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Judy Aldan

IN THE
SUPREME COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

IN RE COVID-19 VACCINATION OR TESTING REQUIREMENT AND OTHER
CONTAINMENT MEASURES FOR JUDICIARY EMPLOYEES

SUPREME COURT NO. 2021-ADM-0017-MSC

¶ 1 On October 28, 2021, the Commonwealth of the Northern Mariana Islands (“CNMI”) recorded its first confirmed cases of community transmission of coronavirus disease 2019 (“COVID-19”) in over six months. As of November 1, 2021, twenty-seven confirmed positive cases of COVID-19 have been identified via community screening. Individuals infected with COVID-19 may have a wide range of symptoms, including mild to severe illness.¹ The Centers for Disease Control and Prevention (“CDC”) concluded that in 2020, COVID-19 was the third leading cause of death in the United States.² The COVID-19 pandemic continues to be a public health emergency around the world and in the CNMI, and preventive measures must be undertaken to reduce transmission.

¶ 2 The CDC has recommended various preventive measures to protect people from contracting COVID-19, including vaccination, wearing masks, social distancing, avoiding crowded or poorly ventilated areas, washing of hands, covering when sneezing, cleaning and disinfecting, and monitoring health regularly. In particular, the CDC has recognized the importance of vaccination in reducing the spread of COVID-19, even with the emergence of the Delta Variant:

COVID-19 vaccines currently approved or authorized in the United States have been shown to provide considerable protection against severe disease and death caused by COVID-19. These findings, along with the early evidence for reduced levels of viral mRNA and culturable virus in vaccinated people who acquire SARS-CoV-2 infection, suggest that any associated transmission risk is substantially reduced in vaccinated people:

¹ Centers for Disease Control and Prevention, Frequently Asked Question, <https://www.cdc.gov/coronavirus/2019-ncov/faq.html#If-You-or-Someone-You-Know-is-Sick-or-Had-Contact-with-Someone-who-Has-COVID-19>, (last visited November 1, 2021).

² Farida B. Ahmad et al., *Provisional Mortality Data—United States, 2020*, MMWR Morb Mortal Weekly Report 2021; 70:900, https://www.cdc.gov/mmwr/volumes/70/wr/mm7014e1.htm?s_cid=mm7014e1_w, (last visited November 2, 2021).

even for Delta, evidence suggests fully vaccinated people who become infected are infectious for shorter periods of time than unvaccinated people infected with Delta.³

¶ 3 Due to the recent cases of community transmission and the data supporting the effectiveness of COVID-19 vaccinations and other types of containment measures, the Judiciary finds it appropriate to adopt an order mandating preventive measures. Accordingly, under the Supreme Court’s inherent and supervisory powers vested under Article IV, Section 3 of the NMI Constitution and 1 CMC § 3401(a), the Court hereby **ORDERS** the following:

I. VACCINATION AND TESTING REQUIREMENTS

1. Effective November 2, 2021, all employees of the Judicial Branch of the Northern Mariana Islands shall be required to receive one of the three U.S. Food & Drug Administration (“FDA”) approved or authorized COVID-19 vaccinations or any other vaccine(s) later approved or authorized by the FDA. Employees shall be fully vaccinated with either a single shot of the Janssen or two shots of the Pfizer or Moderna series no later than **December 3, 2021**.
2. Employee(s) means exempt or non-exempt, full-time or part-time employees and volunteers of the Judiciary, whether or not they are paid or unpaid.
3. Employees must provide proof of vaccination to the Human Resource Office/Administrative Officer on or before **December 3, 2021**.
4. If an employee declines to receive a COVID-19 vaccination or provide proof of such vaccination, the employee will be required to undergo COVID-19 testing once weekly, starting on **December 6, 2021**. The employee must submit a negative test result for each required weekly cycle before entering the workplace.
5. Workplace means any and all Judiciary owned, leased, or operated facility.
6. Employees who do not vaccinate or submit to weekly testing may be subject to corrective or disciplinary procedures in accordance with the applicable rules and regulations.
7. Individuals with medical or other reasons seeking exemption from vaccination or testing must provide necessary documentation to the Human Resources/Administrative Officer no later than **December 3, 2021**.

³ Centers for Disease Control and Prevention, Science Brief: COVID-19 Vaccines and Vaccination, <https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/fully-vaccinated-people.html>, (last visited November 1, 2021).

