


UNIVERSITY OF THE WESTERN CAPE			
 <p>UNIVERSITY of the WESTERN CAPE</p>	<p><b>INTERIM COVID-19 VACCINATION POLICY FOR THE UNIVERSITY OF THE WESTERN CAPE FOR 2022</b></p>	Council Approval Reference	C2021.07
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**INTERIM COVID-19 VACCINATION POLICY FOR THE UNIVERSITY  
OF THE WESTERN CAPE FOR 2022**

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## Preamble:

The University of the Western Cape (“the University”), a public university, is intent on providing a safe and healthy working and learning environment for its Employees and Students. The University has engaged stakeholders and consulted experts on the risks associated with the COVID-19 virus and with regard to vaccine safety. The University has educated its stakeholders on the Covid-19 vaccine and established a vaccination site on its main campus.

The University has also engaged with and taken advice from legal experts on the legality and rationale for a Vaccination Policy within the context of the following Constitutional Rights of groups and individuals that may be implicated by a Vaccine Policy:

- A. section 12(2) - the right to bodily integrity;
- B. section 15(1)- the right to freedom of religion;
- C. section 24(a)- the right to an environment which is not harmful to health and well-being;
- D. section 9(3&4)- the right not to be unfairly discriminated against;
- E. section 29 (1) (b) – the right to further education;
- F. section 14 – the right to privacy

The University notes that section 36 of the Constitution states that Constitutional Rights may be limited in terms of a law of general application, such as a University rule. The context and purpose of limiting certain of the rights in favour of other rights would be inter alia, to secure protection against death and severe disease, possibly reduce onward transmission, reduce the risk of ongoing mutations into variants of concern, relieve the pressure on hospital ICU’s and to protect health-care workers.

The University received advice from legal and medical experts and notes that there is material scientific consensus on the risks posed by Covid-19 and the safety and efficacy of vaccination (above all other measures) as a means of preventing infection and reducing the likelihood of serious illness, long-lasting illness, and even death. Inasmuch as there are conflicting views on these issues, the University is entitled to base any decision which it makes on the current preponderance of scientific consensus.

The University notes that any vaccination rule must comply with any relevant regulations or directions made under section 27(2) of the Disaster Management Act 57 of 2002 (DMA).

## 1 INTRODUCTION

- 1.1 In light of the serious threat posed by the COVID-19 pandemic to the lives and livelihood of its Employees and the lives of its Students and in light of the availability of COVID-19 Vaccines, the University, in consultation with the relevant stakeholders, has resolved to record its position pertaining to Vaccinations in this Policy.
- 1.2 The University wishes to record that all employers have an obligation in terms of the OHSA to provide, insofar as is reasonably practicable, a safe working environment, and that this Policy is an extension of its obligation in this regard.
- 1.3 The University is also committed to the well-being and religious and cultural freedoms of all its stakeholders and endeavours to ensure the rights of its Employees and Students are balanced in the implementation of this Policy.
- 1.4 This Policy is also a further extension of the consultative process, which the University embarked upon with stakeholders.
- 1.5 This Policy is interim and is only applicable in 2022.

## 2 DEFINITIONS

- 2.1 In this Policy, unless the context indicates a contrary intention, the following words and expressions shall bear the meanings assigned to them below and cognate expressions shall bear corresponding meanings -
- 2.1.1 "**BCEA**" means the Basic Conditions of Employment Act, No. 75 of 1997, as amended from time to time;
- 2.1.2 "**Campus**" means all land and buildings owned, leased or controlled by the University, including Student residences;
- 2.1.3 "**Citizen**" means the citizens of South Africa as defined in the South African Citizenship Act, No. 88 of 1995;
- 2.1.4 "**COIDA**" means the Compensation for Occupational Injuries and Diseases Act, No. 61 of 1997, as amended from time to time;
- 2.1.5 "**Collective Agreement**" means the collective agreement entered into on 20 February 2019 by and between the University and the UWC Employee Union, which agreement remains in force;

