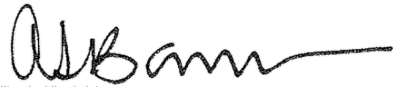




COVID-19 VACCINATION AND TESTING POLICY AND PROCEDURES

Policy #: Temporary Statewide Policy	Authority: State of Delaware Declaration of a Public Health Emergency July 12, 2021; 20 Del. C. Chapter 3137
Effective Date: September 29, 2021	Supersedes: September 1, 2021
Application: Executive Branch Agencies	Signature: 

1. POLICY PURPOSE STATEMENT

In accordance with the State of Delaware’s (State) duty to provide and maintain a safe workplace, this policy is set forth to safeguard the health of our employees and their families; our customers and visitors; and the community at large from COVID-19 that may be reduced by vaccinations and regular testing.

2. SCOPE

This policy applies to employees of the Executive Branch agencies including all appointed, executive, merit, full-time, part-time and casual/seasonal employees, apprentices, temporary agency staff, volunteer, paid and unpaid interns, joint employees, officers, and officials working for the State.

3. DEFINITIONS AND ACRONYMS:

- **Americans with Disability Act (ADA)** - The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public.
- **Coronavirus (COVID-19)** – New strain of coronavirus that has not been previously identified in humans. The virus causing coronavirus disease 2019 (COVID-19) is not the same as the coronaviruses that commonly circulate among humans and cause mild illnesses, like the common cold. A variant has one or more mutations that differentiate it from other variants in circulation. As expected, multiple variants of SARS-CoV-2 have been documented in the [United States](#) and [globally](#) throughout this pandemic. A variant with specific genetic markers that have been associated with changes to receptor binding, reduced neutralization by antibodies generated against previous infection or vaccination, reduced efficacy of treatments, potential diagnostic impact, or predicted increase in transmissibility or disease severity.
- **Employee/s** – Individuals working for the Executive Branch that are appointed, executive, merit, full-time, part-time and casual/seasonal employees, apprentices, temporary agency staff, volunteer, paid and unpaid interns, joint employees, officers, and officials.
- **Fully-vaccinated** – Defined by the Centers for Disease Control and Prevention (CDC) as two weeks after the second shot of a two-dose vaccination or two weeks after the first shot of a one-dose vaccination.
- **Medical Exemption** - A medical condition that may prohibit an employee from receiving the COVID-19 vaccination and/or COVID-19 testing. To qualify, the employee must have a disability under the ADA, defined by the ADA as a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment or a person who is perceived by others as having such impairment.
- **Reasonable Accommodation** - Title I of the ADA provides for reasonable accommodations to

qualified employees with disabilities who can perform the essential functions of the position, unless to do so would cause undue hardship. In general, an accommodation is a change in the work environment or in the way things are customarily done that would enable an individual with a disability to enjoy equal employment opportunities. Reasonable accommodations that apply to all persons with disabilities include, but are not limited to the following:

- Modifications or adjustments necessary to enable a qualified individual with a disability to perform the essential functions of the job.
- Modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment.
- **Religious Exemption/Accommodation** – For this policy, the State may accommodate employees who are not able to receive the COVID-19 vaccination and/or COVID-19 testing as part of their sincerely held religious observances and practices, unless doing so imposes an undue hardship, which is "more than de minimis" cost or burden on the operation of the employer's business.¹
- **Vaccination** – A substance that teaches your body to recognize that a foreign invader such as a virus or bacteria has entered the body. Once the body recognizes the invader, the body's immune system is activated, and fighter cells and proteins fight the virus or bacteria. A vaccination is much like a decoy, it tricks the body into thinking it is the virus, but it does not actually cause the disease. It helps the body fend off the virus.
- **Validation** – Proof of employee being fully vaccinated; or proof of employee being tested for a specific time frame.
- **Virtual Private Network (VPN)** - a method employing encryption to provide secure access to a remote computer over the internet.

