

MEMORANDUM OF UNDERSTANDING

THE PURPOSE OF THIS MEMORANDUM OF UNDERSTANDING IS TO SET FORTH THE FOLLOWING AGREEMENT(S) BETWEEN PUBLIC SCHOOL EMPLOYEES OF WASHINGTON/SEIU FEDERAL WAY #718 (E-Start) AND THE FEDERAL WAY SCHOOL DISTRICT #210. THIS AGREEMENT IS ENTERED INTO PURSUANT TO THE CURRENT COLLECTIVE BARGAINING AGREEMENT.

The parties agree to the following COVID-19 Provisions:

1. **Vaccine Mandate Compliance:** An employee that has notified the district that they have received at least one vaccination as of October 18, 2021, and expressed intent to become fully vaccinated, may utilize any of their available leave balances for up to 30 days to cover their absence until they are considered fully vaccinated and can return to work. If the employee has no available leave, they will be placed on an unpaid leave of absence for that period. This information will be stored in the employee's medical file, separate from their personnel file.
2. **Leave Provisions:**
 - a. **Administrative/COVID-19 Leave:** In the event any employee, regardless of vaccination status is directed to quarantine or tests positive for COVID-19, the employee will receive full pay and benefits through a combination of Labor and Industries (L&I) benefits and supplementary paid administrative/COVID-19 leave. Staff must file an L&I claim under the Health Emergency Labor Standards Act (HELSEA) and will have their worker's compensation claim supplemented by the district-provided administrative/COVID-19 leave, retroactive to their first day of leave, until able to return to work per Department of Health (DOH) guidance. District provided administrative/COVID-19 leave pay will not exceed ten (10) days based on the employee's regularly scheduled daily hours of employment. Staff who experience extended COVID recovery times (due to epidemiologically linked positive case from work exposure) beyond ten (10) days **may** be eligible for additional administrative/COVID leave days on a case by case basis. **These benefits will be retroactive to September 1, 2021.** At the discretion of the District the requirement to file an L&I claim as provided herein may be suspended.
 - b. If an employee cannot attend work in-person as a result of district directed quarantine, and the work can be completed from home (determined by the employer), the employer shall accommodate this ask.
 - c. In the event an employee's worksite and/or school building is closed due to a COVID-19 outbreak an alternative work assignment will be provided.
 - d. **Side effects of immunization:** All parties acknowledge that employees may suffer side effects from the COVID-19 vaccines and will accommodate those that do with one (1) day of paid administrative leave within 48 hours after each dose if they have adverse reactions which cause them to be absent. **These benefits will be retroactive to September 1, 2021.**

3. **Changes in Working Conditions:**

The district agrees to continue to meet and discuss the impact of the change in workload, working conditions, job-specific duties and working hours with the Union through monthly Labor Management meetings or sooner depending on the severity of the impact. Employees are to make known to their supervisor and Union Field Representative of concerns prior to meeting.

4. **Vaccine Exemption Process:**

- a. **Medical Exemptions:** Medical exemptions will be treated through the district established medical accommodation process and the district will determine the level and ability to accommodate the individual.
- b. **Religious Exemptions:** An employee who has a sincerely held religious belief that prevents them from being vaccinated against COVID-19 may request an accommodation by notifying Human Resources. The employee must provide all information reasonably needed to evaluate the request. The employer will follow OSPI guidance to evaluate the request.
- c. **Timing of District Determination:** The district will make every effort to issue and communicate via email a final determination on all medical/religious exemption requests within three (3) working days of the interactive process meeting.

5. **Accommodation Options:** If the medical/religious accommodation request is granted, the district will consider all the following as reasonable accommodations. The accommodations will take effect on October 19, 2021 or the date the terms of employment regarding vaccination go into effect. Staff with accommodations will:

- a. Maintain 6-foot physical distancing from others to the extent feasible within your job assignment
- b. Be fitted for and wear an "N95" mask. Employees are required to wear a fitted N95 mask. If not able to wear the fitted N95 mask due to failed fit test or medical condition with accompanying doctor's note, a KN95 and other PPE (face shield) recommended by Washington State Department of Health (DOH), Washington State Labor and Industries (L&I), King County Public Health, and the United States Center for Disease Control (CDC).
- c. Always wear masks during meal preparation and service and during breaks except when actively eating or drinking
- d. Maintain at least 6-foot physical distance away from others while consuming food and beverages in common areas or close quarters
- e. Submit to COVID-19 testing when directed by the district. This may include a frequency of weekly or bi-monthly testing via rapid testing nasal swab.
- f. Use of online attestation system from home prior to starting work each day

6. **Separation Process:**

- a. **Loudermill Rights and Notification of Loudermill Hearing:** Employees who intend to separate from employment because of not meeting the vaccination mandate requirement will be entitled to Loudermill Rights. No earlier than October 19, 2021, the district will issue a Pre-Separation Notice to any employee that intends to separate from employment because of not meeting the vaccination mandate requirement. The Notice will be provided to the employee, and the employee's union by email and certified mail. The Notice shall identify the date and time of the Loudermill Hearing.
- b. **Union Representation:** Due to the pre-disciplinary nature of the Loudermill

Hearing, employees who elect to invoke their Weingarten Rights shall be afforded the right to have a Union representative present at the hearing. The district will consider any reasonable requests to adjust the hearing date.

- c. **Non-Misconduct, Retention of Benefits:** Any separation of employment due to an employee's inability or unwillingness to fulfill the COVID-19 vaccine mandate shall not be regarded as misconduct, and the employee shall suffer no loss of leave entitlements including any entitlement to cash out such benefits.
- d. **Retirement or Resignation Option:** As an alternative to separation due to the employee's inability or unwillingness to fulfill the vaccine mandate, any employee may elect to retire and take an unpaid leave of absence. If electing to retire and take unpaid leave of absence, the retirement will be effective June 30, 2022. Employees also have the option to resign from employment by October 18, 2021.

7. **References:** Employees who choose separation due to the vaccine condition of employment, will receive a non-biased reference not reflecting their failure to vaccinate, but the employee's work history and ethic.

8. **Re-employment List:**

- a. Employees that are not fully vaccinated and do not otherwise qualify for an allowable exemption by the deadline established by the State of Washington (currently October 18, 2021) shall be considered to be on a re-employment list for up to twelve (12) months. Employees on the re-employment list will not accrue seniority, however their seniority will not be lost while on the re-employment list. Such employees that become eligible for employment within thirty (30) calendar days of the deadline will be returned to their prior position. Employees that become eligible for employment thirty-one (31) or more days after the deadline may return to an open, regular position utilizing their seniority when available or work available substitute opportunities.
- b. If the requirement changes and employees are no longer required to provide proof of vaccination as a condition of employment, employees on the re-employment list will be able to resume their positions as per the CBA.

The terms of this MOU shall become effective upon signature by all parties below and shall sunset on August 31, 2022. All other terms of the provisions of the September 1, 2019 – August 31, 2022 Collective Bargaining Agreement shall remain in full force and effect.

PUBLIC SCHOOL EMPLOYEES OF
WASHINGTON/SEIU LOCAL 1948
CHAPTER

BY: 
President, Nachael "Nikki" Lorberau

FEDERAL WAY SCHOOL DISTRICT #210

BY: 

DATE: 12-3-2021

DATE: 12-10-21

