



Interim Guidance on Executive Directive #18 Issued on August 5, 2021
Ensuring a Safe Workplace
Employee Testing

Executive Directive #18 (ED #18), addressing additional measures to protect our state employees and those they serve from exposure to COVID-19 while in the workplace, notes several new requirements for agencies and their employees. This guidance addresses the requirement for employees covered by the Directive to be tested for COVID-19 weekly.

Executive Directive #18 applies to Executive Branch employees (including Office of the Governor, Office of the Lieutenant Governor, Secretary of the Commonwealth, Executive Branch agencies, Institutions of Higher Education, and Authorities within the Executive Branch by the Code of Virginia or designated under a Secretariat in the Code of Virginia.) This includes at-will, classified, wage, faculty, adjunct faculty, and other salaried employees.

REQUIREMENT TO BE TESTED FOR COVID-19 WEEKLY:

Table with 2 columns: Vaccination Status, Definition for Testing Requirement. Rows include Fully Vaccinated and Not Fully Vaccinated (with sub-rows for partially vaccinated, not vaccinated, and medical/religious exemptions).

- 1. Employees who show proof of being fully vaccinated are not required to be tested for COVID-19.
2. Employees who are not fully vaccinated (regardless of the reason) AND who are working on-site or performing public-facing duties off-site are subject to weekly testing until they become fully vaccinated as defined above.

1 Certain agencies (responsible for health or custodial care in congregant settings or higher education institutions) may require more stringent testing protocols and require more frequent testing.

2Vaccination series that is approved (emergency use or permanent authorization) by the U.S. Food & Drug Administration (FDA) or the World Health Organization (WHO).

3 On-site means the employee's usual assigned work location or typically assigned field locations.



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3. Employees who are **not fully vaccinated** and who have documented a medical condition/disability or asserted a sincerely-held religious belief which precludes **testing** must request an accommodation to be reviewed by the agency's designated reviewer. See sample accommodation request forms and guidance.

TESTING REQUIREMENTS FOR TELEWORKERS:

1. Since all teleworkers may be required to enter the work-site to perform duties as needed and teleworking arrangements and privileges may be changed or revoked, it is important to note when testing requirements apply to teleworkers.
 - a. Teleworkers who have documented that they are **fully vaccinated** may access the work-site and/or perform public-facing duties as needed without being tested.
 - b. Employees who are **not fully vaccinated** will be subject to testing prior to any admission to the work-site or to the assignment of public-facing duties. Such testing should occur at least 24 hours in advance but not more than 7 days prior to access to the work-site or public contact. Negative test results must be documented and reported to the agency prior to this access.

AGENCY RESPONSIBILITIES:

Agencies must:

1. Identify those employees required to be tested based on vaccination status and required access to the work-site or assigned public-facing duties.
2. Establish record-keeping procedures for submitting, receiving, verifying, recording, and retaining documentation of employees' testing compliance.
 - a. It is recommended that the agency human resource office serve as the primary reviewers and collectors of records but agencies may delegate this responsibility to meet operational needs.
 - b. Agencies must ensure that any databases capturing this information are confidential and secure.
 - i. Agencies served by the Virginia Information Technologies Agency (VITA) are required to follow and comply with all Commonwealth of Virginia information security policies, practices, and standards as defined by SEC-525 for electronic databases.
 - ii. Other agencies must adhere to their governing standards for maintaining secured data.
 - c. Human resource or other designated staff should accept documentation that appears to be authentic and require additional information only if the data is incomplete or unclear.
3. Communicate the procedures and reporting requirements for testing to employees who must comply.



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4. Agencies may be required to periodically report on testing volume, expense, and the number of positive/negative test results recorded.
5. Agencies must consider any requests for an accommodation for the testing requirement due to a medical condition/disability or sincerely-held religious belief.
6. Agencies must note the testing requirement for those not fully vaccinated and not excluded from ED #18 in job announcements. Agencies must also inform new employees of the testing requirements in their offer letters prior to on-boarding.

