



# Fact Sheet

October 14, 2021

## COVID-19 Testing Requirement

Q. Which PS&T members are required to comply with the October 12, 2021 Testing/Vaccination Requirement?

A. All PS&T members in Executive controlled agencies who are not subject to a mandatory vaccination (without testing) requirement, such as those at SUNY and DOH Hospitals and Nursing Homes, must comply with this vaccine/testing requirement. It is expected that OSC, the Law Department and SED will be issuing their own policies regarding testing.

Q. What is the testing requirement?

A. Employees will be subject to weekly COVID-19 testing and related reporting commencing October 12, 2021, unless proof of full vaccination has been submitted by October 8, 2021. Testing will continue on a weekly basis until the employee is fully vaccinated. "Fully vaccinated" means that the employee is two weeks past a single dose vaccine (Johnson & Johnson) or two weeks past the second dose of a two-dose vaccine (Pfizer-BioNTech or Moderna).

Q. What kind of COVID-19 test will be utilized?

A. We have been advised that the State will be contracting with vendors for both saliva and nasal short swab tests and that employees would be able to order either the short swab or saliva test based on their preference. The long swab (nasopharyngeal sampling) will not be utilized. However, as of this writing, the information we have is that the State has only contracted with one vendor so far (Quest) and they are only utilizing the short swab test. The State assured it will provide more information when additional vendors are added.

Q. Do I have to be tested weekly if I am fully vaccinated?

A. No. If you submit proof of being fully vaccinated, you will not be required to be tested.

Q. Can I elect to be tested weekly instead of disclosing my vaccine status to my employer?

A. No. Employers are allowed to ask about vaccination status. The intent of the policy is that only those who are not vaccinated are subject to testing, so vaccination status must be disclosed.

Q. Did PEF agree to the State's testing requirement?

A. No. This requirement was unilaterally implemented by the State. As noted above, members will not be required to undergo weekly testing if fully vaccinated.

Q. Is PEF negotiating over the testing requirement?

A. Yes, the testing requirement impacts mandatory subjects of bargaining such as

compensation for time spent complying with the testing/vaccination requirement. PEF is currently engaged in bargaining with the State on these and other issues.

Q. Do I have to pay for the required COVID-19 testing?

A. No, the State will provide the testing either through an at-home testing kit that will be mailed to the employee, or through patient service centers. Postage for return of the at-home testing samples will be provided.

Q. What happens if I test positive?

A. An employee who tests positive must report that to the agency as directed by agency policy. Employees who must quarantine should, to the extent practicable, be permitted to work from home. The employee should report the positive test result to the local Department of Health to obtain, if necessary, a quarantine order and then paid leave without charge to accruals will likely be available consistent with Department of Labor guidance allowing employees up to a total of three periods of such paid leave. Please contact your PEF Field Representative if you are denied quarantine leave at no charge to your accruals so we can review and assist. Contact information is below.

Q. Will I be notified if others in my work area test positive?

A. This is something that we have been advocating for in our discussions with the State. It is PEF's position that agencies should immediately notify employees in direct or proximate contact with a reported positive employee so that impacted employees may take appropriate precautions and monitor for symptoms due to the workplace exposure. However, the State has indicated it will continue to handle positive reports consistent with current practice and in coordination with local health departments. The State would not commit to the immediate notification of those in direct or proximate contact with the positive employee. We do note that some agencies are better than others in providing such notification and encourage PEF labor/management and health and safety committees to work with management on encouraging such immediate exposure notifications.

Q. Can I request a religious/medical accommodation?

A. The State has an obligation to consider requests for medical or religious accommodations pursuant to applicable law. If you believe you have a valid basis for a medical or religious accommodation, contact your agency HR Department for information about submitting the request.

Q. Can I do the testing during work time?

A. The State has provided contradictory information on this issue. On the one hand the State has advised that activities related to testing would NOT be considered compensable work time. However, they also clearly and unequivocally advised PEF that, where practicable and operationally feasible, registering for the test, taking the at-home test at work, downloading the results from the vendor and uploading the results to the State portal **could be done on work time during the workday**.

The State has been consistent in saying that time spent going to a patient service center for testing would not be considered compensable work time. Since employees have a choice of using an at-home test which can likely be done at work, we believe opting for doing the test at a patient service center would not be considered compensable work time.

We recommend that if a member is prohibited from performing any of the above-referenced activities on work time, that they report on their time sheets, consistent with Article 12.17 of the PEF/State CBA, their "actual hours worked" completing all these required activities. Ultimately, if a supervisor orders the employee to change the time record, please comply, but also keep a record and contact your PEF Field Representative.

Q. Can this testing requirement be discussed in the facility or agency labor/management forum?

A. Yes, the appropriate PEF L/M or Health & Safety Chair can put forth agenda items such as specifics regarding complying with the mandate on worktime and exposure reporting.

If you have further questions or concerns, please contact your local PEF steward. If you are not sure who your steward is, please contact one of PEF's field offices as follows:

Buffalo: 716-853-3100

Hornell: 607-324-6060

Rochester: 585-232-6980

Syracuse: 315-471-2311

Binghamton: 607-785-1699

Utica: 315-768-0123

Potsdam: 315-261-4464

Albany: 518-785-1900 x228

Poughkeepsie: 845-473-5022

NYC (Bronx, Staten Island, Manhattan, Brooklyn): 212-227-3132

Long Island: 631-360-4360