

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF COVID-19 VACCINATIONS)
FOR EMPLOYEES OF THE SUPREME COURT)
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ORDER

NO. 25700-B-669

WHEREAS, on February 29, 2020, Governor Inslee proclaimed a state of emergency due to the novel coronavirus disease (COVID-19) outbreak in Washington; and on March 13, 2020, President Trump declared a national emergency due to the COVID-19 outbreak across the United States; and on February 24, 2021 President Biden continued the national emergency; and

WHEREAS, many court facilities in Washington are ill-equipped to effectively comply with social distancing and other public health requirements and therefore continued in-person court appearances jeopardize the health and safety of litigants, attorneys, judges, court staff, and members of the public. Yet, court operations are recognized as essential, and may often be conducted by alternative means, in alternative settings, and with extra measures taken for public safety; and

WHEREAS, pursuant to this Court's prior orders, many Washington courts have taken important steps to protect public health while ensuring continued access to justice and essential court services, including by strictly observing social distancing measures, holding proceedings remotely, suspending many in-building operations, and promulgating emergency rules and orders as necessary; and

WHEREAS, the coordinated response from Washington courts to prevent the further spread of COVID-19 must be continued beyond the timeframes in this Court's prior orders while allowing courts to operate effectively and maintain effective and equitable access to justice; and

WHEREAS, after months of improving COVID-19 epidemiological conditions in Washington State, the emergence of highly contagious COVID-19 variants, including the "delta variant" that is at least twice as transmissible as the virus that emerged in late 2019, coupled with the continued significant numbers of unvaccinated people, have caused COVID-19 cases and hospitalizations to rise sharply among unvaccinated populations and have resulted in breakthrough infections in some fully vaccinated individuals; and

WHEREAS, COVID-19 vaccines are effective in reducing infection and serious disease, widespread vaccination is the primary means we have as a state to protect everyone, including persons who cannot be vaccinated for medical reasons, youth who are not eligible to receive a vaccine, immunocompromised individuals, and vulnerable persons from COVID-19 infections; and

WHEREAS, widespread vaccination is also the primary means we have as a state to protect our health care system, to avoid the return of stringent public health measures, and to put the pandemic behind us; and

WHEREAS, COVID-19 vaccinations have been available in Washington State from December 2020 to the present, and since April 15, 2021, all Washingtonians over the age of 16 have been eligible to receive free COVID-19 vaccinations from a wide variety of providers at many locations; and

WHEREAS, on July 6, 2021, the Office of Legal Counsel of the United States Department of Justice issued a legal opinion stating that federal and state governments were not prohibited by federal law from imposing vaccination mandates, even when the only vaccines available are those authorized under U.S. Food and Drug Administration Emergency Use Authorizations; and

WHEREAS, it is the duty of every employer to protect the health and safety of employees by establishing and maintaining a healthy and safe work environment and by requiring all employees to comply with health and safety measures; and

WHEREAS, court employees live in and provide services to the public in every county in our state, and many interact with the public on a regular basis, and they all interact with some portion of the community at large to varying degrees before and/or after court work hours; and

WHEREAS, all court employees, regardless of their current work setting, need to be prepared to come to their worksite at any time necessary to meet the operational needs of the courts; and

WHEREAS this court has the authority to take actions that are reasonably necessary for the efficient administration of justice and the fulfillment of its constitutional duties; and

WHEREAS, on August 9, 2021 Governor Inslee issued a proclamation requiring all employees, on-site independent contractors, volunteers, goods and services providers, and appointees of designated state agencies to be fully vaccinated against COVID-19 on or before October 18, 2021.

NOW, THEREFORE, pursuant to the Court's authority to administer justice and to ensure the safety of courts, personnel, litigants, and the public, during this public health emergency, it is hereby ORDERED:

1. Prohibitions. This order prohibits any Worker from engaging in work for the Supreme Court after November 1, 2021 if the Worker has not been fully vaccinated against COVID-19. A Worker must either be vaccinated or qualify for an exemption to be eligible for employment at the Supreme Court.
2. Exemptions from Vaccine Requirement.
 - a) Workers for the Supreme Court are not required to get vaccinated against COVID-19 if they are entitled under the Americans With Disabilities Act (ADA), Title VII of the Civil Rights Act of 1964 (Title VII), the Washington Law Against Discrimination (WLAD), or any other applicable law to a disability-related reasonable accommodation or a sincerely held religious belief accommodation to the requirements of this order.
 - b) To the extent permitted by law, before providing a disability-related reasonable accommodation to the requirements of this order, the Supreme Court must obtain from the individual requesting the accommodation documentation from an appropriate health care or rehabilitation professional authorized to practice in the State of Washington stating that the individual has a disability that necessitates the accommodation and the probable duration of the need for the accommodation.
 - c) To the extent permitted by law, before providing a sincerely held religious belief accommodation to the requirements of this Order, the Supreme Court must document that the request for an accommodation has been made and the document must include a

statement regarding the way in which vaccinations conflict with the religious observance, practice, or belief of the Worker.

d) Reasonable accommodations will be determined on an individualized basis and, where an employee is exempt from this mandate, accommodations may include but are not limited to requirements to wear a mask, obtain viral testing regularly, socially distance, or work remotely.

3. Acceptable Proof of Full Vaccination Against COVID-19: Where required above, Workers for the Supreme Court must provide proof of full vaccination against COVID-19.

Acceptable proof may include:

- a) CDC COVID-19 Vaccination Record Card or photo of the card;
- b) Documentation of vaccination from a health care provider or electronic health record;
- c) State immunization information system record;
- d) Other forms approved by Human Resources.

Personal attestation is not an acceptable form of verification of COVID-19 vaccination.

4. Definitions.

- a) “Worker”: For purposes of this order, “Worker” includes a person engaged to work as an employee, independent contractor, service provider, volunteer, or through any other formal or informal agreement to provide goods or services, whether compensated or uncompensated, but does not include a visitor or patron;
- b) “Supreme Court”: For purposes of this order, references to the “Supreme Court” include the Washington State Law Library;

c) Independent contractors and their Workers are exempt from this order unless any provision of the contract to provide goods or services requires work to be performed in person and on site, regardless of frequency, whether other Workers are present, or any contingent nature of that requirement.

ADDITIONALLY, the Washington State Court Administrator is directed to adopt and implement similar vaccination requirements for the Administrative Office of the Courts Workers.

ADDITIONALLY, all other courts, agencies, and entities in the judicial branch, including the Washington State Bar Association, the Office of Public Defense and the Office of Civil Legal Aid, are strongly encouraged to adopt and implement similar vaccination requirements for their Workers as defined above.

This order will take effect immediately and shall remain in effect until further order of the Washington Supreme Court.

DATED at Olympia, Washington this 18th day of August, 2021.


CHIEF JUSTICE