

October 5, 2021

The Honorable Senator Jim Abeler
95 University Avenue W.
Minnesota Senate Bldg., Room 3215
St. Paul, MN 55155

Dear Senator Abeler:

Thank you for your interest in the State's [COVID-19 Proof of Vaccination and Testing Policy](#). On behalf of all cabinet agencies, MMB is providing this response.

As we've shown throughout the COVID-19 pandemic, we are in this together and our employees are overwhelmingly complying with the State's [COVID-19 Proof of Vaccination and Testing Policy](#), both through vaccination and testing.

Under the COVID-19 Proof of Vaccination and Testing Policy, individuals who must work in person and are not fully vaccinated against COVID-19 must undergo COVID-19 testing weekly. We continue to face an unprecedented challenge to our State because of the COVID-19 pandemic. COVID-19 can be transmitted by asymptomatic carriers, and, [according to the CDC](#), "[t]he greatest risk of transmission is among unvaccinated people who are much more likely to get infected, and therefore transmit the virus." As an employer, we are responsible to provide a safe and healthy workplace. Consistent with [OSHA guidance](#), requiring regular COVID-19 testing for employees who have not been fully vaccinated against COVID-19 will mitigate risk to our employees and the Minnesotans they serve. The [CDC continues to recommend](#) the use of the newly FDA-approved Pfizer-BioNTech COVID-19 Vaccine for people 16 years and older, to protect against COVID-19.

Within your department, how many employees have either refused to sign the release form, or indicated it was being signed under duress?

Across cabinet agencies, approximately 523 employees have not submitted proof of vaccination or consent for testing. This includes seasonal workers who may not be working at this time.

Individuals will not be tested through employer testing if they do not consent to testing, including those individuals who state that they are consenting "under duress."

The COVID-19 Proof of Vaccination and Testing Policy does not include a “release form.” It does, however, include a [“Testing Consent Form.”](#) State agency employees 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 testing. Because they are not required to work in-person, if they are not fully vaccinated against COVID-19, they will be excluded from voluntarily entering the workplace. Further, because these individuals are not subject to testing, they are not asked to sign the Testing Consent Form. In addition, employees who attest and provide proof of full COVID-19 vaccination are not subject to testing and are not asked to sign the Testing Consent Form.

What are any accommodations being made for those refusing vaccination, or medically unable to comply?

Regular COVID-19 testing of unvaccinated employees helps keep our workplaces safe from the increased risk of transmission by unvaccinated individuals. Consistent with the policy, all unvaccinated covered employees must complete weekly testing. For more details, please see the [COVID-19 Proof of Vaccination and Testing Policy](#).

How has the vaccination mandate affected in person staffing levels? Are services seeing any disruption?

Regular employee testing as required under the policy has not disrupted service. The spread of COVID-19 by state agency employees also presents a risk to the delivery of services.

What are the penalties for non-compliance? How many employees are currently under review, or in the disciplinary process?

The [COVID-19 Proof of Vaccination and Testing Policy](#) states that employees who refuse COVID-19 testing will be excluded from the workplace and placed in no-pay status, and may be subject to disciplinary action, up to and including discharge. Discipline is defined in our collective bargaining agreements and compensation plans as oral reprimand, written reprimand, suspension, demotion, or discharge. To date, we are pleased that the COVID-19 vaccination rate among state agency employees is high and that there is a high level of cooperation with the testing requirement.

Have there been issues with employees having to pay out of pocket to comply with the new mandates? What does that process look like? What is the cost to an employee who must pay for their own testing?

Employees do not incur a cost for undergoing the testing provided under the [COVID-19 Proof of Vaccination and Testing Policy](#). Agencies pay for the COVID-19 testing costs.

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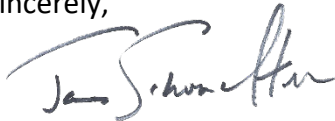
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If an employee refuses to test as required by the policy but later wishes to be tested, the employee may obtain a COVID-19 test on their own time and at their own expense. The employee can then have the results reported to their agency's human resources. In these circumstances, agencies will not pay for testing, employee time, or mileage.

Would you please provide a copy of the release form employees are being required to sign.

Again, there is not a "release form." The Testing Consent Form can be found at:
<https://mn.gov/mmb-stat/covid-19/COVID-19-testing-consent-form.pdf>.

Sincerely,



Jim Schowalter
Commissioner

cc: Commissioner Alice Roberts-Davis
Commissioner Thom Petersen
Commissioner Grace Arnold
Commissioner Paul Schnell
Commissioner Heather Mueller
Commissioner Steve Grove
Commissioner Jan Malcolm
Commissioner Jennifer Ho
Commissioner Rebecca Lucero
Commissioner Jodi Harpstead
Commissioner Mark Phillips
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