

## **Paul Roose, Arbitrator and Mediator**

### Guidelines for In-person Hearings / Mediation Sessions

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Public health recommendations for slowing the spread of COVID-19 continue to evolve. Labor and management parties are increasingly interested in conducting some arbitration hearings and mediation sessions in person. Yet, for a variety of reasons, all would-be participants are not necessarily fully vaccinated. I am modifying my guidelines again to adapt to these changing circumstances. Unvaccinated individuals can now participate provided they have a timely negative COVID test, as detailed in the “Negative COVID Tests” section below.

Vaccination: All individuals with proof of up-to-date COVID vaccination may participate fully in the same room as the arbitrator and court reporter. I will rely on the good faith efforts of the parties to enforce this rule for their participants / witnesses. Parties must confirm the vaccination status of all participants prior to admitting them into the hearing room. Authorized representatives of the parties must affirm to the arbitrator that all their participants / witnesses are fully vaccinated.

In the case of mediation, any room that the neutral enters must be populated only with fully vaccinated individuals.

Negative COVID Tests: For participating individuals without up-to-date vaccination, negative COVID tests may be used as a substitute. A negative PCR (lab-based) test result within 24 hours before the hearing is an acceptable option. Also acceptable is a negative rapid antigen (at-home) test. This test should be self-administered on the same day and prior to entering the hearing room. Again, I will rely on the good faith efforts of the parties to enforce this rule for their participants / witnesses.

Face Coverings, Ventilation and Social Distancing: Masks are optional but encouraged for those not speaking. Individuals who are wearing masks must remove them while speaking (testifying, presenting, or in informal conversations with the arbitrator / mediator).

Hearing and meeting rooms should be well-ventilated.

The rooms should be set up so that advocates and testifying witnesses are closest to the arbitrator and court reporter, but preferably six feet away from them.

Participation by Non-Vaccinated or Otherwise Remote Individuals: Parties may bring non-vaccinated and non-tested individuals into the proceedings by audio and video connections. Witnesses may testify over audio connections (speakerphone) or audio / video connections (such as Zoom). All such arrangements must be by mutual agreement of the parties, with the arbitrator resolving any disputes.

Parties should keep in mind that Zoom (or other similar platform) witnesses must be able to be seen and heard. They must also be able to see and hear the arbitrator and advocates. The parties must work together in advance to set up a system that does not require the use of simultaneously open mics in the same room. Doing so results in unacceptable feedback and reverberation.

Alternatives to an In-Person Hearing: Parties may assess the multiple challenges (and expenses) of an in-person hearing under these guidelines and decide to try a different format. One option is to have the

parties gather in a conference room and have the arbitrator (and court reporter) appear from a remote location on a wall screen. For this to work, a device such as a Meeting Owl can be utilized in the conference room.

Another option is to have the arbitrator host and conduct the entire proceeding on Zoom. Parties and witnesses can appear from separate locations. Over the past three years, many of us in the labor relations field have become quite adept at the use of this format to run a fair and efficient hearing.