

MEMORANDUM OF AGREEMENT THE STATE OF NEW JERSEY AND THE
COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO REGARDING
VACCINATIONS AT STATE COLLEGES AND UNIVERSITIES

WHEREAS, the Communications Workers of America, AFL-CIO (CWA) represents approximately 35,000 State workers in four collective negotiations units – the Administrative/Clerical, Professional, Primary Level Supervisors and Higher Level Supervisors units; and

WHEREAS, CWA and the State of New Jersey are parties to collective negotiations agreements; for 2019-2023 and 2020 deferral memorandum of agreement modifying the terms of the parties' 2019-2023 collective negotiations agreements collective (“the 2019-2023 collective negotiations agreements”); and

WHEREAS, the 2019-2023 collective negotiations agreements between the State of New Jersey and CWA cover all four units; and

WHEREAS, the authorized collective negotiations representative for the State of New Jersey is the Governor’s Office of Employee Relations; and

WHEREAS, CWA unit members employed at the State colleges and universities are covered by the 2019-2023 collective negotiations agreements; and

WHEREAS, certain State colleges and universities have expressed an interest in negotiating over the terms of a mandatory COVID-19 Vaccination Policy; and

WHEREAS, certain State colleges and universities have implemented monetary and other incentive programs to encourage employees to get vaccinated; and

WHEREAS, CWA’s collective negotiations agreements with the State provide that “proposed new rules or modifications of existing rules governing working conditions shall be presented to the Union and negotiated upon request of the Union as may be required pursuant to Chapter 303 of the Laws of New Jersey, as amended;” and

WHEREAS, CWA and the State desire to reach an agreement that will provide standards for the implementation of vaccination policies by the State colleges and universities and that will provide for a safe working and learning environment for employees and students of the State colleges and universities;

THEREFORE, CWA and the State enter into the following terms of agreement:

1. This Memorandum of Agreement (MOA) shall provide minimum standards to be implemented at each State college and university.

2. Colleges and universities may provide incentives for employees to be vaccinated. Prior to providing incentives, a college or university will notify CWA of its intention to offer an incentive. If the monetary value of the incentive exceeds \$100¹, a college or university will negotiate with CWA over the incentive, upon request by CWA. Incentives that pre-date this agreement shall not be rescinded due to this paragraph.
3. The parties agree that the colleges and universities shall make best efforts to facilitate direct access to vaccinations.
4. The parties agree that employees are entitled to leave for vaccination purposes in the amount and parameters currently provided by N.J.A.C. 4A:6-1.3(A)(d).
5. If a college or university desires to implement a mandatory COVID-19 vaccination policy, the college or university shall notify CWA of its intention at least five (5) calendar days prior to implementation of the mandatory vaccination policy. The vaccination policy would require employees to show proof of vaccination by October 18, 2021. The college or university shall meet with CWA to address the Union's concerns with respect to the implementation of such a policy.²
 - a. If a college or university implements a mandatory vaccination policy, the policies shall provide for exemptions for religious or medical reasons.
 - b. Disputes over whether an employee qualifies for a religious or medical exemption may be submitted to the college or university as a departmental grievance. If the employee disagrees with the departmental decision, they may appeal the decision to the person at the college or university who makes decisions on ADA accommodation issues. The employee may supplement their previous request for an accommodation as part of their appeal. For the purposes of this MOA, If an employee disagrees with the appeal decision, he/she may raise the denial of their religious or medical exemption as part of their defense to disciplinary action imposed in Paragraph 5 e below. However, once an arbitrator/mediator has ruled on the employee's challenge to the denial of a religious or medical exemption, the employee is precluded from raising the denial as a defense in any subsequent arbitration(s).
 - c. If an employee qualifies for either a religious or medical exemption, employees will be required to comply with the college or university's health and safety protocols which may include, but are not limited to, covid testing, wearing a face mask and social distancing, as may be amended by the colleges and universities. If an employee qualifies for religious or medical exemption and is required to submit

¹ Excluding leave provided for in N.J.A.C. 4A:6-1.3(A)(d).