EMPLOYEE RESPONSIBILITIES:

1. Employees who are not fully vaccinated but who are required to work on-site or who have public-facing duties must follow agency procedures to be tested weekly⁴ and to provide documentation accurately and timely to meet agency requirements.
2. Depending upon the tests administered, employees will be required to report their test results in accordance with agency procedures or provide for a release of such results by their test provider to the agency. Test results should be reported only as negative or positive.

TESTING IMPLEMENTATION EFFECTIVE DATE:

1. ED #18 notes a September 1, 2021 effective date. This target date represents the urgency needed to break transmission of COVID-19 (and its variants) in the workplace and to minimize further illness.
2. The **vaccination status** of all employees should be recorded by September 1, 2021.
3. Agencies must stand up testing protocols as soon as possible.
4. Testing options provided by the Virginia Department of Health (VDH) for agencies to consider are posted on the DHRM and VDH websites.

RECORD-KEEPING:

1. Records of the employee's testing results must not be maintained in the employee's personnel file but must be kept confidentially and secured in a separate file.
2. Storage, access, and retention procedures and schedules should follow those for medical records.

TESTING COSTS:

1. Testing for those not fully vaccinated is a condition of employment and the agency must bear the costs associated with the testing.
2. It is not appropriate for employees to secure testing and have the test cost covered under their health insurance plans.

TIME AWAY FROM THE JOB FOR TESTING:

Agencies should try to arrange for testing which minimizes the time required to administer the tests and optimizes the turnaround time for results.

⁴ Certain agencies may have more stringent testing protocols and require more frequent testing.



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Time spent by an employee being tested should be counted as worked time. Managers should make schedule-adjustments as needed to minimize any overtime earned as a result of the testing requirement.

If tests are administered at the employee's home prior to or after a commute to the workplace, only the time spent actually conducting the test and reporting results should be counted as worked hours.

FREQUENCY OF TESTING:

1. To optimize employees' safety in the workplace, testing must be done weekly⁵.
2. Testing must be done in 7- day intervals, whenever possible. For example, testing on a Friday and the following Monday would not be acceptable.
3. Agencies should stagger testing conducted during normally scheduled work hours as needed to ensure appropriate staffing coverage. If a high volume of tests requiring laboratory results are administered, such staggering also helps in dispersing the laboratories' work volume.
4. Employees on leave (personal leave or short-term/long-term disability) during their normal testing date(s) should be scheduled to be tested immediately (24 hours) prior to returning to the work-site.

TEST RESULTS:

1. Depending upon the tests administered, employees will be required to report their test results in accordance with agency procedures or provide for a release of such results by their test provider to the agency. Test results should be reported only as negative or positive.
2. Those reporting negative results may be admitted to the work-site and/or permitted to perform public-facing duties.
3. Those reporting positive results may not be admitted to the work-site or to perform public-facing duties. They should be provided information from the Virginia Department of Health's (VDH) and [Centers for Disease Control & Prevention's \(CDC\) website](#) regarding next steps to attend to their own health and those with whom they have contact.
4. If the agency meets positive case reporting requirements issued by the Department of Labor and Industry (DOLI)⁶, they must report such cases through the [DOLI/VDH portal](#) so that contact tracing can be conducted.

EMPLOYEE'S RETURN TO THE WORKPLACE FOLLOWING A POSITIVE TEST AND REQUIRED ISOLATION:

1. Employees who test positive and must isolate may be granted up to 80 hours* of Public Health Emergency Leave (PHEL) until they can return to the work site. *Please see current guidance on use of PHEL on the DHRM website.

⁵ Certain agencies may have more stringent testing protocols and require more frequent testing.

⁶ "The employer shall notify the Virginia Department of Labor and Industry (DOLI) within 24 hours of the discovery of **three (3) or more employees** present at the place of employment **within a 14-day period** testing positive for SARS-CoV-2 virus during that 14-day time period."



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2. Agencies must check current VDH/CDC guidance when assessing how soon the employee may return to the work site or resume public-facing duties.

DISCIPLINARY ACTIONS:

1. Employees who do not comply with agency testing and reporting requirements will be subject to appropriate disciplinary actions (Standards of Conduct for employees covered by the Virginia Personnel Act).

QUESTIONS:

Frequently Asked Questions will be posted to the DHRM website.

In the interim, questions may be directed to the policy box. policy@dhrm.virginia.gov