- 2.1.6 "**Compensation Commissioner**" means the Compensation Commissioner appointed under section 2(1)(a) of COIDA;
- 2.1.7 "**Consolidated Directions**" means the Consolidated Directions on Occupational Health and Safety Measures in Certain Workplaces issued by the Minister of Employment and Labour, in terms of Regulation 4(10) of the Regulations made under section 27(2) of the DMA dated 11 June 2021;
- 2.1.8 "**Constitution**" means the Constitution of the Republic of South Africa Act, No. 108 of 1996;
- 2.1.9 "**Constitutional Grounds**" means an objection raised relating to receiving the COVID-19 Vaccine in that it affronts an Employee's or Student's Constitutional Rights;
- 2.1.10 "**Constitutional Rights**" means an Employee's or Student's rights as contained in Chapter 2 of the Constitution, and in particular an Employee's or Student's right to bodily integrity contained in section 12(2) of the Constitution, and the right to freedom of religion, belief and opinion in section 15 of the Constitution;
- 2.1.11 "**COVID-19**" means the SARS-CoV-2 virus, including all variants and mutations;
- 2.1.12 "**COVID-19 Vaccine(s)**" means any COVID-19 vaccine approved by SAHPRA for use in South Africa in terms of the Medicines and Related Substances Act, No. 101 of 1965;
- 2.1.13 "**DMA**" means the Disaster Management Act, No. 57 of 2002, as amended from time to time;
- 2.1.14 "**EEA**" means the Employment Equity Act, No. 55 of 1998, as amended from time to time;
- 2.1.15 "**Effective Date**" means 3 January 2022;
- 2.1.16 "**Employee**" means all employees of the University and the term employee shall bear the meaning ascribed to it in the LRA;
- 2.1.17 "**Employer**" means the University;
- 2.1.18 "**EVDS**" means Government's Electronic Vaccine Data System which is a self-enrolment portal where Citizens may register to get an appointment in order to receive the COVID-19 Vaccine based on Government's phased roll out of the COVID-19 Vaccine;
- 2.1.19 "**Government**" means the government of South Africa;

- 2.1.20 "**Hard Mandate**" means the principle that Students who are not vaccinated cannot register and are in effect excluded from registering in the relevant faculty or for the degree or module concerned;
- 2.1.21 "**Health and Safety Committee**" means the committee established in terms of section 19 of OHSA;
- 2.1.22 "**Information Technology Resources and Systems ("IT")**" includes the University's servers, desktop computers, laptops, tablets, mobile devices, 3G cards, Internet browsers and Internet access facilities, operating systems, business applications, off-the-shelf products, and user-developed applications and all IT infrastructure and IT services provided by the University and its third party service providers, whether owned, supplied or administered by the University, connected to the University's IT systems and/or which are used for the business of the University.
- 2.1.23 "**LRA**" means the Labour Relations Act, No. 66 of 1995, as amended from time to time;
- 2.1.24 "**Misconduct**" means the behaviour of an Employee, whether by omission or commission, transgressing the rules, regulations or policies of the University, or of statutory or common law, irrespective of whether such statutory or common law obligations have been reduced to writing in the form of a University policy and in particular but not limited to a transgression of this Policy;
- 2.1.25 "**OHSA**" means the Occupational Health and Safety Act, No. 85 of 1993, as amended from time to time;
- 2.1.26 "**Ordinary Working Hours**" means the regular hours of the University which are 08h20 to 16h30;
- 2.1.27 "**Personal Information**" means an Employee's or Student's information of a personal nature and the special personal information of an Employee or Student, as defined in POPI and including but not limited, to the Employee's or Student's medical and vaccination history and records;
- 2.1.28 "**Policy**" means this InterimCovid-19 Vaccination Policy of the University including any annexures thereto;
- 2.1.29 "**POPI**" means the Protection of Personal Information Act, No. 4 of 2014, as amended from time to time;
- 2.1.30 "**Premises**" means any place(s) and/or campus(es) where Employees are required to perform their Work;
- 2.1.31 "**Remote Working**" means Working from Home and/or any other safe space and/or place that is not the Workplace or Campus of the University where the Employee

normally reports for Work and "Remotely", "Work Remotely" and "Working Remotely" will mean one and the same as "Remote Working". This may be (i) full-time; (ii) intermittently (on certain days); or partially (where Work is undertaken in a workday for a number of hours from home or elsewhere and from the office). Remote Working may be implemented as an occasional, temporary or permanent measure, as determined by the University from time to time. Remote Working may not be claimed as a right or entitlement and is subject to the current University policies;

