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**AMALGAMATED TRANSIT UNION LOCAL 308**

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## CTA's Mandatory Vaccination Policy Questions and Answers

**Q: How did the Mandatory Vaccination Policy end up before an Arbitrator?**

A: On September 3, 2021, CTA issued a policy requiring that all CTA employees be vaccinated against COVID-19. Local 241 and Local 308 immediately challenged this policy as unreasonable. Because a policy must be reasonable to be consistent with the CBA, the Locals maintained that CTA violated the CBA by adopting an unreasonable policy and demanded arbitration. The Locals also demanded that the CTA not enforce the policy while the arbitration was pending. CTA agreed and the parties went before an arbitrator.

**Q: Why did the Locals even file grievances? Why not just go to court and get a permanent injunction to stop the mandatory vaccination policy?**

A: There was no legal basis to get a permanent injunction because the law is clear that employers have the legal right to enforce mandatory vaccine requirements so long as the employer provides reasonable accommodations for those with disabilities or religious beliefs that prevent their receiving the vaccines.

**Q: But haven't there been cases where a union or employees have gotten an injunction to stop a mandatory vaccination policy from being enforced?**

A: No. A few court cases have been filed nationwide seeking injunctions against mandatory vaccination policies, and they have not succeeded.

**Q: But couldn't the Locals have gotten a temporary injunction to stop the policy from being implemented and let months go by before bringing the case to arbitration?**

A: The Locals did threaten to go to court to get a temporary injunction pending the arbitration. But frankly, the law wasn't on our side. Temporary injunctions are extraordinary remedies that are granted to stop an immediate and irreparable harm—that means an injury that cannot be compensated through monetary damages. Recently, Teamsters Local 743 went to federal court in Chicago to get an injunction to stop an employer from enforcing a mandatory vaccination policy while the case went to arbitration. The judge refused to grant the injunction, and let the employer implement the policy. The judge reasoned that even if employees were discharged for not complying with the policy, there was no irreparable harm, because the union could grieve the discharge and if successful, get back pay.

**Q: What would have happened if the Locals had been able to get a temporary injunction?**

A: A temporary injunction would have only stopped the policy from being implemented pending the outcome of the arbitration case. Once the arbitration award came out, the temporary injunction would expire and whatever the arbitrator ruled would be in effect.

**Q: Doesn't allowing employers to require vaccination strip employees of their rights?**

A: No, the law allows employers to impose conditions of employment. So, if a vaccination policy is otherwise legally valid, i.e., it allows for medical or religious exemptions, the employer can impose it as a condition of employment without violating an employee's civil rights.

**Q: Why was the award issued so quickly?**

A: Because it was so urgent that our members are not unfairly penalized with an unreasonable policy, the Locals demanded that the arbitration take place immediately and that a decision be issued without any delay. CTA gave in to that demand, and the arbitration hearing took place on September 9, 2021, and an award was issued on Friday, September 10.

**Q: What arguments did the Unions make?**

A: To win, the Locals had to prove that the mandatory policy was unreasonable. To make that case, the Locals made several arguments—including:

1. Arguing that it was unreasonable to deny employees a testing option as an alternative to taking the shots.

2. Maintaining that CTA was unreasonably threatening punitive actions, such as discipline or discharge against employees who chose not to take the shots.

3. The Unions also argued that it was not reasonable for CTA to pay only four hours to employees for the time required to take the shots; and argued that a minimum of eight hours was required, including retroactive pay for those who do take the shots.

**Q: What did the arbitrator decide?**

A: The arbitrator decided that it was not unreasonable for CTA to adopt a mandatory policy due to the health threat that COVID-19 poses. He did make some changes to how CTA can implement the policy.

**Q: What can CTA do to enforce its policy in light of the arbitration award?**

A: CTA can enforce its policy requiring all employees to be fully vaccinated or have applied for and receive an exemption for religious beliefs/moral convictions or medical reasons by November 1, 2021.

**Q: What does it mean to be fully vaccinated?**

A: It means that you will have received either both shots of the Pfizer or Moderna vaccine or the single shot Johnson and Johnson vaccine before October 18, 2021—that will allow the 2 weeks following the final shot that is required to be considered fully vaccinated.

**Q: What if I have taken steps to get vaccinated before November 1, 2021, but I am not yet fully vaccinated?**

A: Per the arbitrator's award, if you have taken steps to comply with the policy by getting the Johnson and Johnson shot less than two weeks before November 1, 2021, or getting one Pfizer or Moderna shot before November 1, 2021, and have scheduled, but not yet received, the second shot, you will not be taken out of service or subjected to any discipline.

**Q: What if I have applied for an accommodation before November 1, 2021, but haven't received a response from CTA?**

A: If you have applied for an accommodation before November 1, 2021, and have complied with CTA's requests for documentation, but CTA has not yet acted on your application, you will not be taken out of service or subject to any discipline.

**Q: If I request an accommodation and CTA denies the request, how long do I have to comply with the policy?**

A: The arbitrator decided that you have at least 5 weeks from the date of the denial of the accommodation to comply.

**Q: If CTA approves my request for an accommodation due to my religious beliefs/moral convictions or for medical reasons, what will the accommodation consist of?**

A: CTA has not yet made a decision about how they will accommodate those who qualify for an exemption.

**Q: I have heard that the accommodation that some employers are granting is by putting employees on unpaid leave—so the employee is technically continuing to be employed but without a paycheck. What can I do if CTA does that?**

A: Accommodations for medical reasons must be consistent with the Americans with Disabilities Act (ADA) and accommodations for religious beliefs must be consistent with Title VII of the Civil Rights Act. An employee who believes that the accommodation offered isn't consistent with the law, the employee should go to the Equal Employment Opportunity Commission (EEOC) or the Illinois Department of Human Rights (IDHR) and file a charge against CTA.

**Q: What if I haven't taken any steps to comply with the policy as of November 1, 2021?**

If, on November 1, 2021, you have not received a dose of the vaccine and are not scheduled to get one, you haven't applied for an accommodation, or you have submitted an application but haven't complied with requests for documentation, or you had a dose scheduled as of November 1, 2021, but didn't receive the vaccine as scheduled, you will be treated as out of compliance.

**Q: What are the consequences of being out of compliance?**

A: You and the Union will be notified that you are out of compliance. You will then be issued a Final Written Warning, with a copy provided to the Local notifying you that you have 7 days to comply by providing proof that you received a dose within that 7-day period and have scheduled the second dose or receiving the single dose vaccine within the 7 days, or you have applied for an accommodation and submitted all required documentation within the 7 days. If you take one

of these steps within the 7 days period, you won't be removed from service or given additional discipline.

**Q: What if I don't take any of those steps within the 7-day period?**

A: The arbitrator ruled that an employee who does not take the required steps to comply with the Policy within the seven-day period shall be removed from service and referred to the General Manager for discharge consideration.

**Q: Will CTA discharge me if I don't comply?**

A: The answer is that we don't know what CTA will do. But if you are discharged, you will have the right to file a grievance, and the Local will be able to pursue the grievance to arbitration.

In solidarity,

A handwritten signature in cursive script, appearing to read "Eric Dixon".

Eric Dixon  
President/Business Manager