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## SAG-AFTRA and JPC Allow for Mandatory Vaccine Policies on Production Sets

The Screen Actors Guild-American Federation of Television and Radio Artists (SAG-AFTRA) and the Joint Policy Committee (JPC) [announced an addendum](#) to their [COVID-19 Commercial Production Safety and Testing Protocol Agreement of April 16, 2021](#) (COVID-19 Safety Protocol Agreement).

[The addendum](#) details new protocols that must be implemented in order for a signatory advertiser or agency to impose a mandatory COVID-19 vaccination policy for their commercial productions.

### What Is Permitted

While the COVID-19 Safety Protocol Agreement issued mandatory COVID-19 testing and safety policies for use on all commercial shoots involving union talent, the new addendum does not itself mandate COVID-19 vaccinations. Rather, the addendum addresses the present reality that many public and private organizations are voluntarily implementing vaccine mandates for employees and guests as a lawful and appropriate means of mitigating the COVID-19 pandemic.

The new addendum allows advertisers and agencies to require vaccine mandates for SAG-AFTRA performers in commercials, provided that such mandates follow certain protocols, including:

- >> Announcing the decision to implement a vaccine mandate as early as possible for a given production (ideally before casting takes place);
- >> Applying the mandate equally to all performers working within the same production zone or location; and
- >> Providing reasonable accommodations for performers with a sincerely held religious belief or a medical disability that prevents

### The Bottom Line

Agencies and advertisers producing commercials under SAG-AFTRA may require mandatory vaccination for talent, subject to compliance with union protocols.

Virtual auditions must be made available when an audition location requires proof of vaccination in order to enter.

SAG-AFTRA's COVID-19 testing and safety protocols remain in effect.

Below-the-line production crew unions have not yet published guidance or a position on the permissibility of vaccine mandates for crew members.

them from receiving the vaccine, provided that such reasonable accommodations do not pose an undue hardship on the production.

## Employment and Vaccination Status

Once a potential performer responds to the initial screening question regarding their vaccination status, employment is then conditioned on verification of the performer's vaccination status or their basis for exemption.

Signatories that do not wish to implement a mandatory vaccination policy on a given production are not permitted to make employment of any performer contingent on the performer being fully vaccinated. However, after the offer of employment is made, it is acceptable to require the performer to verify their vaccination status.

## Auditions

Regardless of any vaccine mandate for a specific production, vaccines may be mandatory to enter a location where auditions are scheduled to take place, either because of facility policy or requirement of the applicable governmental authority in that location. In such case, producers must provide prospective performers with an option to audition virtually, and may not ask the prospective performers to disclose their reason for requesting a virtual audition.

## Additional Caveats

The new addendum does not override or negate any of the COVID-19 testing and safety protocols outlined in the original COVID-19 Safety Protocol Agreement. Union productions must continue to utilize COVID-19 testing and other health and requirements, notwithstanding the vaccination status of the performers on site.

It is also important to note that the COVID-19 Safety Protocol Agreement and the new addendum only apply with respect to performers. To the extent that a production will employ union crew as well, additional protocols may apply.

The Association of Independent Commercial Producers (AICP) reached a collectively-bargained agreement with various production unions in December 2020 to implement testing and safety guidelines similar to those subsequently adopted by the SAG-AFTRA and JPC in publishing the COVID-19 Safety Protocol Agreement. However, to date, the AICP and the crew unions have not published an addendum or other agreement related to vaccine mandates.



Agencies and advertisers looking to impose vaccine mandates on their shoots may therefore still need to contend with whether the below-the-line unions will allow a requirement like this as a condition of employing crew members.

## For More Information

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Please contact the attorneys listed below or the Davis+Gilbert attorney with whom you have regular contact.

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