- 2.1.32 "**SAHPRA**" means the South African Health Products Regulatory Authority;
- 2.1.33 "**Scheme**" means the COVID -19 Vaccine Injury No-Fault Compensation Scheme as established by the DMA, Amendments to Regulations 27(2) dated 22 April 2021;
- 2.1.34 "**Service Provider**" means any contracted individual, business entity or group that provides a paid service to the University and includes all of their employees and subcontracted service providers.
- 2.1.35 "**Sick Leave**" shall bear the meaning assigned to the term in the BCEA;
- 2.1.36 "**Sick Leave Cycle**" means the period of 36 months' employment with the University immediately following:
  - 2.1.36.1 an Employee's commencement of employment; or
  - 2.1.37 the completion of the Employee's prior sick leave cycle;
- 2.1.38 "**Social Distancing Protocols**" means the University's COVID-19 safety measures and protocols as envisaged by the Consolidated Directions and as determined by the University's Health and Safety Committee and includes the wearing of masks and sanitising of hands.
- 2.1.39 "**Soft Mandate**" means the principle that Students who are not vaccinated may register for their relevant degree or module but may not enter Campus or attend certain University events;
- 2.1.40 "**South Africa**" means the Republic of South Africa;
- 2.1.41 "**SRC**" means the Student Representative Council of the University of the Western Cape;
- 2.1.42 "**Student**" means a person registered for a qualification offered by the University
- 2.1.43 "**Trade Union**" means The University of the Western Cape Employees Union;
- 2.1.44 "**University**" means the University of the Western Cape, having its principle place of business situated at Robert Sobukwe Road, Bellville, Cape Town, 7535;

- 2.1.45 **"Vaccination"** means any and/or all vaccinations that may be deemed necessary to protect against pandemics and outbreaks, as determined by the Government and "Vaccinated" shall mean one and the same as Vaccination;
- 2.1.46 **"Vaccine Injury"** means any loss, harm or damage suffered by an Employee having received the COVID-19 Vaccination as determined by the responsible ministers in terms of the Scheme;
- 2.1.47 **"Vaccination Card/Certificate"** means the vaccination card issued to the Employee or Student pursuant to receiving the COVID-19 Vaccine and/or the electronic vaccination certificate available on the EDVS online platform (once a second vaccination shot has been issued to the Employee or Student, where applicable);
- 2.1.48 **"Vulnerable Employee"** means an Employee with known or disclosed health issues or comorbidities or any other condition that may place the Employee at a higher risk of developing complications from, severe COVID-19, or death if infected with COVID-19, Employees over the age of 60 years who are at higher risk of complications, developing severe COVID-19 or death if infected with COVID-19, or any Employee who meets the criteria and is determined to be at higher risk of complications, developing severe COVID-19 or death if infected with COVID-19 as determined by the World Health Organisation;
- 2.1.49 **"Work"** means the duties, roles and responsibilities undertaken by an Employee as enunciated in the Employee's contract of employment and/or letter of appointment and/or any other document that encompasses the Employee's duties, roles and responsibilities; and
- 2.1.50 **"Workplace(s)"** means, as defined in OHSA, any premises or place from where a person performs Work in the course of his/her employment.

### 3 **GUIDING PRINCIPLES**

- 3.1 The key guiding principles of this Policy are:
- 3.1.1 mutual respect between the University and its Employees and Students;
- 3.1.2 public health imperatives,
- 3.1.3 the Constitutional Rights of groups and individuals;
- 3.1.4 to return to in-person learning on the University campus to accord with the University's mandate as an institution of in-person learning; and
- 3.1.5 the efficient operation of the University's business or operations; and



3.2 This Policy is also the culmination of discussions and/or consultations with the SRC, Trade Union, Senate, Institutional Forum and Senior Management.

#### 4 **OBJECTIVES**

4.1 The objectives of this Policy are:

4.1.1 to clarify the University's position in relation to the COVID-19 Vaccine(s) and access to its Campus;

4.1.2 to promote the rights of all Employees and Students and other stakeholders, including Service Providers and visitors, to a safe working and learning environment, the right to life and the right to human dignity;

4.1.3 to fulfil the University's obligations in terms of the OHSA and other relevant legislation to create a safe working and learning environment; and

4.1.4 to ensure that Employees and Students are safe and do not pose an undue risk to other Employees and Students, particularly Vulnerable Employees, Students and/or third parties.

