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September 27, 2021

018001-001

By Electronic Mail

IAMAW Local Lodge 2424
c/o District Lodge 1

Re: Vaccination Mandates and Status Certification

Dear Members and Officers of Local Lodge 2424:

I am writing to update you on your legal rights with respect to vaccine mandates and reporting requirements in the workplace. Given recent policy updates from the Federal government and the changing circumstances on the ground in some communities, many employers are now requiring employees to certify whether they have received a COVID-19 vaccination. Many employers are requiring unvaccinated employees to undergo stricter masking and testing requirements. In some cases, employers are banning unvaccinated employees from the workplace entirely.

One question that arises under these circumstances is whether the employer is legally entitled to ask employees about their vaccination status. In brief, the answer is "yes": an employer can require employees to certify their vaccination status as a condition of employment, although it must do so in a way that protects employee confidentiality. Recent guidance from the EEOC makes it clear that an employee's vaccination status is confidential medical information that, under the Americans with Disabilities Act (ADA), must be safeguarded and stored separately from the employee's personnel file to prevent accidental disclosure. For example, an employer could not use a public roster to obtain or publish this information, nor could it place an identifier on employee ID cards showing whether employees were vaccinated. But an employer can request this information from an employee through a confidential online system (for example, a payroll system), or by having employees submit a copy of their vaccination card. I would also note that we are starting to see local law enforcement prosecutions of employees who falsify vaccine records.

I also want to note that under current EEOC guidance an employer may mandate vaccination as a condition of employment or require employees to either show proof of vaccination or be subject to stricter masking and testing protocols. As with any employer policy, your union has the right to bargain over the effects of these requirements. Subjects

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of bargaining could include the timeline for implementation of the requirement, training for employees on the implementation, or a process for appealing any disputes arising over an employee's certification.

This is a rapidly evolving area of the law. If you encounter issues around vaccination mandates or certification requirements, it may be helpful to consult with your District representatives or legal counsel.

Very truly yours,

A handwritten signature in black ink, appearing to read 'JDR', written over a light blue horizontal line.

JOSEPH D. RICHARDSON

JDR/cf

Cc: Anthony Armideo