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Korchinski, Jaime PSA:EX

From: Executive Update PSA:EX
Sent: March 16, 2022 10:00 AM
Subject: March update: A message from Lori Wanamaker

LORI WANAMAKER

Deputy Minister to the Premier,
Cabinet Secretary and
Head of the BC Public Service



March update

Good morning.

I hope you are enjoying the first signs of spring around the province. In Victoria, the daffodils and snowdrops are beginning to bloom and it's always such a rejuvenating time of year. In alignment with spring's renewal, earlier this month we began implementing telework agreements and welcoming more of you back to workplaces.

For some, this is a return to your pre-pandemic workplace. For others new to the BC Public Service or who accepted a new position within the past two years, it may feel you're new once again. Connect with your supervisor about entering the workplace and what it looks like for you and your team. Supervisors have [tools, resources](#) and responsibilities around staff orientation and safety plans. Please review current [COVID-19 information on MyHR](#) regularly as it remains the best place for updated information.

As announced last week, B.C. is further easing COVID-19 restrictions, including lifting the mask mandate on March 11 and potentially the BC Vaccine Card on April 8. This is encouraging progress in B.C.'s pandemic response. Please note this does not change vaccination requirements outlined in the [COVID-19 vaccination policy for BC Public Service employees](#). The policy remains in place as an important measure to ensure our workplaces remain safe.

With the changes in restrictions, mask-wearing is no longer required in employee-only areas of the workplace. However, you may choose to wear a mask in the workplace at any time and you are supported to do so. Mask-wearing is required for employees when interacting with clients where physical distancing cannot be maintained and there is no physical barrier between the employee and client. Clients and the public are no longer required to wear a mask while in our workplaces. Please refer to the updated resources on [MyHR](#) and speak to your supervisor if you have questions.

March brings several important days of awareness to recognize:

- March 20 is the 20th anniversary of BC Francophonie Day, an annual celebration of the social, economic and cultural contributions French-speaking people have made and continue to make in B.C.
- March 21 is International Nowruz Day, the Persian New Year, marked by the spring equinox.
- March 21 is the International Day for the Elimination of Racial Discrimination, observed on the day police in Sharpeville, South Africa, killed 69 people at a peaceful demonstration against apartheid in 1960.
- March 31 is International Transgender Day of Visibility, a day to celebrate transgender, Two Spirit and non-binary people while raising awareness of the ongoing work necessary to achieve trans justice.
- March 31 is National Indigenous Languages Day, an opportunity for people across B.C. to recognize and honour the resilience of Indigenous language speakers.

As you may have seen, last week the BC Public Service was announced as one of Canada's top diversity employers for 2022. Thank you for continuing to hold yourselves and others accountable to ensure the BC Public Service is an equitable, diverse and inclusive organization where all employees are supported to reach their full potential.

Take care.

Lori Wanamaker
Deputy Minister to the Premier,
Cabinet Secretary and Head of the BC Public Service



Where ideas work

We acknowledge with respect that the BC Public Service operates throughout B.C. on the traditional lands of Indigenous Peoples. The BC Public Service is deeply committed to true and lasting reconciliation with Indigenous peoples in B.C.

Please note: replies to this email will go to Employee News, and will be forwarded to the relevant executive members as appropriate.

MAJOR CORPORATE ISSUE NOTE

Ministry/Ministries: BC Public Service Agency

Issue: HR Policy 25 – COVID-19 Vaccination

Background:

On October 5, 2021, the Deputy Minister to the Premier announced the intent to introduce a policy requiring all BC Public Service employees to provide proof of full vaccination against COVID-19 as a measure to further support the safety of workplaces in the ongoing global pandemic.

Human Resource Policy 25, the COVID-19 Vaccination Policy, was approved by the Minister of Finance and the policy and supporting resources were made available to all employees on November 1, 2021. Under the policy, effective November 22, 2021, all BC Public Service employees are required to provide proof of vaccination. Full vaccination for the purposes of the policy is defined as two doses of an approved COVID-19 vaccine.

A regulation under the Public Service Act established the policy as a condition of employment and that an employee terminated under the policy is deemed to have been dismissed for just cause. An employee who does not meet the requirements of the policy will be placed on leave without pay for three months. After three months of being placed on leave without pay, employees who have not become at least partially vaccinated may be terminated. The policy does allow employees to request an exemption for medical or other grounds protected under B.C.'s Human Rights Code.

At the time of implementation in November 2021, more than 98% of employees confirmed they were partially or fully vaccinated. The BC Public Service Agency (PSA) has subsequently proceeded with reviewing accommodation requests and initiating termination proceedings with those employees who chose not to comply with the policy and who did not have an approved accommodation. As of August 30, 2022, a total of 243 employees had been terminated under the policy.

