



Fact Sheet

October 12, 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 utilizing either saliva or nasal short swab tests. The long swab (nasopharyngeal sampling) will not be utilized.

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. However, PEF continues to encourage members to get vaccinated as it is the best way to keep ourselves, our families and our communities safe. As noted above, members will not be required to undergo weekly testing if fully vaccinated.

Q. Is PEF negotiating over the impacts of 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 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, on-site testing where already available (such as OPWDD facilities) or possibly through an off-site patient service center. Postage for return of the 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. If the employer does not allow the employee to telecommute, the employee should report the positive test result to the local Department of Health to obtain 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. Our contact information is below.

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

A. This is something that we are discussing with the State as part of impact bargaining over the testing requirement. It is PEF's position that agencies should *immediately* notify employees in direct or proximate contact with a reported positive so that impacted employees may take appropriate precautions and monitoring for symptoms due to the workplace exposure.

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 advised that:

No time spent registering for a testing appointment or receipt of an at-home test, taking a test at a Patient Services Center, transmitting the completed test in accordance with the vendor's procedure or submitting test results will be considered compensable work time due to the *de minimus* time anticipated to be spent on these activities.

The State has also indicated that:

While it is preferable that at-home tests be taken at-home, an agency shall permit employees to take the test during their workday, where practicable, so long as

the employee can properly transmit the completed test in accordance with the testing vendor procedures.

As mentioned above, PEF is currently engaged in discussions with the State about compensable work time resulting from compliance with the testing requirement.

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 allowing employees to take the at-home test at work 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