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Santa Clara County relaxes controversial booster mandate for high-risk employees

The change comes amidst a steady trickle of criticism aimed at the mandate since it was announced at the end of December



MOUNTAIN VIEW – DECEMBER 22: Registered nurse Kristie Scheidt puts on some protective gear in the intensive care unit inside El Camino Health Mountain View Hospital in Mountain View, Calif., on Tuesday, Dec. 22, 2020. (Randy Vazquez/ Bay Area News Group)



By **GABRIEL GRESCHLER** | Bay Area News Group

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Citing the continued drop in COVID-19 cases, Santa Clara County announced Monday that it would be relaxing a contentious booster mandate that requires all high-risk workers like nurses and correctional officers to get a shot.

Employees with exemptions will now be allowed to remain in their current jobs, though they must test weekly. The county had previously barred those with exemptions from remaining in their positions — an approach that was unique compared to every other county in the state and led to hundreds of county workers being disciplined.

The county's reversal now puts it in line with the state's rules and mirrors similar actions taken by San Jose officials as COVID-19 cases plunge in the region. On March 2, San Jose officials said city employees who didn't get the shot would be subject to a one-day suspension instead of a week of unpaid leave [in light of hundreds of workers who were refusing to get the booster](#).

Santa Clara County's changes to its booster rule come amid a steady trickle of criticism of the mandate since it was announced at the end of December.

At the start of January, local hospitals in Santa Clara County [complained that the order would put a strain on workers](#) already under pressure during the omicron surge. In response, the county allowed hospitals and others to apply for a workaround that would allow employees with exemptions to remain in their jobs. Fifty organizations in the county, including hospitals, nursing homes and dentists were approved for the workaround, according to data provided by the county.

But the county refused to give its own high-risk employees that same option

In February, [over 200 county employees](#) were disciplined for not meeting the booster shot deadline. It wasn't immediately clear Monday how the county's rule change would affect the disciplined workers.

The booster rule even drew criticism from county supervisor Cindy Chavez, who repeatedly called for the county to align itself with the state during multiple board meetings in February, citing both "stress" and "confusion" among community members. Around the same time, public health officials in the county also took heat for refusing to drop its mask mandate when the rest of the Bay Area counties did in mid-February.

The county's vaccine rules have even led some employees to bring their grievances to the courts.

In mid-February, Santa Clara County workers — including nurses, correctional officers and technicians — filed suit in federal court, claiming their rights were violated when the county rejected their religious exemptions and put them on unpaid leave. In addition to the booster mandate, the lawsuit takes aim at a county mandate issued in August that ordered all workers to be vaccinated with the first round of shots.

The dozens of workers are being represented by UnifySCC, a group established in December 2021 that seeks to "advocate for and protect medical and religious freedoms for all workers within Santa Clara County," according to its website.

While the change on Monday to the county's booster mandate makes small adjustments for high-risk workers with exemptions, the plaintiffs' suit seeks to put an end to vaccine mandates across the board in the county and to allow the roughly 50 plaintiffs to go back to work. On March 10, a judge will determine whether the county must follow through with those demands. The suit is also seeking damages for the plaintiffs.

One of the lawsuit's plaintiffs, 60-year-old Tom Davis of Hayward, said his religious exemption was denied last year and that he's been on unpaid leave since November.



HAYWARD, CALIFORNIA – MARCH 7: Tom Davis poses for a photograph outside of his home in Hayward, Calif., on Monday, March 7, 2022. Davis is one of over 50 employees suing Santa Clara County over their vaccine mandates. (Nhat V. Meyer/Bay Area News Group)

“They backed me into a corner,” said Davis, who is an air conditioning technician for the county. “You can suggest (the vaccine). You can encourage it. But you’re telling me I have to get it? That’s a pretty broad brush.”

Dr. Jayanta Bhattacharya, a professor of medicine at Stanford who has been critical of shelter-in-place orders along with some of his colleagues, is supporting the plaintiffs. In an accompanying court filing, Bhattacharya wrote that it was likely high-risk workers have gained natural immunity from the virus and that putting specifically healthcare workers on unpaid leave is “counterproductive and dangerous”. Bhattacharya did not respond to a request for comment.

In a statement, the county said it was “reviewing” the lawsuit.

“The courts have continued to uphold vaccination mandates and we are prepared to defend the requirements,” the count statement said. Some of the plaintiffs in the lawsuit may be affected by the most recent booster mandate change, according to the county.

But Sandra Rappaport, a San-Francisco-based employment attorney with Hanson Bridgett, said Santa Clara County employees face an “uphill battle” in challenging the vaccine mandates. For the judge on Thursday to halt the vaccine mandates in the county and reinstate the approximately 50 workers, the plaintiffs would have to prove that they would suffer irreparable harm if the court doesn’t take any action, a standard that Rappaport said will be hard to reach.



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