

# **TDSB COVID-19 VACCINATION PROCEDURE UPDATE**

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# Implementation Update

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# Implementation Timelines

- November 22, 2021
  - Staff who have received no vaccination and are not waiting for an exemption decision (medical or creed) are placed on Non-Disciplinary Leave of Absences without pay based on non-compliance
- December 17, 2021
  - Staff who received at least one dose of a vaccine by November 19 will be given until December 17 to receive their second dose
- Staff who have a medical or creed-based accommodation pending will continue to work while following all safety protocols, including regular rapid antigen testing, until a decision is rendered

# TDSB Staff Vaccination Status

Status	Vaccination Status	Count	% of Staff
Active	Full Vaccinated <14 days and Testing	74	0.2%
	Full Vaccinated +14 days	36,773	88.2%
	Partially Vaccinated	500	1.2%
	Approved Creed Exemptions	-	0.0%
	Approved Medical Exemptions	4	0.0%
	Staff Exempt Working Remotely	268	0.6%
	<b>Subtotal Staff Deemed Compliant with Procedure:</b>	<b>37,619</b>	<b>90.2%</b>
Seeking Exemptions	Staff Seeking Creed Exemptions	676	1.6%
	Staff Seeking Medical Exemptions	421	1.0%
	<b>Subtotal Staff Requesting Exemptions:</b>	<b>1,097</b>	<b>2.6%</b>
On-Leave	Staff on Leave - Exempt until return	1,770	4.2%
	<b>Subtotal Staff on Leave:</b>	<b>1,770</b>	<b>4.2%</b>
Non-Compliant	Unvaccinated Temporary Operational Exemption	288	0.7%
	Creed/Medical 45 day Extension	4	0.0%
	Attested Unvaccinated	300	0.7%
	Unattested - Permanent Staff	66	0.2%
	Unattested - Occasional Staff	546	1.3%
	<b>Subtotal Staff Non-Compliant with Procedure:</b>	<b>1,204</b>	<b>2.9%</b>
	<b>Total staff:</b>	<b>41,690</b>	<b>100.0%</b>
<b>Compliance Rate Excluding Staff on Leave &amp; Seeking Exemptions:</b>		<b>38,823</b>	<b>96.9%</b>

# Data Collection: Support Staff Fill Rates

\*Effective Date: Nov 21, 2021

FILL RATES November 1-19	2019-2020		2020-2021		2021-2022	
	# of Jobs	Fill Rate	# of Jobs	Fill Rate	# of Jobs	Fill Rate
EA - Spec Ed	6412	90.86%	8603	75.26%	7389	53.53%
DECE	4156	95.83%	3963	89.60%	3951	93.82%
Office	2573	93.31%	3885	79.51%	3221	70.04%
SBSM	466	86.94%	590	68.30%	688	43.89%
CYW	118	95.76%	90	94.44%	135	60.00%
LRS	5849	85.14%	7451	71.88%	6638	68.92%
NHA	780	73.84%	948	56.01%	1087	43.14%

# Data Collection: Teaching Staff Fill Rates

\*Effective Date: Nov 21, 2021

**Fill Rate:** Represents the percentage of jobs that are filled by a replacement or occasional staff for a set time period

Elementary and Secondary Teacher Fill Rates										Effective: November 21, 2021				
2019-2020					2020-2021					2021-2022				
School Year	# of Uncovered Jobs	# of Covered Jobs	# of Jobs	% of Jobs Covered	School Year	# of Uncovered Jobs	# of Covered Jobs	# of Jobs	% of Jobs Covered	School Year	# of Uncovered Jobs	# of Covered Jobs	# of Jobs	% of Jobs Covered
Elementary Teachers	1184	31848	33032	96.4%	Elementary Teachers	3276	16767	20043	83.7%	Elementary Teachers	3089	19894	22983	86.6%
Secondary Teachers	94	11721	11815	99.2%	Secondary Teachers	88	5268	5356	98.4%	Secondary Teachers	1129	6301	7430	84.8%
<b>Total</b>	<b>1278</b>	<b>43569</b>	<b>44847</b>	<b>97.2%</b>		<b>3364</b>	<b>22035</b>	<b>25399</b>	<b>86.8%</b>		<b>4218</b>	<b>26195</b>	<b>30413</b>	<b>86.1%</b>

# Data Collection

\*Effective Date: Nov 21, 2021

\* not all employee groups are depicted in slide 7 & 8

## Attested Unvaccinated Staff by Employee Group

Employee Group	Replacement	Working In a School	Total
CYW/CYC	23	15	38
DECE	9	22	31
ED Assistant	13	25	38
Caretaker		44	44
Elem School Secretary		6	6
Elem OA		8	8
Lunch Room Supervisor	21	57	78
Noon Hour Assistant	6	8	14
School Based Safety Monitor	3	8	11
Social Worker		1	1
Special Needs Assistant		20	20
<b>Total</b>	<b>75</b>	<b>214</b>	<b>289</b>

# Data Collection

\*Effective Date: Nov 21, 2021

\* Not all employee groups are depicted in slide 7 & 8

## Attested Unvaccinated Staff by Employee Group

Employee Group	Replacement	Working In a School	Total
Occ Elem Teacher	112		112
Occ Sec Teacher	21		21
Teacher Secondary		19	19
Teacher Elementary		73	73
<b>Total</b>	<b>133</b>	<b>92</b>	<b>225</b>