4. POLICY

- a. Employees must certify (attest) that they are fully COVID-19 vaccinated or be required to test for COVID-19 on a weekly basis and certify to this testing. Employees may request an exemption from this policy or portions of this policy due to qualified health reasons or due to sincerely held religious beliefs or practices. Employees who are minors must receive documented permission from their parent or guardian for certifications.
- b. Employees must certify (attest) that they are fully COVID-19 vaccinated by completing the **COVID-19 Vaccination Certification** process that is valid for one (1) year.
- c. If an employee does not certify that they are fully vaccinated, the employee will be required to participate in the **COVID-19 Testing Certification** process described in the Procedure section of this policy. The COVID-19 Testing Certification process includes weekly COVID-19 testing.
- d. Employees may request an exemption from this policy only due to qualified medical reason(s) or due to a sincerely held religious belief or practice. The employee must submit a completed **ADA Reasonable Accommodation** request or a **Religious Accommodation** request to the Human Resources (HR) office to begin the interactive dialogue process. Reasonable accommodations may be granted where it does not cause the Agency undue hardship or pose a direct threat to the health and safety of others. Employees requesting exemptions may be required to participate in the COVID-19 Testing Certification process weekly. Requests for an exemption for personal or philosophical reasons will not be accepted.
- e. Employees who become fully vaccinated at any point in time after the effective date of this policy may complete the COVID-19 Vaccination Certification process and will no longer be required to submit to the weekly COVID-19 Testing Certification process.

¹ Under [Title VII of the Civil Rights Act of 1964](#), individuals have the right to be free from discrimination on the basis of religion.

- f. Employees will not be required to provide documentation of their **vaccination** status at the time of certification; however, the Human Resources office may request proof of vaccination at any time for any time period this policy is effective. Employees who have attested that they are vaccinated but are unable to provide proof of vaccination upon request may be subject to leave without pay and/or discipline up to and including termination.
- g. Employees will not be required to provide documentation of their test or **test results** at the time of certification; however, the Human Resources office may request proof of testing at any time and for any time period this policy is effective. Employees who have attested that they have been tested but are unable to provide proof of testing upon request may be subject to leave without pay and/or discipline up to and including termination.
- h. All requested validation documentation provided by the employee under this policy shall be retained in the employee's confidential medical file according to the applicable retention schedule. Certain information may be shared with other DHR staff on a need-to-know basis, only as authorized by law.
- i. In accordance with COVID-19 Leave Policy, employees may utilize available [Federal Paid Sick Leave](#) to receive the vaccination, or due to side effects resulting from receiving the vaccination per the Policy.
- j. Testing locations and details on ordering self-test kits can be found on the [DPH website](#). Take-home rapid antigen test kits and over-the-counter test kits are not acceptable for testing certification.
- k. Employees who are non-compliant or violate this policy may be subject to leave without pay and/or discipline up to and including termination.
- l. The State expressly prohibits any form of discipline, reprisal, intimidation, or retaliation against any individual for requesting a reasonable accommodation in good faith or for disclosing the existence of a disability or sincerely held religious beliefs or practices.
- m. This policy is subject to change at the Department of Human Resources' (DHR's) discretion based on current public health guidance.
- n. This policy supersedes agency policy or procedure on this subject.

5. PROCEDURES

- a. The Department of Human Resources began accepting vaccination certifications on September 1, 2021. Employees who are minors must receive documented permission from their parent or guardian for certifications.
- b. **COVID-19 Vaccination Certification Process**
 - 1) Employees working for the State between the effective date of this policy and September 30, 2021 must complete the COVID-19 Vaccination Certification process by September 30, 2021, if vaccination certification is their option. The Certification is valid for one (1) year from the date submitted. If during this time, an employee is on full time Family Medical Leave Act (FMLA), full-time Short-term Disability (STD), etc. or on full weeks of annual/vacation leave, parental leave, or other full-time leave, the employee is required to complete the COVID-19 Vaccination Certification within their first week of returning to work, regardless of whether the return to work is full-time if vaccination certification is their option.

