



NEWS

*New York State
Public Employees Federation
AFL-CIO*

Contact: Darcy Wells
518-785-1900, ext. 277
518-859-1274
email: dwells@pef.org

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PEF Wins Temporary Restraining Order For Mandated Vaccines

Albany - The New York State Public Employees Federation (PEF) was granted a temporary restraining order which halts the emergency regulation requiring certain health care workers to be vaccinated for seasonal and H1N1 viruses.

PEF filed a lawsuit against the State of New York to block the mandated vaccinations. The suit seeks to nullify and void the emergency regulation imposed by State Health Commissioner Richard Daines which would require certain health care workers to be vaccinated by November 30 or face possible disciplinary action, including termination.

“This is a big step in the right direction,” said PEF President Kenneth Brynien. “We are not aware of any other successful legal challenge to a mandatory vaccination requirement. The judge agreed with our argument that there is enough merit to warrant a stay.

“Our lawsuit states this regulation is an absolute violation of the separation of powers, as it is an unconstitutional exercise of the Legislature’s authority. If, and only if, such a mandate were deemed necessary, it should have come from the Legislature, not an administrator.

All other mandated vaccines have a statutory basis, yet this mandate is regulatory.

“We argued there is no basis for an emergency regulation. By the Health Department’s own admission during an Assembly hearing held in Manhattan October 13, this regulation had been in the works for two years. Where is the emergency?”

The lawsuit was filed in Albany County Supreme Court and names Daines, the State Health Department, State Hospital Review and Planning Council, Governor David Paterson and the State of New York as defendants. Judge McNamara has scheduled a return date for arguments on October 30.

PEF encourages its members to be vaccinated against the flu, but is opposed to the emergency regulation mandating the vaccine as a condition of employment.

PEF is the state’s second-largest, state employee union, representing 59,000 professional, scientific and technical employees, including 15,000 health care workers, approximately 5,000 of whom are covered by the emergency regulation.