



VAN BUREN TOWNSHIP POLICE UNION

CLASS ACTION GRIEVANCE

July 21, 2021

Director Gregory Laurain,

Please consider this correspondence a Grievance that I am filing on behalf of **THE ENTIRE VAN BUREN TOWNSHIP POLICE AND DISPATCHERS UNION.**

INFORMATION:

The Van Buren Township Patrol and Dispatcher's Union asserts that the employer, Van Buren Township, has violated the Collective Bargaining Agreement in regards to Article I (Purpose), Article II (Managements Rights) and Article XXIV (Fairness). The Employer has failed to bargain with the Union over the terms and conditions of employment creating an "Unfair Labor Practice" as defined by the National Labor Relations Act.

FACTS OF GRIEVANCE:

Mandatory Covid 19 Vaccination Mandate:

On June 15, 2021 the Charter Township of Van Buren Board of Trustees met, voted, and approved an agenda item to mandate that every Van Buren Township employee take the COVID 19 vaccination as a condition of their employment. The next day, June 16, 2021 Director of Human Resources Nicole Sumpter sent an email that stated the aforementioned motion was approved by the township board, was a mandate, and that if any employee does not comply they would be placed on a two week suspension and subsequently terminated.

On June 21, 2021, I as the Van Buren Township Patrol and Dispatcher's Union President along with Command Officer Union President Marc Abdilla met with the three full time elected officials regarding this matter. It was agreed that there would be an extension for this mandate for 90 days at that time. However, on the subsequent day (June 22, 2021) Director Sumpter sent another email that stipulated that the deadline for the Mandatory Vaccination has been extended to August 16, 2021 (60 days) and that the termination of employment for non-compliance had been removed.

On July 19, 2021 the Van Buren Township Work Study was scheduled. The work study is an opportunity for any person to discuss matters that is going to be at the board meeting as a preliminary approach to mitigate issues. On the board meeting was an item on the agenda for "Discussion on, and to consider a re-vote of Mandatory Covid-19 Vaccinations for Township Employees." On June 14, 2021 & July 19, 2021 the work studies were cancelled and a cancellation notice placed on the

Township website. These cancellations suppressed our ability as a Union to have a discussion with the entire Board of Trustees prior to the board meeting.

On July 20, 2021 the Van Buren Township Board had a meeting. A listed agenda item on the agenda was “discussion on, and to consider a re-vote of Mandatory Covid-19 Vaccinations.” I spoke as the Van Buren Township Patrol and Dispatcher’s Union President at the board meeting and before the Township Board of Trustee members spoke about this incident. I informed the board that this was a change in our work environment and change in conditions of our employment. The board meeting continued and the board disregarded my comments and proceeded to vote to continue with the mandatory Covid-19 Vaccinations for employees. The mandatory compliance date being August 16, 2021.

Township Supervisor Kevin McNamara stated at the board meeting that the Federal Government, State of Michigan, or Wayne County, has not required their workforce to be mandated to take the COVID 19 Vaccination. Township Trustee Kevin Martin acknowledged that this is the right of the employee and that this is not fair to mandate this vaccination. Township Trustee Reggie Miller acknowledged that this agenda item had no policies as to how this was going to be governed.

Type of Vaccination - Emergency Use Authorization:

As noted by <https://www.fda.gov/vaccines-blood-biologics/vaccines/emergency-use-authorization-vaccines-explained>. (Attachment#1)

An Emergency Use Authorization (EUA) is a mechanism to facilitate the availability and use of medical countermeasures, including vaccines, during public health emergencies, such as the current COVID-19 pandemic. Under an EUA, FDA may allow the use of unapproved medical products, or unapproved uses of approved medical products in an emergency to diagnose, treat, or prevent serious or life-threatening diseases or conditions when certain statutory criteria have been met, including that there are no adequate, approved, and available alternatives. Taking into consideration input from the FDA, manufacturers decide whether and when to submit an EUA request to FDA.

Once submitted, FDA will evaluate an EUA request and determine whether the relevant statutory criteria are met, taking into account the totality of the scientific evidence about the vaccine that is available to FDA.

State of Michigan Emergency Orders Rescinded

On June 17, 2021 and just one day after the township mandated vaccination order, the Director of Michigan Department of Health and Human Services Elizabeth Hertel publicly announced that the State of Michigan was going to reopen and according to

https://www.michigan.gov/coronavirus/0,9753,7-406-98178_98455_98456_103043-562057--,00.html the below information many of the previous mandates were rescinded. The following addresses these rescinded orders:

- Gatherings and Face Mask Order (signed on May 24, 2021; effective on June 1, 2021)
- Temporary Restrictions for Entry into Congregate Care and Juvenile Justice Facilities (October 29, 2020)