- 2) Employees hired after September 30, 2021 must complete the COVID-19 Vaccination Certification process within seven (7) calendar days after their date of hire if vaccination certification is their option. The Certification is valid for one (1) year from the date submitted. If an employee hired after September 30, 2021 is on full-time STD or other employment status that prohibits their ability to complete the COVID-19 Vaccination Certification, the employee is required to complete the vaccination certification within their first week of returning to work, regardless of whether the return to work is full-time if vaccination certification is their option.
 - 3) Employees must complete the [COVID-19 Vaccination Certification process](#) through the State's network or through Virtual Private Network (VPN). Employees with State's single sign-on must access the vaccination certification process through single-sign on. Employees may also access this process through the [Coronavirus COVID-19 HR for State Employees](#) webpage. Employees who do not have access to the State's single sign-on service are to complete the fillable [COVID-19 Vaccination Certification form](#), or print the form, and provide to the DHR mailbox at CovidCert@delaware.gov or hand-deliver the form to their Human Resources office if employee does not have access to email. The form is available on the [Department of Human Resources' Policy and Procedure](#) webpage.
 - 4) If selected for validation, the employee will be responsible for providing proof of vaccination within two (2) business days to their HR office. The HR office will keep a copy of validation (proof of vaccination) in the employee's confidential medical file.
- c. The Covid-19 Testing Certification is effective September 30, 2021. Employees who are minors must receive documented permission from their parent or guardian for certifications.
- d. **COVID-19 Testing Certification Process**
- 1) Employees who choose not to or cannot complete the COVID-19 Vaccination Certification process must initiate the COVID-19 Testing Certification process. The COVID-19 Testing Certification process involves the employee's weekly attestation of receiving a COVID-19 test within the previous 7-day period. In order to attest, the employee must have had a COVID-19 test in the previous seven (7) days. The employee may be asked to provide documentation of the testing to their agency human resources office upon request.
 - 2) Employees working for the State between the effective date of this policy and September 30, 2021 must complete the initial COVID-19 Testing Certification requirements starting on September 30, 2021, if they do not certify that they are fully vaccinated. If during this time, an employee is on full-time FMLA, full-time STD, etc. or on full weeks of annual/vacation leave, parental leave, or other full-time leave, the employee is required to complete the COVID-19 Testing Certification within their first week of returning to work, regardless of whether the return to work is full-time.
 - 3) Employees hired after September 30, 2021 must initiate the COVID-19 Testing Certification requirements within seven (7) calendar days after their date of hire. The testing certification process includes weekly testing starting with their first week of employment per #4 of this section. If an employee hired after September 30, 2021 is on full-time STD or other employment status that prohibits their ability to complete the COVID-19 Testing Certification weekly, the employee is required to complete the testing certification within their first week of returning to work, regardless of whether the return to work is full-time.
 - 4) To initiate the testing requirement, employees must complete the COVID-19 Testing Certification process during the 7 days before their initial COVID-19 Testing Certification and weekly after that. **Starting September 30, 2021**, employees with State's single sign-on must

access the testing certification process through single sign-on. Employees may also access this process through the [Coronavirus COVID-19 HR for State Employees](#) webpage. This requirement excludes weeks where the employee is not working (e.g., full-time FMLA, full-time STD, or full week annual/vacation leave).

