this form.

ATTORNEYS APPEARING BEFORE THE COURT: When invited to appear for in-person hearings or trials, the presiding judge will determine the vaccination requirements for counsel appearing before the court in that judge's courtroom.

Acceptable Vaccines; Definition of Fully Vaccinated

Acceptable vaccines include only those authorized for use in the United States by the U.S. Food and Drug Administration. Currently, this includes (1) Pfizer–BioNTech (Comirnaty), (2) Moderna, and (3) Johnson & Johnson/Janssen. For purposes of this policy, being “fully vaccinated” means that two weeks have passed after receiving the second dose of a two-dose COVID-19 vaccine (Pfizer or Moderna) or after receiving the single-dose COVID-19 vaccine (Johnson & Johnson/Janssen). For purposes of this policy, unvaccinated refers to anyone who is not fully vaccinated.

UNVACCINATED INDIVIDUALS

Exemptions from Vaccination Requirement

Employees and volunteers who are not vaccinated due to a documented medical condition or a sincerely held religious belief may seek an exemption from the full vaccination requirement.

Exemption requests will be individually assessed based on the particular circumstances of the request. Individuals granted an exemption from the vaccination requirement or awaiting a decision on an exemption request must comply with the current guidance of the CDC and local public health authorities for unvaccinated individuals as well as the Court's health and safety protocols for unvaccinated individuals, including by complying with the travel restrictions, testing requirements, mask requirements and physical distancing as outlined in this policy.

To request an exemption, employees and volunteers must submit a request for exemption as described below, providing sufficient details and supporting documents to permit full consideration of the request. A request for a medical exemption should include documentation from a medical provider. Anyone submitting an exemption request is required to provide accurate information and electronically sign the request. A request for exemption will be treated as confidential.

Exemption requests should be submitted by email to the requestor's unit's Human Resource Department with "Confidential - Vaccination Exemption Request" in the subject line of the email. Exemption requests must be submitted by **November 15, 2021**. Future employees and volunteers who seek an exemption must submit their request a sufficient period of time before they begin work, so the request may be reviewed and addressed before their start date. Exemption requests will be reviewed by a panel comprising the Chief Judge, Chief Bankruptcy Judge and Chief Magistrate Judge or their designee, in consultation with the Clerk of Court, Chief Probation Officer, Chief Pretrial Services Officer, or appointing Judge as needed.

Travel Restrictions for Unvaccinated Employees and Volunteers

Unvaccinated employees and volunteers are prohibited from work-related travel outside the district without Court Unit Executive or Chief Judge approval.

Mandatory COVID-19 Testing for Unvaccinated Employees and Volunteers Pending Exemption

Any employee or volunteer with an approved exemption or awaiting a decision on an exemption request who has not yet returned to in-person work or begun work at a Court Facility must provide proof of a negative COVID-19 test taken within three days before the date the employee or volunteer needs to physically return or begin work in a Court Facility. Once onsite work has resumed, the employee must submit to and report the results of twice-weekly testing for COVID-19. The tests must be taken more than 48 hours apart. Any employee or volunteer with an approved exemption or awaiting a decision on an exemption request who has already resumed work at a Court Facility must submit to and report the results of twice-weekly testing for COVID-19 beginning on **November 29, 2021**.

Free testing may be available in the State of California, and resources are available to find local testing sites at <https://covid19.ca.gov/get-tested/>.

Test results must be submitted by email to the employee or volunteer's Human Resources Department with "Confidential COVID-19 Test Results" in the subject line of the email.

Any employee or volunteer who receives a positive test must immediately notify their supervisor.

Inability to obtain a required COVID-19 test on time will not, on that ground alone, entitle an employee to telework.

Undergoing twice-weekly COVID-19 testing as required under this policy is a mandatory condition of employment. Any employee who fails to comply with the testing requirements will be placed on leave without pay, and any volunteer who fails to comply with the testing requirements will be suspended. Misrepresentation about test results will result in disciplinary action, up to and including termination of employment.

Acceptable Tests

Polymerase Chain Reaction (PCR) tests and “rapid tests” administered at a pharmacy, health department, doctor's office, or other healthcare provider are acceptable. “At home” tests are not acceptable.

ADMINISTRATIVE LEAVE AVAILABLE FOR VACCINATION OR REQUIRED TESTING

Employees may request up to one hour of administrative leave to receive each dose of the COVID-19 vaccine or complete required testing, but under no circumstances should such leave if granted interfere with work assignments or duties.

MASK WEARING

All **vaccinated individuals** seeking entry to, or occupying, a Court Facility must follow the current guidance of the CDC and local public health authorities regarding face coverings and masks for **vaccinated individuals**.

All **unvaccinated individuals** seeking entry to, or occupying, a Court Facility must follow the current guidance of the CDC and local public health authorities regarding face coverings and masks for **unvaccinated individuals**.

DAILY HEALTH SCREEN

Regardless of vaccination status, all judges, employees, volunteers, and judiciary contractors reporting for duty at a Court Facility are required to pre-screen themselves for COVID-19 exposure and symptoms daily before entering a court facility. By entering an Eastern District of California Court Facility, each employee self-attests that they **have not knowingly had close exposure to COVID-19** and are not experiencing **COVID-19 symptoms**. Individuals who have had close exposure should not report to work and immediately contact their supervisor. Individuals exhibiting COVID-19 symptoms should not report to work, immediately contact their supervisor and are expected to be tested promptly for COVID-19. Proof of testing and/or test results shall be provided confidentially to management upon request.

COMPLIANCE

Compliance with this policy is a mandatory condition of employment and of continued employment. Failure to comply with this policy will result in adverse action up to and including termination of employment.

CONFIDENTIALITY

The Court will maintain the confidentiality and security of information provided in accordance with applicable federal laws. Proof of vaccination, exemption requests, and test results, along with the information contained within those documents, will only be shared with individuals who have a need to know, will be maintained separately from individual employee personnel files, and will be properly secured to protect the confidentiality of the information. This information may be stored electronically with restricted access to safeguard confidentiality.

DURATION

This vaccination policy will remain in effect until the Court determines otherwise.