

Special Director's Meeting Minutes

State Human Resources, Office of Financial Management

September 27, 2022

Opening

The State Human Resources Special Director's meeting was called to order at 8:30 a.m. on Tuesday, September 27, 2022. Due to the COVID-19 pandemic, the session was via conference call. The results of this meeting are summarized below. All items were adopted as printed on the Director's meeting agenda unless otherwise noted.

Present

Staff:

- Michaela Doelman, State Chief Human Resources Officer, State HR
- Mindy Portschy, Classification and Compensation Specialist, State HR
- Brandy Chinn, Rules and Legislative Relations Manager, State HR

Logistics and Information

- This publication and related materials are available on the Internet at the following web address:
<http://hr.ofm.wa.gov/meetings/directors-meetings>
- Comments and suggestions regarding the meeting process related publications; requests for alternate formats are welcomed and may be forwarded to:

Logistics Coordinator	Email classandcomp@ofm.wa.gov
State Human Resources	Fax (360) 507-9258
Office of Financial Management	
128 10th Avenue SW	
PO Box 47500	
Olympia, Washington 98501	
- Requests for historic Director's meeting publications and recordings may be directed to (360) 407-4162 or classandcomp@ofm.wa.gov

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Introduction

Michaela Doelman, State Chief Human Resources Officer: The Tuesday, September 27, 2022 State Human Resources Special Director's public meeting, came to order at 8:30 a.m. Michaela Doelman, State Chief Human Resources Officer, Office of Financial Management, chaired the meeting. The meeting was held exclusively through a Zoom platform, and the meeting attendees were told the meeting would be recorded.

Before the meeting began, the following housekeeping items were discussed.

- Written Testimony: There were 124 written comments, including supporting data, received.
- Oral Testimony: There were three requests to provide oral comments in advance of the meeting, and they were added to the meeting roster.
- Phone Testimony: Open comments during the meeting proceedings.

Michaela heard the rule item presentation and comments, however, did not respond to any comments or questions during the actual meeting proceedings. At the conclusion of the meeting, all comments were to be summarized for consideration by the OFM Director; and Michaela indicated a letter would be generated, outlining the decision on the proposed rule amendment.

Mindy Portschy, Senior Classification and Compensation Specialist, State HR: There were no minutes, exempt compensation, classification, or compensation items for this meeting.

The first and only item of business was presentation of the Rule Amendments.

Section E: Rule Amendments

Brandy Chinn, Rules and Legislative Relations Manager, State HR: Brandy presented one rule item for consideration.

Rule Item 1: COVID-19 Vaccination Requirements

Explanation: On August 5, 2022, Governor Jay Inslee issued a revised [Directive, number 22-13.1](#), COVID-19 Vaccination Standards for State Employees, which directs a permanent COVID-19 vaccination condition of employment requirement for state executive and small cabinet agencies. The Governor directs a condition of employment for all new employees to be fully vaccinated against COVID-19 as recommended by the U.S. Centers for Disease Control and Prevention and directs the Office of Financial Management State Human Resources Division to take steps to continue the requirement for nonrepresented employees to be fully vaccinated against COVID-19 as recommended by the CDC.

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To implement this directive, staff is proposing to place new provisions in title 357 WAC to:

1. Define "fully vaccinated" against COVID-19;
2. Require nonrepresented employees of executive and small cabinet agencies to be fully vaccinated or request an exemption due to a disability and/or medical condition or if the requirement conflicts with an employee's sincerely held religious belief, practice, or observance;
3. Require an executive or small cabinet employer to obtain proof from an eligible candidate that they are fully vaccinated, or to consider whether a reasonable accommodation can be granted if the eligible candidate requests an exemption due to a disability and/or medical condition or if the requirement conflicts with an eligible candidate's sincerely held religious belief, practice, or observance after a conditional offer of employment is made; and
4. Require an executive or small cabinet employer to separate an employee who fails to comply with the COVID-19 vaccination requirement.

Staff proposed permanent adoption effective November 1, 2022.

Summary of Testimony

During the public hearing, state organizations and members of the public were provided the opportunity to make comments on the proposed rules.

In total, 153 written comments including supporting data were received. During the meeting, 10 individuals provided oral testimony. Seven of the 10 individuals who provided oral testimony also provided written comments. The written comments and oral testimonies were categorized into five areas of concern. The five categories and the description of each category is listed below.

