



Melissa Santistevan  
Inspector General

**OFFICE OF INSPECTOR GENERAL**  
*City of Albuquerque*

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**DATE:** January 12, 2022

**SUBJECT:** Abuse of Power related to the City's COVID-19 Protocols

**FILE NO:** 22-0008-C

**INVESTIGATOR:** M. Santistevan 

**STATUS:** Closed

**Informative Case Synopsis**

Pursuant to City Ordinance 2-17-2, the Inspector General's goals are to: (1) Conduct investigations in an efficient, impartial, equitable and objective manner; (2) Prevent and detect fraud, waste and abuse in city activities including all city contracts and partnerships; (3) Deter criminal activity through independence in fact and appearance, investigation and interdiction; and (4) Propose ways to increase the city's legal, fiscal and ethical accountability to insure that tax payers' dollars are spent in a manner consistent with the highest standards of local governments.

On January 12, 2022, the Office of Inspector General "OIG" received an anonymous complaint alleging 'Abuse of Power. We received a memo stating we HAD to be vaccinated in the next couple of weeks. I do not have a medical exemption or religious, I just do not think it is healthy and do not think it is safe yet. But now I risk a job that I have been at for 15 years! This is politically motivated by the Mayor and an abuse of his power to follow the governor and president with this ridiculous mandate. We CANNOT be punished for something we do not want to do since it is not healthy. And with two weeks notice????' Upon receiving this complaint, the OIG determined that the allegations did rise to the level of potential fraud, waste or abuse, initiated a case and began a fact-finding investigation.

OIG's fact-finding investigation consisted of the OIG Investigator reviewing the City of Albuquerque's Administrative Instruction 7-67 (AI 7-67), researching and reviewing EEOC guidance and regulations, researching and reviewing OSHA regulations, researching articles on employers mandating vaccination or weekly testing as a condition of employment and court opinions issued as a matter or precedence.

While performing our fact-finding investigation, OIG discovered that OSHA issued temporary regulation 1910.501 that is effective January 10, 2022. OSHA's temporary regulation is currently being reviewed by the U.S. Supreme court. Until a determination of the validity of the regulation has been issued by the U.S. Supreme Court, the regulation and effective date must be complied with by employers who have 100 or more employees.

Federal EEOC laws do not prevent an employer from requiring all employees physically entering the workplace to be vaccinated for COVID-19, so long as employers comply with the reasonable accommodation provisions of the ADA and Title VII of the Civil Rights Act of 1964 and other EEO considerations.

Recent federal court rulings have created precedence for employers mandating the vaccine or weekly testing as a condition of employment.

The fact-finding investigation led to the discovery that The City of Albuquerque is following current OSHA regulations for vaccinations and testing. Additionally, the City of Albuquerque has the right to determine conditions of employment, including vaccination or weekly testing as a condition of employment.

As the U.S. Supreme Court is deliberating the constitutionality of OSHA regulation 1910.501, a ruling contrary to upholding the regulation may have an impact on the OIG's investigation of this matter.

Based on the information obtained during our fact-finding investigation, the allegations in the complaint appear to be unsubstantiated and as such this case is being closed.



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**DATE:** January 24, 2022

**SUBJECT:** Abuse of Power related to the City's COVID-19 Protocols

**FILE NO:** 22-0008-C

**INVESTIGATOR:** M. Santistevan 

**STATUS:** Closed

**Follow up to Informative Case Synopsis**

On January 10, 2022, the U.S. Supreme Court ruled against OSHA's vaccine or test mandate and remanded the matter back to the Court of Appeals. As a result, the City of Albuquerque issued a stay on the implementation of AI 7-67.

In light of the decisions made by both the U. S. Supreme Court and the City of Albuquerque, the matter at the heart of this fact-finding investigation is unsubstantiated.