#### 5 **CORE POLICY STATEMENT**

5.1 The majority of stakeholders have advocated the resumption of in-person learning and a return to Campus would accord with the University's mandate to provide in-person learning and serve the interests of its Students in enjoying all the benefits of in-person learning and campus life. This Interim Policy seeks to achieve that purpose and present a guide to achieving that purpose.

5.2 The University, having due regard to its obligation to maintain a safe working and learning environment and taking into account the close proximity within which its Employees Work and with which Employees and Students interact with one another, has decided that as a pre-requisite for an Employee or Student or Service Provider or visitor to physically enter Campus, such Employee or Student or Service Provider or visitor must be Vaccinated against COVID-19.

5.3 For the avoidance of doubt, no Employee, Student, Service Provider, or visitor will be allowed to physically enter the Campus in the absence of a Vaccination Card/Certificate confirming that they have received the COVID-19 Vaccination. This principle is termed a Soft Mandate as Students will generally be allowed to register irrespective of being vaccinated or not, subject to where a Hard Mandate is approved by Senate for certain modules and where the rendering of a service to the public on a medical platform forms part of the module.

- 5.4 The University will endeavour to continue its hybrid method of teaching and learning in most modules in 2022 and accommodate unvaccinated students online or via live streaming where it is deemed appropriate and practical by the relevant faculty in its sole discretion.
- 5.5 As this is an interim policy, faculties of the University shall be allowed to make representations to Senate presenting evidence supporting a Hard Mandate for a particular module. Senate shall only allow a Hard Mandate if the faculty can objectively prove that the module cannot be presented effectively by way of online or hybrid teaching.
- 5.6 All Employees, Students, service providers or visitors must provide the University with proof of their Vaccination Card/Certificate when accessing Campus.
- 5.7 Notwithstanding having being Vaccinated, all individuals are required to continue to maintain all Social Distancing Protocols and other relevant Covid-19 protocols whilst on Campus.

## **6 ASSISTANCE IN RECEIVING THE COVID-19 VACCINE**

- 6.1 The University shall provide its Employees and Students with:
- 6.1.1 information as to the nature and benefits of the COVID-19 Vaccine;
  - 6.1.2 information on any possible side effects or reactions and/or the risks of the possible side effects that may occur following receipt of the COVID-19 Vaccine;
  - 6.1.3 assistance in registering on the EVDS registration portal;
  - 6.1.4 access to the University vaccination site;
  - 6.1.5 other assistance that may reasonably be required in order to receive the COVID-19 Vaccine without causing undue hardship to the University.

## **7 HARD MANDATE IN RESPECT OF MEDICAL SERVICES MODULES**

- 7.1 As an exception to the general, interim Soft Mandate, Students will not be allowed to register in 2022 for a degree which incorporate services in hospitals, medical facilities or the provision of a work integrated learning service to the general public in any one or more of the modules required to attain such a degree, unless the Student presents a Vaccination Certificate or has been granted an Exemption.
- 7.2 The Dentistry Faculty, CHS faculty and the School of Pharmacy will be affected by this Hard Mandate rule and must communicate this rule to all its current students and any prospective students applying to register in 2022 as a matter of urgency.

- 7.3 Students who are not fully vaccinated (partially vaccinated and awaiting their second vaccine injection) will be allowed to register on condition that they present proof of the first vaccination and submit their Vaccination Certificate on or before 1 March 2022, failing which, they may be deregistered.

