

**Memorandum of Understanding
Between
Santa Monica-Malibu Unified School District (“District”
Service Employees International Union Local 99 (“SEIU”)**

Implementation of the Board of Education’s Resolution Regarding Staff Vaccinations

October 3, 2021

On August 10, 2021 the Board of Education (“Board”) passed a resolution regarding employee vaccination, masking and testing as measures to be implemented to mitigate the impacts of COVID-19. Specifically, the Board passed the resolution to, “protect and advance the health, safety and well-being of its [the District’s] employees, students and surrounding community.”

The Board’s resolution specifies, but is not limited to, the following:

- Requires District employees to report vaccination status and provide documented proof of vaccination by October 1, 2021.
- Requires District employees to participate in weekly PCR testing and have a negative test to be on campuses or in a District facility.
- Requires District employees to wear a mask that covers nose and mouth.
- Provides the opportunity for employees to request an exemption or accommodation for religious grounds or for medical reasons. Employees with approved exemption or accommodation must test two (2) times per week.
- States that an employee who fails to show proof of vaccination by October 1, 2021, shall be deemed by the District to be unvaccinated, and thus excluded from campus and deemed absent without leave, unless a District-authorized exemption or accommodation has been obtained by the employee.

Additionally, the resolution directed the Superintendent, or designee, to notify the employee of the vaccination requirement and to engage in “effects bargaining” to the extent required by law. To this end, the District met with SEIU to negotiate the effects, focusing primarily on the question, “What happens to a unit member who fails to provide proof of vaccination on or before October, 1, 2021?”

Therefore, the District and SEIU agree as follows:

1. Unit members are entitled to due process.
2. Per the Board’s resolution, unvaccinated unit members are to be excluded from campus and deemed to be absent without leave.
3. The District shall provide written notice to unvaccinated employees that:
 - a. Directs them to provide proof of vaccination and report to work by a stated date.
 - b. Informs them that they are “absent without leave,” and thus not eligible to be paid and will move to unpaid status on and after a stated date.
 - c. Informs them that they may respond to the directive prior to moving to unpaid status.
4. The District shall provide unvaccinated unit members who fail to comply with the directives in the written notice (#3) Notice of Disciplinary action stating the District’s intent to dismiss. The Notice of Disciplinary Action shall include notice to unit members of their right to attend a pre-disciplinary conference (“Skelly Meeting”). Unit members shall be informed of their right to have a union representative present.
5. If, after the pre-disciplinary conference (“Skelly Meeting”), it is the District’s determination to move forward with dismissal, the District shall notify the unit member in writing.

Skelly Meeting Outline.

- A unit member shall be informed the purpose of the pre-disciplinary conference (“Skelly Meeting”).
- If the unit member states his/her/their intent to comply with the Board of Education’s directive to be vaccinated and provide documented proof of vaccination, a timeline for compliance will be established and the employee will remain in unpaid status until such time as the unit member is fully vaccinated and has provided documented proof of vaccination. A unit member who has received a timely first dose and is awaiting the second dose (maximum six-week gap) may opt to utilize Personal Necessity (“PN”) leave time until fully vaccinated (2nd dose + two weeks), even if that requires more PN that the Collective Bargaining Agreement permits.
- The unit member will be informed of the provision for exemption or accommodation.
- If the unit member stated his/her/their intent is not to comply, the unit member shall be informed of the District’s intent to move forward with dismissal.
- In lieu of dismissal, the unit member will be advised that resigning is an option in lieu of dismissal, and thus the unit member remains eligible to request reinstatement, and will remain eligible for reinstatement for 39-months.
- If dismissed for being unvaccinated, the unit member will be deemed to be dismissed “in good standing” and thus eligible to request reinstatement, and will remain eligible for reinstatement for 6-months.
- Reinstatement candidates shall be given preference over candidates on an eligibility list, comparable to transfer candidates.
- To request reinstatement, a unit member must provide proof of vaccination at or before requesting reinstatement.
- The District will consider other plans for unit members to comply with the resolution that requires employees to be vaccinated.

For the District:



Date: October 3, 2021

For SEIU



Date: October 3, 2021