

HR/LR Policy # 1446

COVID-19 Proof of Vaccination and Testing

Date Issued: 8/11/2021**Effective Date:** 9/8/2021**Authority:** Enterprise Employee Resources

OVERVIEW

Objective

To prevent the transmission of COVID-19 by: requiring proof of COVID-19 vaccination status of agency staff who are assigned to work at the workplace (rather than at-home telework), wish to access the workplace for more than 10 minutes, or otherwise provide agency services outside the staff member's home; and by providing standards and expectations for mandatory testing of agency staff who have not provided proof of full COVID-19 vaccination.

Policy Statement

The COVID-19 pandemic presents an unprecedented challenge to our State. The virus is highly contagious, including among asymptomatic people, and potentially deadly. As of August 6, 2021, over 7,600 of our family members, friends, and neighbors in Minnesota have perished from COVID-19. According to the Centers for Disease Control and Prevention ("CDC") and the Minnesota Department of Health ("MDH"), the best way to prevent infection and from spreading the disease is by being vaccinated. COVID-19 vaccines have proven themselves to be safe and effective. Staff who access the workplace or provide public service outside of their homes on behalf of an agency without vaccination pose a particular risk of COVID-19 exposure to themselves, their colleagues, and to members of the public. Additionally, ongoing community transmission of the more transmissible Delta variant of COVID-19 in Minnesota, especially among unvaccinated individuals, presents a continuous risk of infection.

The State strongly encourages agency staff to get vaccinated against COVID-19. To protect, to the extent reasonably possible, the health and safety of our employees and our customers from the direct threat resulting from the spread of COVID-19 in the workplace and to members of the public, agency staff who are assigned to work at the workplace (rather than at-home telework), wish to access the workplace for more than 10 minutes, or otherwise provide agency services outside of their home must provide proof of their COVID-19 vaccination status. All agency staff who are assigned to work at the workplace (rather than at-home telework) or who otherwise provide agency services outside of their home and do not submit proof of full COVID-19 vaccination must undergo mandatory COVID-19 testing at least weekly.

This policy is subject to change at MMB's discretion, including based on public health guidance. Staff members may be subject to additional attestation, vaccination, or testing requirements under agency policy or state or federal law.

Scope

This policy applies to all employees, contractors, vendors, volunteers and interns of executive branch agencies (as defined in Minnesota Statutes, section 43A.02, subds. 2 & 22), Minnesota State Retirement System, Public Employees

Retirement Association, Teacher’s Retirement Association, and Minnesota State Colleges and Universities system, who are assigned to work at the workplace (rather than at-home telework), who wish to access the workplace for more than 10 minutes, or who otherwise provide agency services outside of their home.

Definitions and Key Terms

Terms	Definitions
<i>Fully Vaccinated</i>	<p>According to the CDC, in general, people are considered fully vaccinated against COVID-19:</p> <ul style="list-style-type: none"> • 2 weeks after their second dose in a 2-dose COVID-19 vaccination series approved by the U.S. Food and Drug Administration (“FDA”) or the World Health Organization (“WHO”); or • 2 weeks after a single-dose COVID-19 vaccine approved by the FDA or the WHO. <p>Staff who do not meet these requirements are NOT fully vaccinated.</p>
<i>Staff</i>	Employees, contractors, vendors, volunteers, and interns.
<i>COVID-19 Test</i>	A medical test to determine if someone has an active COVID-19 infection. As methods become available, recommended tests may include a polymerase chain reaction (PCR) test or an antigen test. A test will be administered by contracted medical personnel or, if approved by agency Human Resources, may be self-administered.
<i>Workplace</i>	Any location outside of a staff member’s home where State work is performed or any location visited by the staff member for more than 10 minutes while on work time.

Exclusions

This policy does not apply to staff who have an approved telework arrangement and solely telework from home, do not access the workplace for more than 10 minutes, and do not otherwise provide agency services outside the staff member’s home.

