



**Benicia Unified School District
Resolution No. 21-22-10**

BUSD Condition of Employment and Volunteer Eligibility: COVID-19 Vaccination

WHEREAS, The Benicia Unified School District (BUSD) has a duty to provide a safe and healthy educational environment consistent with COVID-19 public health guidance and requirements to support the health of its students, staff and the community; and

WHEREAS, BUSD has implemented high standard of multi-layered COVID-19 safety and risk-mitigation measures including masking, ventilation, contact tracing, COVID-19 testing, high quality sanitation measures, and the California Department of Public Health order requiring all staff to be vaccinated or undergo weekly COVID-19 testing; and

WHEREAS, COVID-19 continues to pose a risk, especially to individuals who are not fully vaccinated; and

WHEREAS, The Centers for Disease Control and Prevention (CDC), the California Department of Public Health (CDPH), and Contra Costa Health Services (CCHS) inform us that COVID-19 vaccination is the most effective way to prevent transmission and limit COVID-19 hospitalizations and deaths, and unvaccinated employees and volunteers are at greater risk of contracting and spreading COVID-19 than those with the vaccination; and

WHEREAS, several vaccines against COVID-19 have been developed that have been demonstrated to be safe and effective in reducing the spread of COVID-19 as well as the severity of COVID-19 for breakthrough cases, preventing nearly all COVID-19 related hospitalizations; and recent CDC studies indicate that infection and hospitalization rates among unvaccinated persons were 4.9 and 29.2 times, respectively, than those in fully vaccinated persons; and, that authorized vaccines were protective against SARS-CoV-2 infection and severe COVID-19 during a period when transmission of the Delta variant was increasing; and

WHEREAS, in light of the effectiveness and safety of the COVID-19 vaccines, the CDC, CDPH, and CCHS have deemed the vaccine appropriate by unanimously recommending that all eligible persons be vaccinated; and

WHEREAS, the United States Food and Drug Administration granted full approval to the Pfizer-BioNTech COVID-19 Vaccine on August 23 for the prevention of COVID-19 disease in individuals 16 years of age and older after undergoing the FDA's rigorous, scientific standards for reviewing the safety, effectiveness and manufacturing quality of a product; and

THEREFORE, BE IT RESOLVED, to best protect BUSD students, staff, volunteers and the community, the Benicia Unified School District Governing Board approves a vaccine requirement for all employees and volunteers age 16 and older; and

BE IT FURTHER RESOLVED, all District workers and volunteers age 16 and older must, as a condition of employment or volunteer eligibility:

1. No later than October 15, 2021, receive their final dose (either the second dose in a two shot series or the first shot in a single shot series) of a COVID-19 vaccine;
2. Provide proof of their COVID-19 vaccination status to the BUSD Human Resource Department no later than October 15, 2021, by completing the vaccination survey; and
3. New employees or volunteers must provide proof of their COVID-19 vaccination prior to commencing their work with the District; and

BE IT FURTHER RESOLVED, employees who fail to meet the requirement will be placed on leave and will face disciplinary consequence up to, and including, termination, for failure to meet a condition of work. With the Volunteers who fail to meet the requirement will no longer be eligible to volunteer in the District; and

BE IT FURTHER RESOLVED, a medical or religious exemption from the BUSD COVID-19 vaccination requirement may only be granted if:

For Medical Reasons:

The employee or volunteer must provide a written statement signed by their licensed physician, licensed nurse practitioner, or other licensed medical professional acting under the license of a physician stating that the individual qualifies for the exemption.

