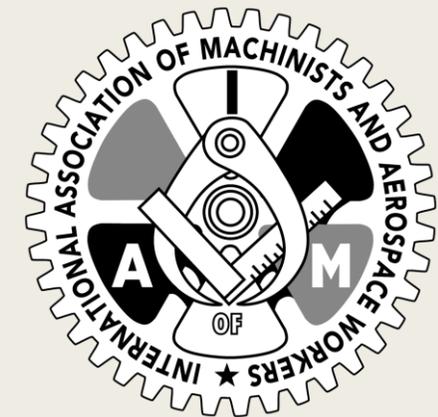


FIGHTING MACHINISTS' 7 STEP ACTION PLAN

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GOALS

- We have a united goal to demand **a safe workplace** where people can earn a decent and fair wage.
- Our goal has consistently been about **strength through solidarity** in the workplace. We need to remind workers not to let anti-union forces divide us between “have’s and have not’s”
- We need to **focus our resources** where we can actually help members
- We need to **communicate** to our members the **action** we are taking to protect all members in the workplace

Cases -- Why the “Action” does not include litigation.

- *U.S. Supreme Court:*

- *Jacobson v. Massachusetts 1905:*

- “Society based on the rule that each one is a law unto himself would soon be confronted with disorder and anarchy.

- “Real liberty for all could not exist under the operation of a principle which recognizes the right of each individual person to use his own... regardless of the injury that may be done to others.”

- *Doe v. Mills Oct. 2021:*

- 6-3 decision Supreme Court refused to stop mandate that did not allow for religious exemption

- Two other cases rejected by Justices including Conservative Justice Amy Coney Barrett

NO COURT HAS FOUND MANDATES TO BE UNLAWFUL

- More than 15 lower Courts have REFUSED to stop mandates whether issued by employers or governmental agencies
- This includes cases brought by Unions
- The one case that issued a temporary injunction, did so because the CBA required arbitration before implementation and so it was enjoined until arbitrated
- At least 7 other cases have already been dismissed including in conservative leaning Texas

NEW RULES IMPLEMENTED TODAY

- Today the White House pushed back the cut off date for federal contractors from December 8 to **January 4, 2022** so employers have a uniform date for all employees.
- OSHA Issued Emergency Temporary Standards requiring employers with 100+ employees (PT or FT; Corporate wide) to either adopt mandatory vaccine policy or a policy that allows employees to choose instead to wear face coverings and test every 7 days also by **January 4, 2022**. **Employers can choose to go with mandatory only or a mix for different workforces.**
- Requires employee to have paid time off for vaccination (up to 4 hours during work hours) and for recovery from vaccination only starting December 5, 2021
- Sets forth “proof” to be offered for vaccinated status and without must treat as non-vaccinated
- Testing rule doesn’t apply for 90 days following positive test or diagnosis.
- Does NOT require employer to pay for testing
- New rule does NOT apply to workplaces covered by federal contractor requirement or Healthcare requirements
- Does not apply to workers who work from home, work exclusively outdoors or work alone

NEW RULES IMPLEMENTED TODAY

(cont'd)

- “Nothing in this section prevents employers from agreeing with workers and their representatives to additional measures not required by this section and this section does not supplant collective bargaining agreements or other collectively negotiated agreements in effect that may have negotiated terms that exceed the requirements herein.”
- *New rules preempt inconsistent state or local laws* including those that ban or limit an employer’s authority on mandates
- Employers can be fined for violations
- Employers must provide notice in language workers understand

WH Statement

“But even once we hit those deadlines, we expect federal agencies and contractors will follow their standard HR processes and that, for any of the probably relatively small percent of employees that are not in compliance, they’ll go through education, counseling, accommodations and then enforcement,

So, these processes play out across weeks, not days. And so, to be clear, we’re creating flexibility within the system. We’re offering people multiple opportunities to get vaccinated. There is not a cliff here.”

SO WHAT IS THE IAM DOING?

WHAT WE ARE BEST AT AND
ALWAYS DO

THE FIGHTING MACHINISTS'
7 STEP ACTION PLAN

STEP 1 Make a Detailed Information Request.