- Mandatory Testing for Michigan Department of Health and Human Services' Juvenile Justice Facility Staff (signed on September 18, 2020)
- Mandatory Testing for Michigan Department of Health and Human Services Hospitals and Centers Staff (September 14, 2020)
- Exceptions to Temporary Restrictions on Entry into Congregate Care and Juvenile Justice Facilities (June 29, 2020)
- Exceptions to Temporary Restrictions on Entry into Certain Facilities (June 3, 2020)
- Safe Housing for Housing Unstable Individuals (May 12, 2020)
- Handling of Bodily Remains (May 4, 2020)
- Safe Housing for Michigan Homeless (April 28, 2020)

SUPPORTING GRIEVANCE INFORMATION:

Under Section 8(a)(5) of the National Labor Relations Act, as amended, 29 U.S.C. 158(a)(5), an employer has an obligation to bargain with the existing union over wages, hours, and other terms and conditions of employment before implementing any changes.

The National Labor Relations Act further states that any new requirement or rule that is enforceable through discipline or causes a change to an employee's terms of employment is considered by the NLRB to be a mandatory subject of bargaining.

There is "NO" authority granted to the employer in the current Command Unions CBA in regards to allowing the implementation of a medical program by the employer. Furthermore, the employer failed to provide the union notice and an opportunity to bargain the effects of the program on employees.

29 U.S. Code 158. Unfair Labor Practices: For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession: Provided, That where there is in effect a collective-bargaining contract covering employees in an industry affecting commerce, the duty to bargain collectively shall also mean that no party to such contract shall terminate or modify such contract, unless the party desiring such termination or modification serves a written notice upon the other party.

ARTICLES VIOLATED

ARTICLE I – Purpose IN PART

The purpose of this Agreement is to reduce to writing the total understanding of the parties regarding wages, benefits and **working conditions of employees of the Employer covered by this Agreement**, and that **all such understandings are written to be mutually binding**.

VIOLATION#1 | ARTICLE I - PURPOSE

The employer has unilaterally changed our working conditions without it being negotiated as

mandated by Article#1. The employer does not have the option to change these conditions by vote of the board or any other mechanism besides negotiating fairly.

ARTICLE II- Management Rights IN PART

It is recognized that the government and management of the Township, control and management of its properties, and the maintenance of municipal functions and operations are reserved to the Employer and that all lawful prerogatives of the Employer shall remain and be solely the Employer's right and responsibility, except as limited by law....All rights involving public policy, the rights to decide the number of employees, to create or eliminate positions, work normally performed within the unit, the right to hire, lay-off, assign, transfer and promote employees; to determine the qualifications of employees; to determine and redetermine job content; **to make such reasonable rules** and regulations not in conflict with this Agreement...

VIOLATION#2 | ARTICLE II- Management Rights

Management has rights to make **reasonable** rules as outlined in this article. It is unreasonable for management to unilaterally make a decision without negotiations especially to this magnitude. In addition, it is unreasonable to order an employee take a Non-FDA Approved Vaccination that is only approved under Emergency Use Authorization, when in fact the State of Michigan has relaxed and rescinded the COVID 19 mandates.

The State of Michigan Department of Health as well as our Governor has countless medical resources at their disposal. There has been no guidance and in fact there is no municipality in the State of Michigan that has elected to make such unreasonable rule that is being consistently challenged and litigated in the private sector besides our employer. The employer has produced no objectively reasonable evidence beyond their subjective opinions about this subject and forced our bargained for workforce to be mandated to take this Non-FDA Approved Vaccination without bargaining.

ARTICLE XXIV - Anti-Discrimination Clause IN PART

All Employees shall be treated fairly.

VIOLATION#3 | ARTICLE XXIV - Anti-Discrimination Clause

All Employees shall be treated fairly. It is unfair to not negotiate and change a bargaining group's working conditions without the decision being bilateral and reasonable. As Township Trustee Kevin Martin stated, the township is violating the employee rights. That is unfair and a violation of this article. As Township Trustee Reggie Miller stated there are no policies addressing how they intend to govern this mandate. That is unfair to impose a mandate without guidelines. Finally Treasurer Budd made a motion that they continue the original mandate with the understanding that they help employees get the vaccination and what the consequences will be. It is unfair to have a motion that stated a 90 day extension when in fact they only extended it by 60 days and laterdetermine what the consequences are going to be simultaneously with a mandate. The board is giving an order that is ambiguous and unfair. They cannot agree with each other on this issue and are attempting to govern us union members without negotiating. This is a violation.

EXHIBITS:

1. Work Study Cancellation Notice
2. 07-20-2021 Board Meeting Agenda

DESIRED SETTLEMENT:

The Union requests that the Employer rescind the "Mandatory Vaccination" mandate immediately.

A handwritten signature in black ink, appearing to read 'A. Byrd', with a large, stylized flourish at the end.

Adam Byrd
POLC Union President
Van Buren Township Police Department