## **8 VACCINATION LEAVE**

- 8.1 An Employee shall be allowed 3 hours leave in order to attend a Vaccination Site to receive the COVID-19 Vaccine
- 8.2 In the event that an Employee suffers side effects after having received the COVID-19 Vaccine, he/she shall be entitled to apply for Sick Leave for the duration of the days that he/she is unwell.
- 8.3 In order for an Employee to exercise their entitlement to Sick Leave as set out in clause 8.1 above, an Employee must evidence that they have reported their side effects to the Department of Health in accordance with the instructions contained in the Vaccination Card/ Certificate.
- 8.4 Where an Employee intends applying for Sick Leave owing to side effects after having received the Vaccine, the provisions of the BCEA will apply in relation to the submission of a medical note.
- 8.5 For the avoidance of doubt, the University will not accept a Vaccination Card/Certificate in lieu of a medical note where an Employee applies for sick leave owing to suffering side effects after receiving the COVID-19 Vaccine for a period of two days or more, or where the Sick Leave falls on either a Monday or a Friday.
- 8.6 Where an Employee has exhausted their Sick Leave provision, an employee may lodge a claim for compensation in terms of COIDA.
- 8.7 In addition to clause 8.6 above, an Employee may also lodge a claim with the Scheme, in respect of an injury related to or arising from receiving a COVID-19 Vaccine, as envisaged in clause 21 below.

## **9 OHSA**

- 9.1 The University has a duty in terms of the OHSA to ensure, insofar as reasonably practicably possible, a safe working and learning environment.
- 9.2 The University has undertaken a risk assessment of the Workplace and has identified COVID-19 as a Workplace risk.
- 9.3 In addition, the University has identified the following categories of high-risk Employees and Students:

- 9.3.1 Vulnerable Students and Employees.
- 9.3.2 Students and Employees who have comorbidities;
- 9.3.3 Employees aged 60 or above;
- 9.3.4 Employees and Students involved in the medical field or providing a service or receiving training in a Department of Health Facility;
- 9.4 The University has determined that in order to fulfil its obligations in terms of the OHSA, the provisions of this Policy are imperative.

## 10 **SUBMISSION OF VACCINATION CARD/CERTIFICATE**

- 10.1 All Employees and Students are currently eligible to receive the COVID-19 Vaccine.
- 10.2 Employees and Students are required to receive the COVID-19 Vaccine and to produce their Vaccination Card/Certificate to Campus Security, in order to return to the Workplace and Campus.
- 10.3 A copy of the Vaccination Card/Certificate will be kept in the Employee's file by HR and the Student's Registration file by Students Administration.

## 11 **EXEMPTION AND APPEAL**

- 11.1 Where an Employee, Student, service provider, or visitor seeks an exemption from this Policy, they ("**Applicants**") must apply for such exemption in the form of Annexure B hereto, setting out in detail the nature and reasons for their application for exemption from this Policy.
- 11.2 Such exemption must be lodged online via the University's website or delivered to Campus Security by no later than **3 days** prior to their intended return to the Campus.
- 11.3 The Applicant may apply for exemption on one or more of the following grounds:
  - 11.3.1 Verifiable medical reasons, as outlined in paragraph 12.1.1 below, and/or
  - 11.3.2 Verifiable constitutional grounds as outlined in paragraph 12.2.1, and/or
  - 11.3.3 Verifiable religious reasons, as outlined in paragraph 12.2.2 below;
- 11.4 Applicants must provide any and all supporting documents and/or references in support of their application for exemption from this Policy.
- 11.5 The University understands that the information contained in an Applicant's exemption application may be of a confidential and/or sensitive nature. Accordingly, the University undertakes to ensure that the content of an Applicant's exemption application is not

disclosed to any other third party, save for the Employees or Consultants of the University who are tasked with determining exemption applications.

- 11.6 The University Exemption Application Committee/s shall be established by Senior Management and should include:
- a) Member/s with medical expertise;
  - b) Member/s with religious expertise;
  - c) A representative of the SRC;
  - d) A representative of the Union;
  - e) A representative of Senate;
  - f) A representative of Student Development Services;
  - g) A representative of Campus Security.
  - h) A representative of the Faculty where the Applicant Employee Works or the Students studies.
  - i) A representative of Human Resources.
- 11.7 The University has the sole discretion to permit or deny an exemption application. The University will communicate the outcome of exemption applications together with the written reasons for its decision within a reasonable period.
- 11.8 An Applicant may appeal the outcome of his/her exemption application by no later than **three** working days following receipt of the outcome of their application together with such supporting documents as may be necessary to support their appeal. All appeal applications must be submitted to the Registrar of the University who shall forward the Appeal to an Appeals Committee of Senior Management. A member of the Appeals Committee of Senior Management may not be a member of the University Exemption Application Committee/s.
- 11.9 The University will communicate the outcome of an Appeal following consideration of such application.
- 11.10 In line with the provisions of the Consolidated Directions, the University shall endeavour to reasonably accommodate an Applicant who refuses to be Vaccinated on valid grounds, insofar as it is reasonably practicably possible.
- 11.11 Where the University has granted an exemption from this Policy, the University shall take measures to reasonably accommodate the Applicant, insofar as reasonably practically possible, which by way of example only may include, but not limited to:

