



## COVID-19 VACCINATION MEDICAL AND RELIGIOUS EXEMPTION REQUEST

### PROCEDURE

Issued: July 30, 2021

#### Authority

##### **Employment Rights for People with Disabilities Policy**

The Americans with Disabilities Act (ADA) and the California Fair Employment and Housing Act (FEHA) prohibit employment discrimination against qualified applicants and employees on the basis of disability. In accordance with the law, it is the policy of the City and County of San Francisco to provide equal employment opportunities to qualified individuals with disabilities.

##### **Equal Employment Opportunity Policy**

Discriminating against, or harassing City and County of San Francisco (City) employees, applicants, or persons providing services to the City by contract, including supervisory and non-supervisory employees, because of their sex, race, age, religion, color, national origin, ancestry, physical disability, mental disability, medical condition (associated with cancer, a history of cancer, or genetic characteristics), HIV/AIDS status, genetic information, marital status, sexual orientation, gender, gender identity, gender expression, military and veteran status, or other protected category under the law is prohibited and unlawful. For the purpose of this policy only, the term “employees” includes unpaid interns and volunteers. Discrimination is the unequal treatment of individuals with respect to the terms and conditions of their employment, based on their membership in a protected category. Harassment is unwelcome visual, verbal, or physical conduct engaged in on account of a person's actual or perceived membership in a protected category.

##### **General Vaccination Requirements**

All City employees are required to report their vaccination status by July 29, 2021.

Consistent with local Public Health Orders and City policy, the City requires employees, and elected and appointed officials, to receive a COVID-19 vaccination to enter the workplace or perform work in the field. This safety-related job requirement is effective September 15, 2021, for employees regularly working onsite in High-Risk Settings; October 13, 2021 for employees who are not permanently stationed or regularly assigned to a High-Risk Setting, but who in the course of their duties may enter or work in those settings even on an intermittent or occasional basis for short periods; and 10 weeks after FDA approval of any one COVID-19 vaccine for all other City employees.

The local Public Health Order defines High-Risk Settings as certain care or living settings, including many congregate settings, where employees may have contact with vulnerable populations and where the risk of COVID-19 transmission is high. High-Risk Settings include general acute care hospitals, skilled nursing facilities, residential care facilities for the elderly, homeless shelters, and jails.

### **Medical and Religious Exemptions**

A medical or religious exempt from the vaccination requirement may be granted if:

**For medical reasons** (1) the employee has a qualifying disability that prevents them from receiving a COVID-19 vaccination, (2) the employee requests a reasonable accommodation, (3) the employee provides required medical documentation to support an exemption, and (4) an exemption would not pose a direct threat to the health and safety of the employee or others that cannot be mitigated; or

**For religious reasons** (1) the employee holds a sincere religious belief, practice or observance that is contrary to the practice of vaccination, (2) the employee requests a religious accommodation, (3) the employee provides required documentation or information to support an exemption, and (4) an exemption would not pose a direct threat to the health and safety of the employee or others that cannot be mitigated.

### **Review and Appeal Rights**

Requests for medical and religious exemptions will be processed by the employee's department personnel official, whose determinations are subject to review by the Human Resources Director. Employees may appeal denials of exemption requests to the Human Resources Director, whose determinations are appealable to the Civil Service Commission.

### **Exempt Employees**

Employees working in High-Risk Settings and certain other health care settings with an approved vaccination exemption must follow local and State Public Health Order requirements that mandate:

1. COVID-19 testing at least once a week (or more as required by the State's Public Health Order) using either a nucleic acid (including polymerase chain reaction (PCR)) or antigen test; AND
2. For employees working in acute health care and long-term care settings, at all times while working in an indoor work setting where (1) care is provided to patients or residents, or (2) to which patients or residents have access for any purpose, wear a

respirator approved by the National Institute for Occupational Safety and Health (NIOSH), as required by the State Public Health Order.

3. For employees working in all other High-Risk Settings, at all times while working indoors with others, wear a surgical mask. The City will supply employees in these workplaces with FDA-cleared surgical masks.

All other City employees with approved exemptions must wear an appropriate face covering while working on-site or in the field. Pursuant to California Occupational Health and Safety's (Cal OSHA) Emergency Temporary Standards (ETS). The City will provide employees with N95 masks upon request.