8. The Director of Courts and Human Resources/Administrative Officer shall coordinate with Commonwealth Healthcare Corporation (“CHCC”), the Governor’s COVID-19 Taskforce, or any other relevant agencies to ensure that Judiciary employees have adequate opportunities to receive a COVID-19 vaccine or access to a weekly testing.
9. The Judiciary shall maintain employee records of vaccination status, declination forms, and/or testing results consistent with privacy laws and regulations.

II. TWO DEGREES OF SEPARATION RISK ASSESSMENT, REPORTING PROCEDURE AND CONFIDENTIALITY

Judiciary employees are required to confirm that they are separated by at least two degrees from a confirmed positive for COVID-19 before reporting to work.

What does this mean in practice?

1. Confirmed Positive for COVID-19

Anyone who has been confirmed positive for COVID-19 should maintain self-isolation. The employee must notify the Director of Courts and their supervisor as soon as possible and should not report to work.

2. First Degree of Separation (Person A)

First Degree of Separation means:

- A. Anyone who has been in close contact with someone who has been confirmed positive for COVID-19; or
- B. Anyone who has visited a country with community outbreak.

3. Second Degree of Separation (Person B)

Second Degree of Separation means anyone who has come into close contact with Person A.

4. Close contact is defined as having been within six feet for more than 15 minutes.
5. Anyone who fits into any of the above categories must notify the Director of Courts and their supervisor as soon as possible and should not report to work until they are clear to do so – which is being 14 days symptom-free; until such time that they have received official clearance from CHCC or the COVID-19 Taskforce; or until such time they have received approval from the Judiciary.

6. Any employee who is at work and receives credible information, placing them in any of the above categories, must immediately leave work and remotely notify the Director of Courts and their supervisor.
7. Any and all information received by the Judiciary will be held confidential; however, information may be released internally or to the proper authorities for purposes of contact-tracing and preventing the spread of COVID-19.

III. NOTICE AND LEAVE

Employees must follow all COVID-19-related measures mandated by the Court, which include wearing face masks and practicing social distancing of no less than six feet, and the following provisions:

1. Employees must fill out and sign the COVID-19 contact-tracing register/sheet before entering the Judiciary workplace.
2. Supervisors are required to enforce and monitor their staff's compliance with the Court's orders, including this Order.
3. The Marshal Services Division shall enforce and monitor compliance at all Judiciary facilities and events.
4. Failure to comply with the Court's orders may result in corrective or disciplinary action in accordance with the NMI Judicial Branch Personnel Rules or any other applicable rules and regulations.
5. If an employee exhibits symptoms of COVID-19, they may be asked to go home and seek medical help.
6. If an employee cannot come to work because they are feeling sick, the Judiciary may ask whether they are experiencing COVID-19-like symptoms. All information will be held confidential.
7. In the event an employee tests positive for COVID-19, they will be required to be quarantined and will be asked to identify all individuals at work who they had close contact with within the last 14 days. They will be required to provide a doctor's note or a negative test result, certifying fitness to return to work.
8. If an employee or their family member or individual who lives in the same household travels outside of CNMI, that employee must report such information to the Director of Courts and their immediate supervisor. The Judiciary may ask whether the employee or

their family members are returning from a place known to have a widespread or ongoing community transmission.

9. Administrative leave may be granted to employees whose potential or actual exposure to COVID-19 is work-related. Approval of the administrative leave shall be determined in accordance with the NMI Judicial Branch Personnel Rules or any other applicable rules and regulations. If potential or actual COVID-19 exposure is not work-related, employees may use leave from accrued personal balances to date or be placed on leave without pay status during quarantine, unless they are able to telework.
10. If an employee is able to telework, they are encouraged to do so after consulting with their immediate supervisor and being granted approval. Individuals who telework shall abide by the terms of the Judiciary's Telework Policy and Agreement.

¶ 4 This Order supersedes the March 16, 2021, internal memorandum and may be revised as circumstances warrant and more information becomes available.

SO ORDERED this 2nd day of November, 2021.

/s/

ALEXANDRO C. CASTRO
Chief Justice

/s/

JOHN A. MANGLONA
Associate Justice

/s/

PERRY B. INOS
Associate Justice