- 11.11.1 temporary alternative placement;
- 11.11.2 additional, effective PPE;
- 11.11.3 continued Remote Working or Learning;
- 11.11.4 wearing an N95 mask the course of his/her Work day whilst on Campus.

## 12 **GROUNDS FOR EXEMPTION**

12.1 An Applicant may apply for an Exemption from this Policy on one or more of the following grounds:

### 12.1.1 **Medical Exemption**

12.1.1.1 Medical reasons which may include, but are not limited to:

12.1.1.1.1 having experienced an allergic reaction and/or a past severe life-threatening reaction to receiving a Vaccine;

12.1.1.1.2 underlying medical conditions that, in particular, have left the Employee's immune system compromised.

12.1.1.2 Where an Applicant seeks to obtain an exemption from this Policy on medical grounds, then she/he must attach a medical certificate to the exemption application which must specify the medical reason(s) for seeking an exemption from this Policy.

12.1.1.3 The University Exemption Application Committee will review the medical exemption received and determine, at its sole discretion, whether to grant such exemption and/or whether to accommodate the Applicant, insofar as reasonably practically possible.

### 12.2 **Exemption based on Constitutional Grounds**

12.2.1 An Applicant may apply for an exemption from this Policy on Constitutional Grounds:

12.2.1.1 The University will review an Applicant's exemption application on Constitutional Grounds to determine whether a valid and compelling Constitutional Ground and/or reason exists.

12.2.1.2 Where an Applicant makes an application on Constitutional Grounds, she/he must specify the right(s) on which they intend to rely together with the reasons for which they believe this Policy constitutes a violation/unjustifiable limitation of that right(s).

12.2.1.3 An Applicant's application for exemption on Constitutional Grounds will be reviewed and a determination made as to whether a true Constitutional Ground exists.

12.2.1.4 The University Exemption Application Committee, at its sole discretion, will determine whether to grant the exemption application or to accommodate the Applicant, insofar as reasonably practically possible.

#### 12.2.2 **Religious Exemptions**

12.2.2.1 An Applicant may apply for an exemption from this Policy on religious grounds.

12.2.2.2 The University will review the exemption application on religious grounds to determine whether a true religious reason/ground as determined by the Applicant's universally recognised umbrella faith institution or body, exists.

12.2.2.3 The University Exemption Application Committee will review an Applicant's application for exemption on religious grounds and determine whether a true verifiable religious ground exists, taking into account the doctrines of any religion or faith, including existing cultural faith based religions.

12.2.2.4 The University Exemption Application Committee, at its sole discretion, will determine whether to grant the exemption application or to accommodate the Applicant, insofar as reasonably practically possible.

### 13 **REFUSALS BASED ON MEDICAL OR RELIGIOUS OR CONSTITUTIONAL GROUNDS**

13.1 The University may, where the refusal to being Vaccinated is based on medical and/or Constitutional and/or Religious Grounds:

13.1.1 counsel an Applicant and allow him/her to confer with a trade union representative, a worker representative or a member of the Health and Safety Committee;

13.1.2 in appropriate circumstances refer the Employee for further medical evaluation where the objection is on medical grounds and the Exemption Application Committee wishes to reassess the matter, provided the Applicant consents to same; and

13.1.3 if necessary and reasonably practically possible in the circumstances, take steps to reasonably accommodate an Applicant who refuses to be vaccinated.

### 14 **RIGHTS OF THE UNIVERSITY**

14.1 The University has the right to:

14.1.1 maintain a safe Workplace which includes implementing COVID-19 Vaccinations in its Workplace;

14.1.2 record (whether in written or electronic format), save and/or store the Personal Information of its Employees and Students; and

- 14.1.3 record (whether in written or electronic format), save and/or store the medical and Vaccination history and/or records of its Employees and Students.