GENERAL STANDARDS AND EXPECTATIONS

I. Proof of Vaccination Status

Agency staff who are assigned to work at the workplace (rather than at-home telework), wish to access the workplace for more than 10 minutes, or otherwise provide agency services outside their home, must submit to agency Human Resources an attestation regarding their COVID-19 vaccination status, in the form provided in the “Forms” section of this policy.

Human Resources will review the attestation form and proof of COVID-19 vaccination and verify on the attestation form that they have reviewed the proof of full COVID-19 vaccination provided by the employee. Acceptable proof that an individual is fully vaccinated against COVID-19 includes:

- an original CDC COVID-19 vaccination card
- a paper or electronic copy of a CDC COVID-19 vaccination card
- if vaccinated in another country, then an original or copy of an alternative official vaccination record, as proof of FDA- or WHO-approved COVID-19 vaccination status

Agency staff have the right to refuse to receive a COVID-19 vaccination and to refuse to provide an attestation reflecting their COVID-19 vaccination status, but the staff member will be considered to be unvaccinated for the purposes of this policy.

Proof of full vaccination against COVID-19 must legibly show, at a minimum:

1. Name of the individual vaccinated
2. Date of birth of the individual vaccinated
3. The manufacturer of the vaccine
4. The date(s) on which the vaccine was administered

If the proof is not legible or verifiable in the form presented, the agency may ask the staff member to present the original document.

In order to be considered fully vaccinated against COVID-19, the staff member must have received a COVID-19 vaccine that has been approved by the U.S. Food and Drug Administration (“FDA”) or the World Health Organization (“WHO”). If the vaccine was administered outside of the United States, documentation must include the above information in English.

The attestation forms will be treated as confidential medical records under applicable law. Information regarding whether a staff member has shown proof of full vaccination, and information on whether the staff member must submit to mandatory COVID-19 testing, will be provided to agency HR staff, agency safety administrator, members of the agency’s staff with a business need to know, and others authorized by law.

Staff who provide proof to agency Human Resources that they are fully vaccinated against COVID-19 are exempt from participation in the COVID-19 Testing Procedure under this Policy.

Staff who have an approved telework arrangement and are not required to work in the workplace or provide agency services outside of their home are not subject to the COVID-19 Testing Procedure in this Policy, but they will only be allowed to enter the workplace for more than 10 minutes or provide agency services outside of their home if they attest to and provide proof of being fully vaccinated against COVID-19.

II. COVID-19 Testing Procedure for Agency Staff Who Do Not Submit Proof of COVID-19 Vaccination

Agency staff who show proof of full vaccination against COVID-19 are not required to submit to COVID-19 testing.

Until a staff member subject to this policy submits proof of full vaccination against COVID-19, they must undergo mandatory testing for COVID-19 at least weekly, as determined by the agency. The COVID-19 test and results must be conducted and handled in compliance with all applicable rules and laws. Due to the pandemic and covered staff's job-related interaction with others, COVID-19 testing is job-related and consistent with business necessity. A positive COVID-19 test result will not be used as the basis for discipline or discharge.