# Attested and Unvaccinated Staff

## Distribution by Learning Opportunities Index (LOI)

- Approximately 55% of the unvaccinated support staff work in schools in the lowest half of the LOI at the elementary level
- Approximately 65% of the unvaccinated support staff work in schools in the lowest half of the LOI at the secondary level

# Limited Staff Exemptions

- A limited number of temporary exemptions based on:
  - Historically low fill rates
  - Critical roles regarding student safety and supervision
  - Limited ability to ensure replacement staff
  - Disproportionate impact on historically underserved communities
- A total of 289 temporary exemptions, primarily for school-based staff were offered
- Exemptions will remain in place until we are able to adequately fill these positions on a case-by-case basis
- Staff granted exemptions will be required to conduct rapid antigen testing 3x a week and report as part of their daily screening before reporting to work



# Strategies To Maintain Service Continuity

- Temporary pool of support staff (clerical, EA/SNA) given Acting Temporary status being created to be deployed to schools with extremely low fill rates on regular basis
- Additional allocations of support staff being distributed to schools with significant identified need through Education Workers Protection Fund and System Priority Funding
- Greater restrictions placed on recently hired Occasional Teachers - as part of the condition of employment they must select 1-3 schools identified as priority areas to accept daily work in
- School Based Staff (CUPE) must now work 60 days in the school year to remain on the Roster.
- Agreement reached with CUPE to allow Permanent LRS/NHA at a school to temporarily fill vacancies for clerical, EA, SNA, or ISSA positions for up to 30 days as an Emergency Replacement Support Staff
- Continue to recruit for all positions externally but especially for positions that have been identified as having limited replacements
- Continue to look at various ways to streamline the onboarding process

## Key Legal Decisions: Vaccination Policies Injunctions against Terminations

### Blake v. UHN (Oct. 22 and 29/21)

- UHN policy required vaccination of its 17,000 staff
- Non-compliance ⇒ termination of employment Oct 22/21
- Temporary interim Injunction granted to suspend terminations of six employees until hearing of Oct 28/21
  - Time to review last minute materials
  - Invite all UHN bargaining agents to intervene
- Ultimately, the court agrees with UHN
  - interim injunction dissolved
  - UHN allowed to proceed with terminations
- Decisions do not address the merits or legality of the vaccination policy

## Key Legal Decisions: Vaccination Policies Arbitration Awards

### **UFCW and Paragon Protection (Nov. 9/2021, Von Veh)**

- MVP is reasonable, enforceable, and complies with OHSA and Human Rights Code

### **PWU and Electrical Safety Authority (Nov. 11/21, Stout)**

- Some aspects of MVP were unreasonable under the circumstances
- MVPs are reasonable and in some cases necessary in high risk workplace settings with vulnerable populations such as unvaccinated children (para. 17)

## Key Legal Decisions: Vaccination Policies Arbitration Awards

### PWU and Ontario Power Generation (Nov. 12/21, Murray)

- MVP reasonable except OPG must pay for costs of testing (\$25/wk)
- LOA without pay for six weeks, then termination for cause
- *“Unlike other occasions when the company sends someone home pending potential discipline, in these circumstances, it is completely within the control of the employee to decide when to come back to work”*
- *“Unvaccinated individuals who refuse to participate in reasonable testing are, in effect, refusing of their own volition to present as fit for work”*
- Those who are terminated for not testing *“are very likely to find the termination of employment upheld at arbitration. Effectively, employees who refuse testing will likely have made a decision to end their career with this Company”*

## Key Legal Decisions: Vaccination Policies Injunctions

### **ATU Local 113 and TTC and NOWU v. Sinai Health System (Nov. 20/2021, Ontario Superior Court):**

- TTC unique workplace (ie City of Toronto) - all the people in the City have an interest in the TTC safely moving its passengers
- TTC has a statutory obligation to *“take every precaution reasonable in the circumstances to protect the health and safety of its workers. It is also expected to protect the health and safety of its riders, and thus to contribute to the protection of the health and safety of the community at large.”*
- Despite other COVID-19 measures, TTC experienced multiple outbreaks (over 1K contacted COVID-19; four died)
- TTC has encouraged vaccinations - clinics for staff and customers
- City of Toronto encouraged all City agencies/corporations to adopt mandatory vaccination policies like the City’s

## Key Legal Decisions: Vaccination Policies Injunctions

### ATU Local 113 and TTC and NOWU v. Sinai Health System (Nov. 20/2021, Ontario Superior Court) (...cont'd)

- *“TTC has established that the enforcement of its MVP aligns with the public interest broadly”* as well as its workforce and ridership
- *“I accept this is a difficult, stressful, and unwelcome dilemma for employees concerned. But having to choose between two undesirable alternatives does not create harm that will render arbitration moot... No one is forced to get vaccinated”*
- *“It will force employees to choose between two alternatives when they do not like either of them. The choice is the individual’s to make. Of course, each choice comes with its own consequences; that is the nature of choices”*



# Key Next Steps

- Exploring redeployment of central teaching staff to address chronic shortages in schools
- Discussions on hiring on a term basis for central staff where critical positions may have staff that are not available for work
- Conduct further consultation with groups around impact of the vaccination procedure