Issue/Opportunity:

The primary purpose of HR Policy 25 is to promote the health and safety of employees and others in the workplace through COVID vaccinations. The primary purpose of the available vaccines is to reduce the severity of illness and risk of hospitalization, and not necessarily to eliminate transmission. Taking steps to minimize the risk and severity of illness from COVID-19 is consistent with the BC Public Service's obligations as an employer. Furthermore, it also reduces the risk of interruptions in the delivery of essential government services to the public and reduces the cost to the employer of lost productivity due to absence.

The Professional Employees' Association has initiated a policy grievance regarding HR Policy 25. Similarly, the BC Public Service is the subject of legal proceedings initiated by several excluded employees seeking a judicial review of the policy. The PSA is working with the Ministry of Attorney General to respond in both these cases. A court date for the judicial review has not yet been confirmed. However, On April 1, 2022, the BC Supreme Court denied a petition from the employees in the judicial review case seeking an injunction against their termination under the policy. On August 12, 2022, one of the petitioners in the judicial review case also filed a notice of civil claim against the Province, seeking damages for wrongful dismissal.

Most other public service employers in Canada, including the federal government, have rescinded or suspended their vaccination policies. B.C.'s Provincial Health Officer (PHO) has lifted most pandemic-related public health restrictions in B.C., although the order requiring vaccination for employees in the health care sector in B.C. remains in place. The World Health Organization's declaration of a global pandemic also remains in place. The PHO has advised the PSA that the future trajectory of the pandemic remains uncertain, with the possibility of a resurgence in fall 2022. Further the PHO advises that vaccination remains an essential measure to reduce severity of illness and transmission. As a result, the BC Public Service has chosen to retain HR Policy 25 at this time.

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Next Steps:

The BC Public Service continues to take a cautious approach in retaining HR Policy 25 until there is greater certainty regarding a potential resurgence of COVID-19 in B.C. While the policy has negatively impacted the less than 2% of the public service workforce who chose not to be vaccinated, it remains an important measure to fulfil government's obligations as an employer and to support continuity of service delivery across government.

The policy states that it will remain in place "until general public health concerns regarding COVID are reduced to a level, prescribed by government, to enable workplaces to operate without COVID-related restrictions" and that it will be reviewed and updates as needed based on guidance and directives from the PHO.^{s.12; s.13}

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**MINISTER ADVISORY NOTE
AS OF APRIL 29, 2022**

ISSUE: BC PUBLIC SERVICE COVID-19 VACCINATION POLICY

ADVICE AND RECOMMENDED RESPONSE:

- The BC government supported the effort to increase vaccination rates across the province and acted to uphold its responsibilities as an employer by making vaccination a requirement for BC Public Service employees as of November 22, 2021.
- The COVID-19 Vaccination Policy balances the privacy and human rights issues of employees with the requirements to maintain a safe work environment for employees and to protect the public in providing services.
- More than 98% of BC Public Service employees were fully vaccinated in compliance with the policy within the first three months of its implementation.
- Recognizing that the global pandemic is not over, the vaccination policy remains in place.

SECONDARY MESSAGES:

- The BC Public Service developed this policy with careful consideration of the context of B.C.'s pandemic, prevailing public health advice, the approach taken by other employers in B.C. and across Canada, and the potential legal issues and challenges to the policy.
- Compliance with the COVID-19 policy is a term and condition of employment under Regulation 284/2021 Public Service COVID-19 Vaccination Regulation of the *Public Service Act*.

CURRENT STATUS:

- Approximately 400 employees are either unvaccinated or refused to disclose their vaccination status, resulting in them being placed on leave without pay. Terminations for just cause are initiated three months after they were placed on leave without pay for those who have not requested an accommodation.
- The number of unvaccinated employees fluctuates over time due to several variables, including:
 - Terminations being completed
 - Unvaccinated employees resigning
 - Employees returning from various long-term leaves, at which time they must disclose

- their vaccination status
 - Unvaccinated employees becoming vaccinated
 - Accommodation requests being denied, with those employees subsequently considered unvaccinated
- The PSA continues to process approximately 385 accommodation requests made under protected grounds of the Human Rights Code (BC), most of which are on either medical or religious grounds.
- A small group of excluded employees initiated legal action seeking a judicial review of the vaccination policy. Their initial request for an injunction preventing their termination pending that review was denied, and the judicial review hearing is currently scheduled for mid-July.

KEY FACTS REGARDING THE ISSUE:

- The COVID-19 Vaccination policy was brought into effect on November 1, 2021 and will be in effect until general public health concerns regarding COVID are reduced to a level, prescribed by government, to enable workplaces to operate without COVID-related restrictions.
- Changes to the Occupational Safety and Health policy applied the vaccination requirement to contractors and other persons entering a public service worksite.
- The COVID-19 vaccination policy does not apply to members of the public receiving a government service.
- Costs for this fiscal and next fiscal have been budgeted for legal, contract, and salary costs related to processing exemption requests under protected areas of the Human Rights Code (BC), legal reviews, and legal challenges to the policy.

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