

Ron DeSantis
GOVERNOR



Dane Eagle
SECRETARY

November 23, 2021

VIA EMAIL ONLY

RuleAdoptions@DOS.MyFlorida.com

Anya C. Grosenbaugh
Florida Department of State
Administrative Code/Weekly Unit
Room 701, the Capitol
Tallahassee, Florida 32399

RE: 73BER21-1 Determinations Regarding Discharges for Noncompliance with a COVID-19
Vaccination Mandate

Dear Ms. Grosenbaugh,

Enclosed is the certification package for filing the above-referenced rule for adoption.

If you have any questions regarding this rule, please contact me either by phone at (850) 245-7172, or by e-mail, Karen.Gates@deo.myflorida.com.

Sincerely,

/s/ Karen Gates
Karen Gates
Deputy General Counsel

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
(850) 245.7105 | www.FloridaJobs.org | www.Twitter.com/FLDEO | www.Facebook.com/FLDEO

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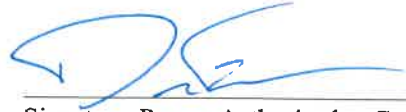
CERTIFICATION OF DEPARTMENT OF ECONOMIC OPPORTUNITY
EMERGENCY RULE FILED WITH THE
DEPARTMENT OF STATE

I hereby certify that this rule complies with the emergency rulemaking authority and exemptions provided in sections 112.0441(4) and 381.00317(6), Florida Statutes. I further certify that the procedures used in the promulgation of this emergency rule were fair under the circumstances and that the rule otherwise complies with section 120.54(4), Florida Statutes. The adoption of this rule was authorized by the head of the agency, and this rule is hereby adopted upon its filing with the Department of State.

Rule No.

73BER21-1

Under the provision of section 120.54(4)(d), Florida Statutes, this rule takes effect upon filing unless a later time and date less than 20 days from filing is set out below.



Signature, Person Authorized to Certify Rules

Secretary _____

Title

Number of Pages Certified

CERTIFICATION OF DEPARTMENT OF STATE

DESIGNATION OF RULE THE VIOLATION OF WHICH IS A MINOR VIOLATION

Pursuant to Section 120.695(2)(c)3, Florida Statutes, I certify as agency head, as defined by section 20.05(1)(b), Florida Statutes, that:

All rules covered by this certification are not rules the violation of which would be minor violation pursuant to Section 120.695, F.S.

The following parts of the rules covered by this certification have been designated as rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.:

Rule No.

Rule covered by this certification:

Rule No.

73BER21-1 Determinations Regarding Discharges for Noncompliance with a COVID-19 Vaccination Mandate



Signature of Agency Head

Secretary

Title

DEPARTMENT OF ECONOMIC OPPORTUNITY

RULE NUMBER:

73BER21-1

RULE TITLE:

Determinations Regarding Discharges for Noncompliance with
a COVID-19 Vaccination Mandate

STATEMENT OF FACTS AND REASONS FOR FINDING IMMEDIATE DANGER

Pursuant to sections 112.0441(4) and 381.00317(6), Florida Statutes, the Department is not required to make findings of an immediate danger to the public, health, safety, or welfare as all conditions are deemed met to adopt emergency rules pursuant to section 120.54(4), Florida Statutes.

STATEMENT OF AGENCY REASONS THAT PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES

Pursuant to sections 112.0441(4) and 381.00317(6), Florida Statutes, the procedures are deemed fair under the circumstances.

73BER21-1 Determinations Regarding Discharges for Noncompliance with a COVID-19 Vaccination Mandate

(1) A claimant will not be disqualified from receiving Reemployment Assistance benefits if the claimant is discharged from a private employer for the claimant's refusal to comply with the private employer's COVID-19 vaccination mandate, and the private employer did not offer and properly apply the exemption requirements listed in section 381.00317(1), Florida Statutes.

(2) Private Employer Responsibilities. The private employer has the burden to prove that the private employer offered and properly applied the COVID-19 vaccination mandate exemptions listed in section 381.00317(1), Florida Statutes. If the Attorney General imposed a fine against the private employer for failing to comply with sections 381.00317(1) and 381.00317(2), Florida Statutes, the private employer cannot meet its burden with respect to any claimant that was denied an exemption as a result of such failure.

(3) Claimant Responsibilities. If a claimant has been discharged from employment with a private employer due to the claimant's noncompliance with his or her private employer's COVID-19 vaccination mandate and the private employer provides information to the Department of Economic Opportunity that shows the private employer offered and properly applied the COVID-19 vaccination mandate exemptions listed in section 381.00317(1), Florida Statutes, the claimant must provide a copy of the document that was submitted to his or her private employer specifying that the claimant qualified for an exemption under section 381.00317(1), Florida Statutes. This documentation will be submitted by the claimant to the Department of Economic Opportunity during the fact-finding process, which is initiated by the Department of Economic Opportunity. If the claimant cannot provide a copy of this document, he or she must provide a signed document attesting to the fact that he or she did submit a request to opt out of the private employer's COVID-19 vaccination mandate and was eligible for a qualified exemption pursuant to section 381.00317(1), Florida Statutes.

(4) A claimant will not be disqualified from receiving Reemployment Assistance benefits if the claimant is discharged from an educational institution, as that term is defined in section 112.0441(1)(b), Florida Statutes, or a governmental entity, as that term is defined in section 768.38, Florida Statutes, for the claimant's refusal to comply with a COVID-19 vaccination mandate imposed by the educational institution or governmental entity.

(5) Educational Institution and Governmental Entity Responsibilities. The educational institution or governmental entity has the burden to prove that the claimant was not discharged for the claimant's refusal to comply with a COVID-19 vaccination mandate imposed by the educational institution or governmental entity.

Rulemaking Authority sections 381.00317(6)(b) and 112.0441(4), Florida Statutes. Laws Implemented sections 381.00317(5) and 112.0441(3), Florida Statutes. History-New.