## **15 FRIVOLOUS OBJECTIONS AND FALSE INFORMATION**

- 15.1 Where an Employee or Student makes frivolous and/or unfounded objections to this Policy which are aimed at frustrating the objectives of the University in implementing this Policy, such an Employee or Student shall be disciplined in line with the University's disciplinary codes and procedures.

- 15.2 In addition, where an Employee or Student disseminates false information in relation to the COVID-19 Vaccine and/ or its side effects to other Employees or Students without the consent of the University with the intention of discouraging them from receiving the COVID-19 Vaccine, such an Employee or Student shall be disciplined in line with the University's disciplinary codes and procedures.

## **16 NO PAYMENT FOR THE COVID-19 VACCINE**

The Government has indicated that South Africans will be Vaccinated free of charge. The Vaccine is also legislated as a prescribed minimum benefit under medical aid schemes and is available to foreigners.

## **17 POPI**

- 17.1 The University is cognisant of the confidential and sensitive nature of its Employees and Students medical records and Personal Information including but not limited to medical and Vaccination records and history. The University endeavours to ensure that such Personal Information is kept safe at all material times and shall only be used for its stated purpose. The University will not use, disclose or divulge, directly or indirectly, such information to any third party without the prior written consent of the Employee or Student.

- 17.2 Despite what is stated in 17.1 above, an Employee or Student who wish to attend Campus will be obliged to:

- 17.2.1 provide the University with his/her COVID-19 Vaccine card/certificate;

- 17.2.2 submit to further medical evaluation and providing the medical practitioner's report to the University where his/her exemption application is based on medical grounds as referred to in clause 12.1.1 above; and

- 17.2.3 acknowledge that the University will keep, store and maintain his/her medical and Vaccination records and history whether in written or electronic format.



## 18 **LIABILITY**

- 18.1 Employees or Students or their dependants shall hold the Scheme liable in the event of any harm, loss or damage suffered as a result of receiving the COVID-19 Vaccine.
- 18.2 The University accepts no liability or responsibility for unsuccessful claims against the Scheme.

## 19 **CONTINUED COMPLIANCE WITH THE DMA**

- 19.1 This Policy is an extension of the University's Social Distancing Protocols and its health and safety measures as determined by the Consolidated Directions and as implemented by the University's Health and Safety Committee.
- 19.2 It is imperative for all Employees and Students to continue to maintain the University's Social Distancing Protocols until otherwise directed.

## 20 **CLAIMS IN TERMS OF COIDA**

- 20.1 COVID-19 claims in terms of COIDA will only be compensable when COVID-19 is contracted during the course and scope of the Employee's employment (whether at the Workplace or while undertaking Work from any other location as required by the Employee to complete his/her Work).
- 20.2 In order to make a claim for Workplace acquired COVID-19, the following information must be submitted to the Compensation Commission:
- 20.2.1 The University's report of an occupational disease;
- 20.2.2 Notice of an occupational disease and claim for compensation;
- 20.2.3 Exposure and medical questionnaire;
- 20.2.4 First medical report in respect of an occupational disease, indicating that the claim is for COVID-19;
- 20.2.5 Exposure history and/or any other appropriate employment history containing information that may be helpful to the Compensation Commissioner;
- 20.2.6 A medical report on the Employee's symptoms, detailing the history and establishing the diagnosis of COVID-19, laboratory results and chest X-Rays, where appropriate, or any other information relevant to the claim;
- 20.2.7 Progress medical reports in respect of each consultation;
- 20.2.8 Final medical report when the Employee's condition has reached maximum medical improvement; and

20.2.9 An affidavit by the Employee if the University will not timeously supply the report of the occupational disease, where applicable.

20.3 To the extent required, the University will assist Employees in lodging their claims with COIDA.

## **21 CLAIMS IN RESPECT OF VACCINE RELATED INJURY**

21.1 An Employee who has suffered harm, loss or damage caused by a Vaccine Injury resulting from the administration of a COVID-19 Vaccine at a South African facility may claim compensation from the Scheme.

21.2 A dependant of an Employee who has suffered harm, loss or damage caused by the death of an Employee whose death was caused by a Vaccine Injury resulting from the administration of a COVID -19 Vaccine at a South African facility may claim compensation from the Scheme.