- A. If the agency has a testing facility, then testing will be performed on site. If the agency does not have a testing facility, the agency may require staff to provide proof of both test submission and test results from a State testing facility or a non-State testing facility.
- B. Agency staff have the right to refuse to take a COVID-19 test. Prior to COVID-19 testing, agency staff receive the COVID-19 Testing Consent form. Signed COVID-19 Testing Consent forms must be maintained by agency Human Resources in a medical file that is separate from the staff member's personnel file.
 1. Staff who consent to COVID-19 testing and sign the consent form and any other forms necessary for testing will proceed with the COVID-19 test.
 2. Staff who refuse to sign the consent form or any other forms necessary for testing, refuse to submit to a COVID-19 test, or refuse to provide documentation of test submission and test results if the agency does not have a testing facility, will be informed that they will be excluded from the workplace, and may be subject to disciplinary action, up to and including discharge, for refusing a work directive.
 - a. These staff members may be sent home and placed in no-pay status (ETL for employees) until they have been tested for COVID-19 or until management, in its sole discretion, determines they no longer require COVID-19 testing. If the staff member is an employee of the agency, prior to being placed in no-pay status, they will be offered a meeting with their supervisor to learn the reasons for being placed in no-pay status and to tell their side of the story. The employee may have union representation at the meeting.
 - b. Staff placed in no-pay status who later determine they wish to be tested may obtain a COVID-19 test on their own time at their own expense and have the results reported to agency Human Resources or may be tested at an agency facility with agency approval.
 3. **Covered staff who become fully vaccinated against COVID-19 or who did not previously attest to their full COVID-19 vaccination status may complete a new attestation form, present proof of full vaccination against COVID-19, and will be removed from the testing requirement.**
- C. Procedure for agencies that have facility testing on site:
 1. The agency will determine testing dates which will occur at least weekly.
 2. Testing will occur during work hours and be considered work time.
 3. Covered staff undergo COVID-19 test.
 4. Staff are provided the MDH "COVID-19 Post-Test Instructions" form.
 5. COVID-19 test specimens are submitted to the designated testing laboratory for testing.
 6. COVID-19 test results are communicated as follows:
 - a. The testing laboratory will deliver the COVID-19 test results to a designated vendor who will communicate the results to the staff member.

- b. The testing laboratory will report positive test results to MDH and/or local public health. State and federal laws may authorize or require MDH to share a staff member's health information with others without the staff member's consent.
 - c. The testing laboratory will also report positive test results to agency HR.
- D. Procedure for agencies that do not have an on-site testing facility:
 - 1. The agency will determine testing dates which will occur at least weekly and will either send the staff member to a State testing facility or to a non-State testing facility. The agency has sole discretion to choose or authorize the testing location and whether to accept the results from a particular testing method.
 - 2. Testing will occur during work hours and be considered work time.
 - 3. The staff member must provide agency HR documentation of test submission either on the same day or no later than the next day the staff member is scheduled to report to work, and must submit documentation of test results on the same day the staff member receives them if it is a workday, or no later than the next day the staff member is scheduled to report to work.
- E. Staff members with positive test results must call in to Human Resources and their supervisor, must not report to work, and must isolate according to current MDH Guidelines for the applicable profession.
 - 1. The staff member's supervisor and/or manager will determine if the staff member's job duties can be performed through telework.
 - 2. If the staff member's supervisor and/or manager determines the staff member's job duties cannot be performed through telework or does not approve the staff member to telework, the staff member must contact the designated agency HR representative to determine what type of leave the staff member may be eligible to use.

III. Confidentiality of Medical Information

Agencies must maintain the confidentiality of staff COVID-19 test results and vaccination status as provided by law. All information gathered under this Policy, including test results, vaccination status, attestation forms and signed COVID-19 Testing Consent forms, must be retained by HR according to the applicable retention schedule and in a secure medical file separate from the staff member's personnel file.

Testing information may be shared with the designated testing laboratory, the designated vendor, the Minnesota Department of Health, local public health, agency HR staff, agency safety administrator, members of the agency's staff with a business need to know, and others authorized by law.

COVID-19 vaccination status may be shared with agency HR staff, agency safety administrator, members of the agency's staff with a business need to know, and others authorized by law.

RESPONSIBILITIES

Agencies are responsible for:

- Adopting this policy.
- Communicating this policy to all covered employees, contractors, vendors, volunteers and interns.
- Requiring covered staff to comply with this policy, including sending staff home and/or taking other action for non-compliance when appropriate, including when positive test results are received.
- For agencies with on-site testing facilities, administering and paying for testing at least weekly.
- For agencies without on-site testing facilities, reviewing all outside test results received and monitoring staff compliance with the testing requirements of this Policy.
- Paying for all screening testing required by this Policy.
- Maintaining completed attestation forms.

FORMS

[COVID-19 Vaccine Attestation Form](#)

[COVID-19 Testing Consent Form](#)

CONTACTS

MMB Enterprise Human Resources