

HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 58 -2021
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION

**MANDATING COVID-19 VACCINATIONS FOR ALL TRIBAL
GOVERNMENT AND ITS ENTERPRISES EMPLOYEES**

- WHEREAS,** the Hualapai Tribe is a federally recognized Indian Tribe located on the Hualapai Indian Reservation in Northwestern Arizona with authority vested in the Hualapai Tribal Council by the Constitution approved March 31, 1991; and
- WHEREAS,** the Hualapai Tribal Council has the power to represent the Tribe and act in all matters That concern the welfare of the Tribe pursuant to Article V (r) of the Hualapai Constitution; and
- WHEREAS,** the Hualapai Tribe declared a State of Emergency in connection with COVID-19 on March 17th, 2020; and
- WHEREAS,** the Hualapai Tribal Council passed Resolution 44-2021 and Ordinance 101-2021, with necessary measures to fulfill the mission of COVID-19 mitigation and communicable disease prevention; and
- WHEREAS,** the Hualapai Tribal Communicable Disease Ordinance has prepared emergency measures to protect the Hualapai community by limiting exposure to COVID-19 and any communicable diseases to limit community spread; and
- WHEREAS,** COVID-19 vaccinations have been provided to the Tribe by the federal government pursuant to its Federal Drug Administration’s emergency use authorization (“EUA”) under Section 564A of the Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (“PAHPRA”); and
- WHEREAS,** the EUA statute (21§U.S.C. 360BB-3) provides that individuals be informed “of the option to accept or refuse administration of the [vaccine], of the consequences, if any, or refuse administration of the [vaccine] and of the alternatives to the product that are available and of their benefits and risks”, as well as adverse outcomes such as loss of employment; and
- WHEREAS,** the courts have upheld mandatory vaccinations for COVID-19 by employers for employees despite its emergency use approval status under the EUA statute (21§U.S.C. 360BB-3); and
- WHEREAS,** the Hualapai Tribe possesses inherent sovereignty to regulate the health, safety, and welfare of all persons who enter or reside upon the Hualapai Indian Reservation; and

WHEREAS, the Equal Employment Opportunity Commission (EEOC) has issued guidance ([What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)) updated June 28, 2021 that indicates an employer does not have to provide a reasonable accommodation to employees who pose a “direct threat”, defined as a “significant risk of substantial harm” to their own or other’s health or safety, which cannot be reduced or eliminated by reasonable accommodation; and

WHEREAS, the Hualapai Tribe, through Indian Health Service and Peach Springs Health Center has provided vaccinations to Tribal Members and Employees of the Hualapai Tribe; and

WHEREAS, in response to the increase of infections and the Delta variant, multiple government and businesses around the country have made mandatory testing and vaccination a condition of employment in an effort to mitigate the public exposure to the virus; and

WHEREAS, in the response to the increase in infections, the Hualapai Health Board and the Emergency Response Team presents a request to the Tribal Council a mandate for COVID-19 vaccinations for all employees of the Tribal government and enterprises, subject to a reasonable accommodation provided for those employees who sincerely believe that vaccination conflicts with their religious tenets or those who cannot receive a vaccine due to a disability; and

WHEREAS, the Council concurs with the Hualapai Health Board and Emergency Repose Team and finds that all the rationale for the mandating COVID-19 testing and vaccinations for ALL employees of the Tribe’s government and enterprises:

