**Note: Agencies should delete all unapplicable language from this template. For example, if the employee is not subject to weekly testing as an APPROVED accommodation OR PENDING REQUEST, delete all language referencing testing as part of an APPROVED OR PENDING accommodation REQUEST. PURSUANT TO 6-B dcmr §1618.4, THE NOTICE MUST BE APPROVED AND SIGNED BY A PROPOSING OFFICIAL, WHO MUST BE A MANAGER WITHIN THE EMPLOYEE’S CHAIN OF COMMAND OR A MANAGEMENT OFFICIAL DESIGNATED BY THE PERSONNEL AUTHORITY. AGENCIES SHOULD MODIFY LANGUAGE TO REFLECT THE CIRCUMSTANCES of each case.**

[Agency Department]March 22, 2022

[Agency Address]

[Local Union Address Block]

Subject: **Notice of Proposed Removal**
[Employee First Name] [Employee Last Name], [Agency Abbr.]

[Local Union Salutation],

On [Violation Date], [Employee First Name] [Employee Last Name], [Job Title], with the [Agency], failed to comply with the District government’s vaccination policy outlined in Issuance I-2022-3 and Mayor’s Orders 2021-099 and 2021-147.

The employee was initially verbally counseled for violating the policy on [Date]. On [Date], the employee was suspended for five days because of their second violation of the policy. This is the employee’s third violation of District government’s vaccination policy.

Pursuant to Chapter 16 of Title 6, Subtitle B of the DC Municipal Regulations, the [insert agency name] is proposing to remove this employee from [His or Her] position of [Job Title]. In accordance with [CBA Citation], of the [CBA Name], this constitutes written notice to the union of the notice of proposed removal for [Empl Prefix] [Employee Last Name].

We have outlined the specific details and circumstances in a notice of proposed removal, which is provided to the employee. For more information please contact [Agency HR Officer], at (202) ###-#### or email.address@dc.gov.

Sincerely,

**/s/Jane Doe**

Jane Doe

Agency HR Officer

Attachments

[Agency Department]

March 22, 2022

[Agency Address]

[Employee First Name][Employee Last Name]**,** [Job Title]

[Street Address]

[City], [State]

Subject: **Notice of** **Proposed Removal**

Dear [Empl Prefix]. [Employee Last Name]:

[**Insert agency name**] is proposing to remove you from your employment as a [Job Title].

**Disciplinary Cause.** This action is being taken for the following reason(s):

As of [Violation Date], you have not provided proof of full vaccination against COVID-19, or you have failed to submit weekly negative COVID-19 test results as part of an approved or pending accommodation request. (Conduct Prejudicial to the District Government, Failure or Refusal to Follow Instructions, and Safety and Health Violations, in violation of 6-B DCMR §§ 1605.4(a), (d) and (i).)

On [Date], you were verbally counseled for your failure to comply with the District government’s vaccination policy. On [Date], you were suspended for five days for your second violation of the District’s vaccination policy. This constitutes your third violation of the District’s vaccination policy.

*Proposed Agency Action:* ***Removal***

The proposed removal serves as an independent adverse action for each of the enumerated causes above. Evidence supporting the above causes can be found in the enclosed attachments to this notice.

In accordance with Mayor’s Order 2021-099 and 2021-147, and Issuance No. 2022-3, all District government employees must submit full proof of vaccination which includes receipt of a booster within six weeks of being eligible to receive a booster. Employees with an approved or pending accommodation request must submit a weekly negative COVID-19 test. Your failure to adhere to this policy violates the standards outlined in the Mayor’s Orders 2021-099 and 2021-147, and DCHR Issuance 2022-3.

Based on the conduct outlined above and in consideration of the relevant *Douglas* factors, we are compelled to propose to remove you from your position.

**Review Process.** You have the right to challenge this action and may secure an attorney or other representative, at your own expense. You are encouraged to fully review the accompanying materials supporting this proposed action.

You, or your representative, have the right to submit a written response to [HO\_Name], the designated hearing officer who will review this action. With any response, you are encouraged to include affidavits or other documents that you would like considered. Any written response must be sent to the hearing officer within ten (10) days from the date of service of this notice. You may contact the hearing officer by phone at [HO\_Phone] or by e-mail to [HO\_Email]. As a written part of your response, you must raise every defense, fact, or matter in extenuation, exculpation, or mitigation which you have knowledge of, or reasonably should have knowledge of, which is relevant to a reason for which you took an action (or failed to take an action) which is a subject of the notice of proposed removal. Your failure to raise a known defense, fact, or matter shall constitute a waiver of such defense, fact, or matter in all subsequent proceedings.

**Final Decision.** Based on the hearing officer’s review and recommendation, supporting documentation and any materials you provide, the Deciding Official, [Deciding Official], [Deciding Official Title], will issue a final determination, which will be sent to your address of record.