² CWA and the State retain their respective positions as to whether the decision to mandate COVID-19 vaccinations is a mandatory subject of negotiations.

regular test results, the employee shall be tested for COVID-19 during work hours without loss of pay. Wherever feasible, the State shall offer COVID-19 tests to employee at their worksites. Tests administered at employee worksites shall be without charge to the employee. If testing is not available at employee worksites, then employees may be tested at off-site locations as determined by the college or university. Tests administered off-site shall have no out-of-pocket cost to the employee. The test to be administered and the frequency of the test shall be determined by the college or university.

- d. The parties agree that any employee, who does not qualify for a religious or medical exemption and is not fully vaccinated by the applicable deadline shall be permitted to use a combination of vacation and administrative leave during an initial period of non-compliance not to exceed ten (10) working days.
- e. Prior to the imposition of discipline on an employee who is not fully vaccinated by the applicable deadline and during their leave rights under paragraph 5(d) above, the employee shall be offered counselling by a healthcare professional assigned by the college or university, who will attempt to address the employee's questions and concerns about the COVID vaccine.
 - i. If after counselling or refusal of counselling the employee continues to refuse to comply with the applicable vaccination policy, the employee shall be suspended for three (3) days without pay. Parties agree that such suspension is based upon NJAC 4A:2-2.5(a) 1 and the parties agree that such immediate suspension is "necessary to maintain safety, health, order or effective direction of public services." During the course of the Loudermill hearing, the employee will be informed that continued failure to comply with the vaccination policy will result in suspension as set forth in ii and iii below and termination of employment as set forth in iv below.³
 - ii. If following a suspension imposed pursuant to subparagraph e(i) above, the employee does not comply with the applicable vaccination policy, the employee shall be suspended for ten (10) days without pay.
 - iii. If following a suspension imposed pursuant to subparagraph e(ii) above, the employee does not comply with the applicable vaccination policy, the

³ If during the disciplinary process an employee decides to get the vaccination, the employee, upon showing proof of the first vaccination shot, unless it's Johnson and Johnson, will be allowed to return to campus. Upon showing proof of a first shot the discipline process shall be held in abeyance. Upon proof of full vaccination – in the case of the Johnson and Johnson vaccine that is a single shot – any discipline imposed on the employee or any discipline that has been initiated shall be rescinded and recorded as an unpaid leave of absence.

employee shall be subject to a forty-five (45) day suspension without pay.

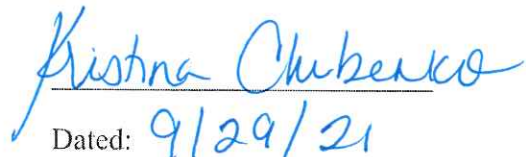
- iv. If following a suspension imposed pursuant to subparagraph e(iii) above, the employee does not comply with the applicable vaccination policy, the employee shall be subject to termination of employment.
 - f. All discipline imposed pursuant to this MOA is subject to appeal pursuant to Article 5 of the parties' 2019-2023 collective negotiations agreement.
 - g. If the college or university complied with the progressive discipline procedures above, CWA shall not assert that the disciplinary penalties imposed under paragraph 5 were unreasonable.
- 6. This MOA shall not be deemed to modify, amend or add to the parties' 2019-2023 collective negotiations agreements.
 - 7. This MOA shall not be cited as a precedent in any other matter and may not be introduced into evidence in any proceeding, including but not limited to court, administrative or arbitration proceedings, except for the purpose of enforcing the terms of this MOA.
 - 8. The terms of this MOA may be enforced through the parties' grievance/arbitration procedure set forth in Article 4 of the 2019-2023 collective negotiations agreements.
 - 9. This MOA shall be in effect through March 31, 2022. This MOA shall be subject to renewal and/or modification after March 31, 2022, through mutual agreement of the parties.

On behalf of CWA

On behalf of the State of New Jersey



Dated: 9/28/2021



Dated: 9/29/21