

OKANOGAN COUNTY COMMISSIONERS'

RESOLUTION 133 - 2021

A resolution allowing the use of sick leave during leave of absences due to Superior Court vaccine mandate

WHEREAS, on September 29, 2021, the Superior Court of Okanogan County put forth Administrative Order 21-02 requiring vaccinations for all employees of the Superior Court; and

WHEREAS, the Court has allowed employees to apply for medical and/or religious exemptions to the vaccine mandate with reasonable accommodations being determined on an individual basis based upon the direct threat in the workplace; and

WHEREAS, all exemptions have been granted, but reasonable accommodations cannot be made as the employees have to have direct contact to co-workers, the public, and juveniles to perform their duties; and

WHEREAS, the employees will be placed on an indefinite leave of absence effective November 1, 2021 until the mandate has been lifted or they choose to be fully vaccinated; and

WHEREAS, due to the current situation, the Board of County Commissioners recognize the possible need for these employees to utilize their banked annual leave, floating holidays, and sick leave while on the leave of absence.

NOW, THEREFORE, BE IT RESOLVED by the Board of Okanogan County Commissioners that the employees of Superior Court and Juvenile Departments who have been placed on an indefinite leave of absence due to the vaccine mandate may use accrued annual leave, floating holiday(s), and sick leave until such leaves are exhausted.

DATED at Okanogan, Washington this 19th day of October, 2021.



ATTEST:

Laleña Johns, CMC Clerk of the Board

**BOARD OF COUNTY COMMISSIONERS
OKANOGAN, WASHINGTON**

Chris Branch, Chairman

Andy Hover, Member

Jim DeTro, Member

FILED

2021 SEP 29 PM 2:02

CHARLETT L. CALDWELL
OKANOGAN COUNTY CLERK

SUPERIOR COURT OF WASHINGTON
COUNTY OF OKANOGAN

IN RE THE MATTER OF SUPERIOR COURT'S
RESPONSE TO THE PUBLIC HEALTH RISK DUE TO
COVID-19 PUBLIC HEALTH EMERGENCY—
REQUIRING VACCINATIONS FOR ALL EMPLOYEES
OF SUPERIOR COURT

Case No. 21-2-00001-24
ADMINISTRATIVE ORDER 21-02

WHEREAS, on February 29, 2020, Governor Inslee proclaimed a state of emergency due to the novel coronavirus (COVID-19) outbreak in Washington which is spread by person to person contact; and on March 13, 2020 then-President Trump declared a national emergency due to the outbreak across the United States; and on February 24, 2021 President Biden continued the national emergency; and on March 20, 2020 the Okanogan County Board of County Commissioners also declared a state of emergency for Okanogan County due to the pandemic; and

WHEREAS, Okanogan County Superior Court has remained open throughout the pandemic to provide access to the courts; and while Superior Court has modified numerous operations to permit and even required remote appearances at some times, the Court still hears cases every day where people appear in person either due to lack of access to viable remote options or because an in-person appearance is compulsory; and

WHEREAS, this Court has issued numerous emergency orders since March of 2020 and taken significant steps to protect public health while ensuring continued access to justice and essential court services, including limiting in-person appearances and requiring the wearing of masks or face shields and physical distancing in the courtrooms and other work environments; and

WHEREAS, the Supreme Court of Washington has also issued numerous orders to protect the safety of litigants and court workers, including its August 18, 2021 vaccine mandate; and

1 WHEREAS, the nation, state, and this county have experienced substantial increases
2 in infections and hospitalizations over the last month; and

3 WHEREAS, the Center for Disease Control (CDC) continues to rate Okanogan
4 County at a high level of COVID-19 transmission despite numerous public health
5 measures; and

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

12 WHEREAS Okanogan County Superior Court consists of the Superior Court and the
13 Juvenile Court Division, with its administrative, probation, treatment, dependency and
14 detention units; and

15 WHEREAS in light of the current environment, Okanogan County Superior Court and
16 the Juvenile Court Division operate in medium to high risk environments which requires
17 that all public health measures be taken to ensure sufficient public safety while providing
18 access to justice including, but not limited to, the need for Court Facilitator-client
19 interactions, Bailiff-public/juror interactions, Judicial Assistant-Attorney/public interactions,
20 courtroom evidentiary and testimonial proceedings, jury management and trials, juvenile
21 probation and administrative services and GAL-client and public interactions, safe and
22 secure custodial environments for detention services of detained youth and all staff; and