Sincerely,

|  |
| --- |
| **/s/ John Doe** |
| Proposing Official |

**CERTIFICATE OF SERVICE**

On \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a copy of this notice of proposed removal, along with supporting materials was provided to [Full Name] [Home Address Street] [Home Address City], [State/Province] [ZIP/Postal Code], via:

Hand Delivered

USPS Certified Mailed (USPS No.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

FedEx Next Day (FedEx No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

|  |  |  |  |
| --- | --- | --- | --- |
|  |  |  |  |
|  | SUPERVISING OFFICIAL  (printed name) |   | SUPERVISING OFFICIAL (signature) |

**EMPLOYEE RECEIPT**

I received a copy of this notice of proposed removal, along with the identified supporting materials. My signature below serves only to acknowledge receipt.

|  |  |
| --- | --- |
|  |  |
|  | [Employee First Name] [Employee Last Name] |

|  |  |
| --- | --- |
|  |  |
|  | Date |

# Establishing the Appropriate Action

Consistent with 6B DCMR § 1606, the following factors were considered by the D.C. Department of Resources when establishing the separation action in this case:

**NOTE:** Agencies must conduct a separate penalty factor analysis for each cause. Therefore, the factor analysis below is required for each enumerated cause supporting the discipline. If an agency wishes to utilize one Douglas Factor sheet, then each analysis section must enumerate each independent cause and analysis based on that relevant factor.

|  |  |  |
| --- | --- | --- |
| 1606.2 | Description | Analysis |
|  | **Nature and seriousness of the misconduct or performance deficit, and its relationship to the employee’s duties, position, and responsibilities, including whether the offense was intentional, technical or inadvertent; was committed maliciously or for gain; or was frequently repeated** | On [Date], [Employee Name], failed for a third time to comply with the District government’s vaccination policy described in I-2022-3 and Mayor’s Orders 2021-147 and 2021-099 by failing to [CHOOSE ONE: [provide proof of full vaccination] or [failing to submit a negative weekly test for COVID-19 as part of an approved or pending accommodation request].[Employee Name] serves as a [Position Title]. Primary duties include [Position Duties].This factor is considered: Choose an item. |
|  | **Job level and employment type, including supervisory or fiduciary role, contacts with the public, and prominence of the position** | Serves as a grade [Grade] [Position Title].This factor is considered: Choose an item. |
|  | **Disciplinary record** | \*\* Indicate any prior discipline such as previous vaccination policy discipline\*\*This factor is considered: Choose an item. |
|  | **Work record** **(including length of service, performance, ability to get along with colleagues, and dependability)**  | This employee has worked with the agency for XX years.Over the past three years, the employee has received XXX performance ratings. This factor is considered: Choose an item. |
|  | **The effect of the offense upon the employee’s ability to perform at a satisfactory level and its effect upon the confidence in the employee to perform assigned duties** | The District government’s vaccination policy is critical to internal safety and security protocols. Employees put others at risk and are unable to perform their duties if they are in violation of legal requirements established by Mayor’s Orders 2021-147 and 2021-099; and I-2022-3.This factor is considered: Choose an item. |
|  | **Consistency of the penalty with those imposed upon other employees for the same or similar offenses** | Removal is consistently applied for third offenses of the vaccination policy described in I-2022-3.This factor is considered: Choose an item. |
|  | **Consistency of the penalty with the table of illustrative penalties (§ 1607)** | Separation is within the range of penalties established in DPM Chapter 16.This factor is considered: Choose an item. |
|  | **The notoriety of the offense or its impact upon the reputation of the agency or the District government** | As a matter of policy publicly issued by the Mayor, all District government employees must be fully vaccinated and boosted if eligible or submit to weekly testing if they have an approved or pending accommodation request. The reputation of the District government is adversely impacted as your noncompliance with this policy means you have failed to adhere to a Mayoral Order imposing requirements related to safety and health. The District government’s reputation is undermined when employees fail to adhere to health and safety related measures. This factor is considered: Choose an item. |
|  | **Clarity with which employee was on notice of any rules that were violated, or had been warned about the conduct in question** | Employee received notice of the requirement on [Insert dates communications were sent to employee about policy]. On [Date], [employee] was verbally counseled for their initial violation of the policy. On [Date], [employee] was suspended for five days due to their second violation of the policy. The employee was reminded of the policy and provided notice on how to comply during both the verbal counseling and suspension phases. This factor is considered: Choose an item. |
|  | **Potential for rehabilitation** | [The vaccination policy provides agencies shall dismiss a proposed removal should an employee become fully vaccinated before a final decision is issued regarding this matter.]OR[Employee must provide negative weekly COVID-19 testing as part an approved accommodation. The employee has failed to submit a weekly test on [# of times employee has failed to submit weekly test] occurrences prior to the issue of this proposed removal.][If applicable, insert any potential for rehabilitation language unique to circumstances of employee case]This factor is considered: Choose an item. |
|  | **Mitigating circumstances surrounding the offense** | \*As these are fact specific, agencies should list any mitigating circumstances that would be relevant to an employee’s failure to comply with this policy based on the unique circumstances of that employee’s case\* Please refer to 1606.2(k) for examples of mitigating circumstancesThis factor is considered: Choose an item. |
|  | **Adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.** | The agency previously verbally counseled the employee on [Date], and suspended the employee on [Date] for a second violation. Both are lesser sanctions than currently proposed. The employee’s continued noncompliance is indicative that progressively severe sanctions are warranted.This factor is considered: Choose an item. |