### **Medical Exemption Procedure**

1. Employees should complete and sign an **Employee Request for Reasonable Accommodation Form (COVID-19 Vaccination Exemption)**. Departments must consider any request for a disability-related accommodation that provides sufficient notice of an employee's purported inability to comply with vaccination requirements due to a medical condition, whether the request is on the designated form, in writing, or communicated orally to a supervisor or department personnel official.
2. Employees must answer relevant questions regarding the medical condition that prevents getting vaccinated but should not disclose the diagnosis or treatment plan.
3. Employees must submit a completed form, or an equivalent writing regarding the request for a medical exemption from the vaccination requirement, with medical verification of the employee's disability that prevents getting vaccinated to a department personnel official, supervisor or manager.
4. Department personnel officials must acknowledge receipt of an employee request for a medical exemption from vaccination requirements within two (2) business days. Acknowledgments may be via email stating the request has been received, or by returning a copy of the Employee Request for Reasonable Accommodation Form (COVID-19 Vaccination Exemption) stamped "Received" with the receipt date on the face of the document.
5. Department personnel officials must engage employees in the interactive process if the need for a medical exemption from vaccination requirements is not established by the employee's request and supporting medical certificates, or the employee does not submit sufficient medical verification.

6. Department personnel officials should follow the City's Reasonable Accommodation Procedures, and may use the **Health Care Provider Certification Form (COVID-19 Vaccine Exemption)** for requesting information from health care providers in support of a request for exemption from vaccination requirements.

### **Religious Exemption Procedure**

1. Employees should complete and sign an **Employee Request for Religious Accommodation Form (COVID-19 Vaccination Exemption)**. Departments must consider any request for a religious accommodation that provides sufficient notice of an employee's purported inability to comply with vaccination requirements for religious reasons, whether the request is on the designated form, in writing, or communicated orally to a supervisor or department personnel official.
2. Employees must answer all relevant questions regarding the religious belief, practice or observance that prevents them from getting the COVID-19 vaccination.
3. Employees must submit a completed form, or an equivalent writing regarding the request for a religious exemption from the vaccination requirement, with any relevant statements, documents, or information pertaining to the religious belief, practice or observance that prevents them from getting vaccinated to a department personnel official, supervisor, or manager.
4. Department personnel officials must acknowledge receipt of employee requests for religious exemptions from vaccination requirements within two (2) business days. Acknowledgments may be via email stating the request has been received, or by returning a copy of the Employee Request for Religious Accommodation Form (COVID-19 Vaccination Exemption) stamped "Received" with the receipt date on the face of the document.
5. Employees may be required to submit additional information regarding the religious nature or the sincerity of a particular belief, practice or observance. Relevant information may include:
  - (a) letters from a religious leader explaining the nature of the religious belief(s), practice(s) or observance(s) and the need for an exemption from the vaccination;
  - (b) articles from religious scholars that describe the nature of the religious belief(s), practices(s), or observance(s) and the need for an exemption from the vaccination requirement;

- (c) excerpts from religious or sacred texts explaining religious belief(s), practices(s), or observance(s) that prohibit vaccination;
  - (d) written materials describing the religious belief(s), practice(s) or observance(s) that prohibits vaccination;
  - (e) statements, affidavits or other documents from the employee describing the beliefs, practices, or observances, including information regarding when the employee embraced the belief(s), practice(s) or observance(s), as well as when, where and how the employee has adhered to the belief, practice, or observance that prohibits vaccination;
  - (f) statements, affidavits, or other documents from potential witnesses identified by the employee as having knowledge of whether the employee adheres or does not adhere to the belief(s), practice(s) or observance(s) that prohibits vaccination, (e.g., religious leader, family, friend, neighbor, supervisor, or coworker who may have observed the employee's past adherence, or lack thereof, or discussed it with the employee).
6. Department personnel officials will review requests for religious exemptions and determine whether additional information is required. Any request for additional information will be made within five (5) business days of receiving a completed and signed Employee Request for Religious Accommodation Form (COVID-19 Vaccination Exemption).
  7. Employees who do not submit requested information within five (5) business days of receiving a request for additional information from a department personnel official shall be denied an exemption from the vaccination requirement. Notwithstanding, employees may request an extension of time to submit requested information supporting a request, and department personnel may grant a reasonable extension of the time, not to exceed an additional five (5) business days, for a response.
  8. Department personnel officials will use the **Religious Accommodation Certification Form (COVID-19 Vaccination Exemption)** to request additional information in support of a religious exemption from the vaccination requirement.
  9. Department personnel officials will make a determination and respond to an employee request for religious exemption from the vaccination requirement within seven (7) business days of receiving an accommodation request and any supporting information requested by the department.

10. Department personnel officials shall use the **Accommodation Determination Form (COVID-19 Vaccination Exemption)** to document and communicate final determinations on employee requests for religious exemptions from vaccination requirements. The reason for any denial must be stated on the form.
11. Copies of approved Accommodation Exemption Determination Forms will be uploaded and reported in People and Pay (SF Employee Portal) along with the employee's "Unvaccinated" status.
12. Employees may appeal final determinations denying a request for religious exemption from vaccination requirements. Appeals must be in writing and sent to the Human Resources Director within 30 days of the dated department decision denying the request.