1. The Hualapai Tribal Council has broad authority to regulate individual rights to protect the general health, safety, and welfare of the Tribe and its members as a whole;
2. The freedoms and liberties of an individual employee are not absolute in all circumstances but are subject to restraints and mitigation measures necessary for public health, safety, and welfare;
3. The Tribe has the right to protect itself against the COVID-19 pandemic which threatens the health, safety, and welfare of its members, employees, and visitors;
4. As a matter of health policy; as a recommendation by the CDC, a substantial share of the population must acquire immunity, either through vaccination or previous infection, in order to get the pandemic under control and reduce potential morbidities and mortality;
5. On August 23, 2021 the FDA approved Pfizer-BioNTech COVID-19 vaccine for prevention of the COVID-19 disease in individuals 16 years of age and older, the FDA has issued Biological License Application under Section 351(a) of the Public Health Services Act (PHS Act) for COVID-19 Vaccine, mRNA;
6. Though some vaccines remain under the FDA EUA, the federal EEOC guidelines and federal courts have indicated that employers may require vaccines in healthcare and other settings; provided that reasonable accommodations be made for those employees seeking to opt-out due to sincerely held religious beliefs or a disability;
7. Individuals requesting to opt-out due to sincerely held religious beliefs or a disability must let the employer know that they need an exemption from the

requirement by submitting a notarized exemption from a religious leader or a letter from a provider requesting an exemption or a reasonable accommodation for a disability.

8. For any reasonable accommodation for those seeking to opt out of a mandated vaccination, an individualized assessment must be made;
9. Some reasonable accommodations according to the EEOC would be employees wearing a face mask, work a staggered shift, making changes in the work environment (such as improving ventilation systems or limiting contact with other employees or non-employees), permitting telework if feasible, reassigning the employee to a vacant position in a different workspace or getting periodic tests for COVID-19.
10. Such a vaccine mandate is reasonable under the circumstance and within the Tribe's policy power and in the best interest of the Tribe and public health, safety, and welfare, especially given the Tribe's relatively small population and the disproportionate, adverse effect of long-term related illnesses and potential deaths that may result from the virus without the prophylaxis of the vaccines.

THEREFORE IT BE RESOLVED, by the Hualapai Tribal Council that:

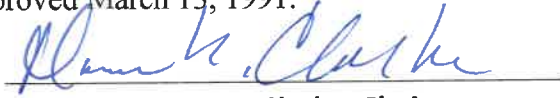
1. **Vaccination.** Full COVID-19 vaccination is hereby required for ALL employees of the Tribal government and its enterprises, and said mandate shall be a condition of employment effective within 48 days of the date of the resolution.
2. **Mandatory Testing.** All employees who refuse a COVID-19 vaccination based on the EEOC opt-out guidance based on religious beliefs or disabilities shall be subject to bi-weekly testing for COVID-19. The Human Resources Department for the respective employee, together with the Tribe's Health Education and Wellness Department, Indian Health Services, and Emergency Response Team, shall coordinate screenings, and the results of which shall be recorded.
3. An employee may apply to opt-out of receiving a vaccination if said employee has a sincerely held religious beliefs that prohibits such a medical procedure or had/has a disability, and the Tribe and its enterprises shall make reasonable accommodations, subject to an individual determination conducted by the Human Resources Department for the respective employee, conditioned that such accommodation cannot impose an undue hardship on the Tribe.
4. All employees shall submit proof of vaccination to the Human Resources Department, and said proof shall be included in the employee's employment record, subject to disclosure prohibitions of the federal Health Insurance Portability and Accountability Act.

FINALLY, BE IT RESOLVED, that the Hualapai Tribal Council has fully reviewed and determined that adopting this resolution is in the best interest of the Tribe and its members, employees, and visitors, and enacts this resolution this 31st day of August, 2021 and the condition of employment will be effective as of 18th day of October, 2021.

CERTIFICATION

I, the undersigned as Chairman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed nine (9) members of the whom seven (7) constituting a quorum were present at a Special Council Meeting thereof held on this 31th day of August, 2021; and that the foregoing resolution was duly adopted by a vote of (6) in favor, (1)

opposed, (0) not voting, (2) excused, (1) vacant; pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.



**Dr. Damon R. Clarke, Chairman
Hualapai Tribal Council**

ATTEST:



**Shanna Salazar, Administrative Assistant
Hualapai Tribal Council**