The written statement must contain all of the following:

- (1) The name, California medical license number, business address, and telephone number of the licensed physician, licensed nurse practitioner, or other medical professional acting under the license of a physician, who issued the medical exemption.
- (2) The name and address of the employee or volunteer for whom the exemption is sought.
- (3) A statement certifying that licensed physician, licensed nurse practitioner, or other medical professional acting under the license of a physician, has conducted a physical examination and evaluation of the employee or volunteer consistent with the relevant standard of care.
- (4) Whether the licensed physician, licensed nurse practitioner, or other medical professional acting under the license of a physician, who issued the medical exemption, is the employee's or the volunteer's primary care physician. If the licensed physician, licensed nurse practitioner, or other medical professional acting under the license of a physician is not the employee's or volunteer's primary care physician, an explanation must be provided as to why the individual is filling out the medical exemption form.
- (5) A description of the medical basis for which the exemption for the COVID-19 vaccination is sought.
- (6) Whether the medical exemption is permanent or temporary, including the date upon which a temporary medical exemption will expire.
- (7) A certification by the licensed physician, licensed nurse practitioner, or other medical professional acting under the license of a physician that the statements and information contained in the form are true, accurate, and complete.

For Religious Reasons:

If the employee or volunteer holds a sincere religious belief, practice, or observance that is contrary to the practice of vaccination, the employee must provide written documentation and information to support an exemption for religious reasons.

Requests for religious exemption will be handled via the Interactive Process described below. However, the constitutionally protected free exercise of religion does not automatically excuse an individual from compulsory health mandates; the right to free exercise of religion is subordinated to society's interest in protecting against the spread of disease. See *Prince v. Massachusetts*, 321 U.S. 158, 166-67 (1944). As a result, even though a vaccine mandate may infringe upon a sincerely-held religious belief, it is still valid under the Free Exercise Clause; and

BE IT FURTHER RESOLVED, requests for medical and religious exemptions will be processed by the BUSD Human Resource Department and will be maintained as confidential information. Requests for exemption must be submitted prior to October 15, 2021, or prior to commencing work with the District. The requests for an exemption as an accommodation for medical or religious reasons will be determined on a case-by-case basis via an Interactive Process meeting. The meeting will be scheduled as soon as practicable and will be an opportunity for the employee to provide the District with additional details, as needed, regarding their request for an exemption, as well as an opportunity for the District to determine whether it can reasonably accommodate the employee without causing undue hardship to the District. An accommodation may cause undue hardship if it is costly, compromises workplace safety, decreases workplace efficiency, infringes on the rights of other employees, or requires other employees to do more than their share of potentially hazardous or burdensome work; and

BE IT FURTHER RESOLVED, employees and volunteers for whom a medical or religious exemption is granted must be tested for COVID-19 at least once a week through the BUSD antigen or PCR testing program at the direction of the Human Resource Department or with authorization for external PCR test administered by a healthcare provider or a county public health agency. Previous history of COVID-19 from which the employee recovered, or a previous positive antibody test for COVID-19, do not waive this requirement for testing; and

BE IT FURTHER RESOLVED, employees and volunteers must submit proof of vaccination and vaccination status to the District by October 15, 2021, or for new employees and volunteers, prior to commencing work with the District. The document and status will be kept in a confidential medical file and vaccination status will only be available strictly on a need-to-know basis, for the purposes of enforcing testing, masking, quarantining or other public health requirements for unvaccinated adults in a school district. Employees currently on an approved leave of absences must meet the requirement prior to return to work; and

BE IT FURTHER RESOLVED, where a conflict exists between the policies of this resolution and more permissive or restrictive standards pertaining to mandatory vaccinations or testing set forth in the law or between these policies and any other applicable health order, or these policies and any State Public Health Officer or CDPH or County Health Officer or CCHS guidance pertaining to mandatory vaccinations or testing in response to the COVID-19 pandemic, the more restrictive provision controls. This policy is subject to change based on future developments as well as guidance or orders from governmental authorities, including, but no limited to, the CDC, CDPH, and CCHS.

PASSED AND ADOPTED this 7th day of October 2021, at a meeting, by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

I HEREBY CERTIFY that the foregoing resolution was duly and regularly introduced and adopted by the members of the Governing Board of the Benicia Unified School District at the public meeting of said Board held this 7th day of October 2021.

Dr. Gethsemane Moss, Clerk of Governing Board
Benicia Unified School District