Category	Description of Category	OFM's response (Indicating how the final rule reflects consideration of the comments, or why it fails to do so.)
Legal Authority	Issue should be addressed via the legislature, not agency rulemaking - OFM lacks statutory authority to make rules, did not follow proper rulemaking procedure - Believe rulemaking violates medical freedom and Nuremberg Code.	Comments were considered but mostly not incorporated in final rule. OFM has rulemaking authority under RCW 41.06.133 and RCW 41.06.150. Multiple courts have held vaccine mandates in themselves do not violate the constitution or other laws. OFM did make a non-substantive change to clarify that the rule is directed at governmental entities, in response to a comment that the correct process was

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Category	Description of Category	OFM's response (Indicating how the final rule reflects consideration of the comments, or why it fails to do so.)
		not followed for rules regulating non-governmental entities.
Vaccine Safety	Concerns relating to the safety of the vaccines and often reference VAERS data or individual experiences with adverse vaccine reactions.	<p>Comments were considered but not incorporated in final rule. Both the federal Centers for Disease Control (CDC) and Prevention and the Washington Department of Health (DOH) have stated that vaccines are "safe and effective."</p> <p>As noted by DOH, the vaccines have been shown to be safe in clinical trials, and were developed, tested, and authorized using the same rigorous process used for other successful vaccines. And according to the CDC, "Millions of people in the United States have received COVID-19 vaccines under the most intense safety monitoring in US history." The CDC, therefore, recommends COVID-19 vaccines for everyone 6 months and older.</p> <p>See the following links:</p> <p>https://doh.wa.gov/emergencies/covid-19/vaccine-information/safety-and-effectiveness</p> <p>https://www.cdc.gov/coronavirus/2019-ncov/vaccines/safety/safety-of-vaccines.html</p>
Vaccine Efficacy	Concerns relating to the effectiveness of the vaccines and that many vaccinated individuals continue to catch COVID-19.	Comments were considered but not incorporated in final rule. Both the federal Centers for Disease Control and Prevention (CDC) and the Washington Department of Health

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Category	Description of Category	OFM's response (Indicating how the final rule reflects consideration of the comments, or why it fails to do so.)
		<p>(DOH) have stated that vaccines are "safe and effective."</p> <p>As noted by DOH, vaccination reduces the chances of hospitalization and lowers the risk of dying from COVID-19, and is highly effective at preventing COVID-19. Similarly, the CDC states that "vaccination helps protect adults and children ages 6 months and older from getting severely ill with COVID-19 and helps protect those around them."</p> <p>See the following links:</p> <p>https://doh.wa.gov/emergencies/covid-19/vaccine-information/safety-and-effectiveness</p> <p>https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness/index.html</p>
Service/Employee Impacts	Concerns regarding impacts to public services and individual employees if employees are separated or unable to seek employment, many comments specifically address the Ferry system impacts.	Comments were considered but not incorporated in final rule. The risk of impacts to services and individual employees from a vaccination requirement is outweighed by the risk of serious illness or death of unvaccinated employees who contract COVID-19. The state of Washington has a duty to our employees to provide a safe work environment and to reduce risk to the public we serve, and COVID-19 vaccination is the single most effective resource to prevent serious illness and death.
General	General disagreement with the Governor's Directive to mandate	Comments were considered but not incorporated in final rule. The rules are

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Category	Description of Category	OFM's response (Indicating how the final rule reflects consideration of the comments, or why it fails to do so.)
	employee vaccinations or comments that did not fit in any of the other categories.	in accordance with the policy decision set forth in Governor Jay Inslee's Revised Directive, #22-13.1, which directs a permanent COVID-19 vaccination requirement as a condition of employment for state executive and small cabinet agencies.

Michaela Doelman, State Chief Human Resources Officer, OFM: The rule presentation and comments would be summarized for the OFM Director.

Adjournment

Mindy Portschy, Senior Classification and Compensation Specialist, State HR: There were no other items for consideration, and the business was concluded.

The next regularly scheduled meeting was announced as Thursday, November 10, 2022, beginning at 8:30 a.m. and would be via Zoom with a dial-in option. The Zoom and telephone dial-in information would be included in the posted agenda.

Minutes Approved By

Michaela Doelman, State Chief Human Resources Officer
State Human Resources
Office of Financial Management

Date