- 5) Employees who do not have access to the State's single sign-on service are to complete the fillable COVID-19 Testing Certification form, or print the form, and provide it to the DHR mailbox weekly at CovidCert@delaware.gov or hand-deliver the form to their Human Resources office if employee does not have access to email. The form will be available on the [Department of Human Resources' Policy and Procedure](#) webpage.
- 6) Employees may seek guidance on where and how to get tested on the [DPH website](#). It is the employees' responsibility to use testing where they show proof for validation.
- 7) If an employee tests positive for COVID-19, they should refer to the [COVID-19 FAQs for State Employees](#) which provides, in part, to contact your health care provider for further guidance and follow your agency's standard leave request process. If the positive employee is completing the COVID-19 Testing Certification process, the employee may submit medical documentation to the Human Resources office to exempt them from the weekly testing for a specific amount of time, during which the employee may still test positive.
- 8) When contacted, the employee will be responsible for providing proof of testing within two (2) business days to their Human Resources office.

e. ADA Reasonable or Religious Accommodations Request

- 1) Employees may request a reasonable accommodation from this policy based on either a medical exemption or based on a sincerely held religious belief or practice exemption. Employees who are requesting an exemption must complete the [ADA Reasonable Accommodation Request form](#) or the [COVID-19 Religious Accommodation Request form](#) and submit supporting documentation to the Human Resources office. While waiting for a determination and/or having received an approved accommodation, employees may be required to submit to the COVID-19 Testing Certification process on a weekly basis.
- 2) Employees working for the State between the effective date of this policy and September 30, 2021 are to request an Accommodation, if needed, as soon as possible and no later than September 30, 2021. If during this time, an employee is on full-time FMLA, full-time STD, etc. or on full weeks of annual/vacation leave, parental leave, or other full-time leave, the employee is to request an accommodation, if needed, within their first week of returning to work, regardless of whether the return to work is full-time.
- 3) Employees hired after September 30, 2021 must request an accommodation, if needed, within their first week of employment and may be required to test weekly from their date of hire through the COVID-19 Testing Certification process. If an employee hired after September 30, 2021 is on full-time STD or other employment status that prohibits their ability to complete the COVID-19 Testing Certification, the employee may request an accommodation, if needed, within their first week of returning to work, regardless of whether the return to work is full-time.
- 4) Requests for accommodation will be reviewed by the Human Resources office and employees will be notified of the determination no later than 15 business days after submission unless there are mitigating circumstances.

- 5) While waiting for a determination and/or after receiving an approved accommodation, employees may be required to:
- test on their own time and be personally responsible for the cost;
 - wear a face mask or face shield;
 - work at a social distance from co-workers or the public;
 - work a modified shift;
 - telework; or
 - accept a temporary reassignment.

6. EXCLUSIONS OR EXCEPTIONS

- Appointed Commissioners and Board Members that are not employees; employees of organizations contracting with the State of Delaware.

7. DISSEMINATION AND TRAINING

The Human Resources office shall provide a review of this policy and procedures to current employees and shall provide a review of this policy and procedures to employees who are new to their respective agencies as part of their initial orientation and no later than the first week of employment.

8. DATA REPORTING

- a. The Department of Human Resources will conduct weekly validation checks of both vaccination certification and testing certification statuses. DHR representatives will contact selected employees to request proof of either vaccination or testing and will include a deadline for the employee to respond with the requested information.
- b. DHR will also receive weekly reports of individuals who, under this policy, are required to be tested weekly for COVID-19 but have not provided a certification form. DHR will work with agency management to notify employees of their failure to submit the required certification form along with a deadline to respond. Employees will have the opportunity to provide an explanation for non-compliance which will be reviewed by a DHR representative and addressed appropriately.

9. ASSOCIATED POLICY/REGULATIONS/INFORMATION

- [Americans with Disabilities Act \(ADA\) Policy and Procedure](#)
- [Coronavirus \(COVID-19\) HR Resources for State Employees](#)
- [COVID-19 Vaccination and Testing Frequently Asked Questions](#)
- [Delaware COVID-19 Testing Resources](#)
- [Delaware COVID-19 Vaccination Resources](#)

10. FORMS ASSOCIATED WITH THIS POLICY

- [ADA Reasonable Accommodation Request Form](#)
- [COVID-19 Religious Accommodations Request Form](#)
- [COVID-19 Testing Certification Form](#)
- [COVID-19 Vaccination Certification Form](#)

This policy is not intended to create any individual right or cause of action not already existing and recognized under State and Federal law.