21.3 Vaccine Injuries that are covered under the Scheme are:

21.3.1 severe injuries resulting in permanent or significant injury or serious harm to the Employee's health;

21.3.2 other serious damage; or

21.3.3 death of the Employee as a result of receiving COVID-19 Vaccines.

21.4 The Employee or his/her dependant (in the case of the death of the Employee) who elects to submit a claim to the Scheme waives and abandons his/her right to institute legal proceedings in a court against any party, including the University, for a claim arising from any harm, loss or damage allegedly caused by a Vaccine Injury.

21.5 Submissions of compensation claims must be made in terms of the Regulations issued by the Scheme.

21.6 The University shall, when called upon, assist the Employee and/or his dependant/s to complete the necessary forms for submission to the Scheme.

## **22 DISCIPLINARY ACTION**

The University reserves the right to enforce this Policy. Non-compliance with this Policy may result in disciplinary action being taken against an Employee or Student.

## **23 REVIEW OF THIS POLICY**

23.1 The University shall review this interim policy and present a report to the Council of the University in the first semester of 2022.

- 23.2 The review shall include but not be limited to any possible amendments, deletion or replacement of any of the rules, policies or procedures contained in this interim policy and include a draft final policy.
- 23.3 In the event that the University elects to deviate from any specific rule, policy or procedure, such deviation shall be binding on the University in respect of that instance only and shall not create any right or expectation that the University shall in future also be obliged to repeat such deviation. No latitude, extension of time or other indulgence which may be given or allowed by the University to any Employee in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right arising from these rules, policies or procedures, and no single or partial exercise of any right by the University, shall in any circumstances be construed to be an implied consent or election by the University or operate as a waiver or a novation of or otherwise affect any of its rights in terms of or arising from these rules, policies or procedures or estop or preclude it from enforcing, at any time and without notice, strict and punctual compliance with each and every provision or term hereof. Failure or delay on the part of the University in exercising any right, power or privilege under these rules, policies or procedures will not constitute or be deemed to be a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

**1 POPI CONSENT FORM**

- 1.1 I, the undersigned hereby consent to **the University of the Western Cape** keeping, storing and maintaining my Personal Information including but not limited to my medical and/or Vaccination history and records.
- 1.2 I consent to my medical and Vaccination information being kept on my file/records.
- 1.3 I further consent to a copy of my Vaccination Card/Certificate being kept on file.
- 1.4 I understand that this information is required by the University and is needed to enhance the safety of the work and learning environment and I provide this information willingly.
- 1.5 I further indemnify and hold harmless the University from any loss that I may suffer in the event that there is a breach of any of the IT systems and my Personal Information is subsequently made public.

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Employee/Student Name

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Signature

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Date

**2 EXEMPTION APPLICATION**

2.1 I, \_\_\_\_\_ the undersigned, seek to apply for an exemption from the University's Policy related to receiving the COVID-19 Vaccine.

2.2 The reason for this application for exemption from the Policy is based on the following reasons:

2.2.1 My GP has advised against the taking of the COVID-19 Vaccine given that I suffer from the following ailments and/or sicknesses. **[insert full details]**

2.2.2 I attach my medical certificate in confirmation of the above.

**OR**

2.3 I, the undersigned, seek to apply for an exemption from the University's Policy related to receiving the COVID-19 Vaccine.

2.4 The reason for this application for exemption from the Policy is based on the following reasons:

**2.4.1 [•]**

2.5 I have attached the following documentation in support of this objection:

**2.5.1 [•];**

**2.5.2 [•]; and**

**2.5.3 [•].**

\_\_\_\_\_  
Employee/Student Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

24 **CONSENT TO MEDICAL EXAMINATION**

24.1 I, \_\_\_\_\_ the undersigned [●], have sought an exemption from receiving the COVID-19 Vaccine and in accordance with my previous reasons for such exemption namely a contraindication to [●] **[Note: insert details of which medication etc employee may not take ]**, I am required to submit myself for further medical evaluation, which I hereby agree to and to which I consent

24.2 I further consent to submitting myself to a medical practitioner of the University's choice (if need be) and further to the medical practitioner's report or medical certificate being furnished to the University.

\_\_\_\_\_

Employee/Student Name

\_\_\_\_\_

Employee/Student Signature

\_\_\_\_\_

Date