- Find out about their federal contractor status
- Find out what their vaccination policy will be
- Find out how many people have contracted COVID in the workplace
- Find out how many people have died from COVID in the workplace
- Find out what other protections will be in place, masks, social distancing...
- Find out what their exemption request policy will be
- Find out how they are implementing with other workers including managers

STEP 2 – Demand Effects Bargaining

- Paid time for recovering from any side effects of the vaccine
- Medical leave of absence with seniority for those who chose not to be vaccinated
- Rules about providing proof of vaccination
- Access to accrued paid time off and health care for those who chose not to be vaccinated
- Rules governing exemptions
- Imposition of additional exemptions like conscientious objector
- Agreements not to fight Workers Comp if workers get COVID or have negative side effects from vaccine
- Incentive pay for those who get vaccinated by X date
- Testing as alternative to vaccination or in addition
- Who pays for costs of testing or masks
- Expedite Arbitrations over Terminations

STEP 3 – Conduct a Survey

- Survey the membership to learn their views on masking, social distancing, barriers, testing and other workplace safety measures
- What does the membership prioritize for effects bargaining?
- Remember we often only hear from those who are angry so determine if it is the majority view or a vocal minority

STEP 4 – Engage Members In Concerted Activity for Effects Bargaining

- Harness all the concerted energy out there to help you achieve your demands in effects bargaining
 - Treat this like any bargaining where you need to bring additional pressure to get employer to do the right thing
 - *Informational picketing*
 - *Solidarity day*
 - *Newsletters*
 - *Rallies*
 - *Letter writing campaigns*
- All united and focused on getting the employer to do what we need in effects bargaining.*

STEP 5 – Use the Media and Politicians to Help with Effects Bargaining

- You can harness the power of the media and politicians to help the employer see your view on effects bargaining
- This step is not about taking divisive positions that allow the employer to ignore your position or will ostracize the public, but getting everyone to understand that they are not fairly treating our members in ways they can.
- If you focus on fighting the mandate, you will detract from the good we can accomplish from our solidarity through effects bargaining. The employers want us divided and focusing on losing issues.
- Use the media and politicians to make the employer discuss fair consequences from the mandates

STEP 6 – Passionately Pursue Grievances

This is how to hold their feet to the fire

- Make sure the employer follows your CBA to the letter
- Do you have pre-termination hearings? Make sure they follow them.
- Do you have explicit progressive discipline? Make sure they follow it.
- Do you have notice requirements? Make sure they provide it.
- Have they provided education and counseling as the federal government said they should before termination?
- Is there a procedure for expedited arbitration?
- Have they properly considered requests for accommodation?
- Are the accommodations reasonable?
 - *Can they isolate workers?*
 - *Allow them to work outdoors?*
 - *Allow them to work at home?*

STEP 7 – Tell Workers Who Are Denied Accommodations to File With EEOC

- The requirement for accommodations (whether medical or religious) is a requirement of Title VII
- This is no different than any other denial of rights under Title VII.
- Employees must first exhaust by filing a charge with the EEOC
- Don't let employers violate our members' rights without ensuring the members know the law about those rights
- Check to see if the state allows for other exemptions
 - *Like Illinois' "Health Care Right of Conscience Act."*
- **Objections based on social, political, or personal preferences or nonreligious concerns about the possible side effects of the vaccine do not qualify as medical or religious beliefs.**

EEOC guidance for religious exemptions

- Employees are obligated to tell employers that they are seeking a religious accommodation.
- Employers should assume that a request for religious accommodation is sincerely held;

...BUT...

- *If an employer has an objective basis for questioning the religious nature of the belief or its sincerity, the employer may make limited inquiry seeking more information.*
- *Factors which may cast doubt on the sincerity of the belief are:*
 - whether the employee acted inconsistently with the belief,
 - whether the accommodation is a particularly desirable benefit that is likely sought for nonreligious reasons,
 - whether the timing of the request is suspect, and
 - whether there is other reason to believe the accommodation is not sought for religious reasons.

EEOC guidance for religious exemptions

- Employers must consider all reasonable accommodations, including telework and reassignment.
- If an employer demonstrates they cannot accommodate an employee seeking an exemption without “undue hardship,” then they are not required to provide an accommodation.
 - *Hardships can be anything that impairs workplace safety, or cause other coworkers to carry the accommodated employee’s share of hazardous or burdensome work.*

EEOC guidance for religious exemptions

- Employers must evaluate possible accommodations on a case-by-case basis, based on objective information including such things as whether:
 - *the employee works indoors or outdoors,*
 - *in a solitary or group setting,*
 - *has contact with other employees or the public,*
 - *the nature of the employees' duties,*
 - *the number of employees who are fully vaccinated, and*
 - *how many employees are seeking a similar accommodation (the cumulative cost or burden on the employer by the requests).*

What Makes Us Strong? **Staying Unified**

- Solidarity is our bread and butter
- These steps are not new – you know how to protect members and get the employer to the table
- No doubt some members are *extremely* emotional about this
- It is not easy, but the formula for protecting the members is the same as it always is
- Members who are unjustly terminated every day are also extremely emotional, but we are used to telling them the process takes time, justice takes time, but we have their back
- It is the same here. We use the same steps to protect our members, but it takes time, following the procedure, enforcing our contracts.
- Do not let the numbers of members distract you from all your training and experience.
- Do not let the political and emotional issue divide the membership
- Urge you not to let ambulance chasers drain the lodge's treasury
- Stay focused on what we can accomplish and fight for that.