23 WHEREAS, the Pfizer vaccine received full Food and Drug Administration (FDA)
24 approval for use in the United States on August 23, 2021 and two additional vaccines have
25 been granted emergency use authorization by the FDA. All have proven safe and effective at
26 preventing severe cases of COVID infection and hospitalizations, as well as in reducing
27 transmissions of COVID-19 between people; and

28 WHEREAS, pursuant to GR 29, this court has the authority and responsibility to take
actions that are reasonably necessary for the efficient administration of justice and the
fulfillment of its statutory and constitutional duties and those duties cannot be delegated to
the legislative or executive branches of government.

NOW, THEREFORE, pursuant to the Court's authority to administer justice and to
ensure the safety of Superior and Juvenile Court, all of the Court's employees, litigants,
detained youth, and the public during this public health emergency, IT IS HEREBY ORDERED
THAT:

Court's Emergency Order Mandating Vaccination
21-1-00001-24
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1. REQUIREMENTS. Pursuant to General Rule (GR) 29, this Order prohibits any direct employees of the Okanogan County Superior Court and the Juvenile Court Division from engaging in work after November 1, 2021 unless they are fully vaccinated against COVID-19. Current and future job postings will require full vaccination against COVID-19 as a condition of employment to ensure healthy staff and safe court operations, subject to the exemptions in Paragraph 2.

2. EXEMPTIONS FROM VACCINE REQUIREMENTS.

(a) Requests for exemption from the vaccine requirement will be evaluated and granted or denied by Okanogan County's Human Resources Department after review by an outside, neutral third party, and subject to review at the discretion of the Presiding Judge of Okanogan County Superior Court.

(b) To the extent permitted by law, before providing a disability-related reasonable accommodation to the requirements of this order, Human Resources must obtain from the individual requesting the accommodation documentation from a qualified 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, Human Resources must document that the request for an accommodation has been made and the document must include the employee's attestation regarding the way in which vaccinations conflict with the religious observance, practice, or belief of the employee.

(d) Reasonable accommodations will be determined on an individualized basis. If an employee who is not vaccinated poses a direct threat in the workplace, an individualized assessment of the employee's present ability to safely perform the essential functions of the job will be evaluated. The Court will consider the dangers posed by the pandemic, including the highly contagious nature of COVID variants, as well as the Orders and guidance from other government authorities along with the nature of the employee's position and work environment. Employees who qualify for exemptions as stated in this paragraph will be considered for an accommodation that may be modified as required by the ADA, Title VII, and WLAD depending on the required accommodation or until the employee's situation changes, the legal guidance changes, or the pandemic conditions change.

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3. "FULLY VACCINATED." An employee is considered fully vaccinated if they are two weeks past their second dose of the Pfizer or Moderna COVID-19 vaccinations or their one dose of the Johnson & Johnson vaccination against COVID-19. Further, in light of waning immunity offered by vaccines over time, full vaccination also includes having received a booster shot as recommended by public health officials within one month of the employee's eligibility for available and approved booster shots.
 4. PROOF OF VACCINATION STATUS. Where required above, direct employees must provide proof of full vaccination against COVID-19. Acceptable proof must also be accompanied by the employee's sworn attestation that they have been fully vaccinated as set forth in their proof. However, personal attestation alone is not an acceptable form of verification of COVID-19 vaccination. Acceptable proof may include:
 - (a) CDC COVID-19 Vaccination Record card or photo of the card;
 - (b) Documentation of vaccination form a health care provider or electronic health record;
 - (c) State immunization information system record;
 - (d) Other proof as approved by the Court and Human Resources.
 5. EMPLOYEE. An "employee" includes persons who are engaged to perform work on a full-time or part-time basis as a paid employee (excluding jurors), an independent contractor or a volunteer with the Superior Court, to include the Juvenile Court Division.
 6. APPLICABILITY. This order does not apply to individuals who are not employees of Okanogan County Superior Court or its Juvenile Court Division. The court strongly encourages other entities and attorneys with staff who regularly appear in the courtroom to impose similar or stricter requirements on their staff and themselves to ensure the safety of the courtroom environment and continued court operations.
 7. EFFECTIVE DATE. This order becomes effective upon signing and shall remain in effect until modified or terminated by court order.

DATED this 29th day of September, 2021.



Christopher E Culp, Presiding Judge