

Subject: Mandatory COVID-19 Testing

Effective Dates: October 18, 2021 – April 29, 2022

Last Revised: October 18, 2021

To All City Employees:

By October 17, 2021, the City of Durham will verify the COVID-19 vaccination status of all employees. Documentation that either the mRNA vaccine (Pfizer-BioNTech or Moderna) or the Janssen (Johnson & Johnson) vaccine was received is considered sufficient proof of COVID-19 vaccination. The Americans with Disabilities Act and Equal Employment Opportunity Commission guidance permit employers to ask employees for proof of vaccination and proof of testing results. The Health Insurance Portability and Accountability Act (HIPAA) does not apply to employers seeking vaccination information.

To verify vaccination status, an employee must submit:

- A copy of their COVID-19 vaccination record card,
- Documentation of COVID-19 vaccination from the COVID Vaccine Management System (CVMS) Portal, or
- Clinical documentation that contains the required information to demonstrate COVID-19 vaccination

More information on how to submit proof of vaccination can be found at

<https://durhamnc.gov/4014>

If an employee fails to verify their COVID-19 vaccination status by October 17, 2021, they will be subject to mandatory testing once per week.

I. Purpose

The City of Durham takes the impact of the Coronavirus (COVID-19) and all variants on employee health very seriously. This policy establishes a mandatory COVID-19 testing program for employees who are not fully vaccinated.

To sustain a healthy and safe workplace in this unique environment, it is important that we all respond responsibly and transparently to these health precautions. Employee health and personal data will be treated with confidentiality and sensitivity as required by the Americans with Disabilities Act.

This policy will comply with all applicable laws and is based on guidance from the Centers for Disease Control and Prevention (CDC) and local health authorities, as applicable.

II. Policy

It is the policy of the City of Durham that employees who are not fully vaccinated must be tested for COVID-19 every seven days (168 hours) and report their results to Human Resources. This policy is adopted to safeguard the health of our employees and their families, our customers and visitors, and the community at large.

This policy applies to all full-time, part-time, and temporary with benefits employees – regardless of FLSA status, level, or work location. This policy is subject to change based on federal and state government mandates or guidance.

III. Definitions

Application (App) – a software application, especially as downloaded by a user to a mobile device.

Coronavirus (COVID-19) – is a disease caused by a virus called SARS-CoV-2. Most people with COVID-19 have mild symptoms, but some people can become severely ill.

CoVerified – a software platform used to track COVID-19 testing data, symptoms, restrictions, and vaccinations.

Fully Vaccinated – according to the Centers for Disease Control and Prevention (CDC), an individual is considered fully vaccinated two weeks after the second dose of a two-dose vaccine, like Pfizer or Moderna, and two weeks after a single-dose vaccine, like the Johnson & Johnson vaccine.

Negative result – a test result indicating no evidence that Coronavirus (COVID-19) is present.

Positive result – a test result indicating there is a presence of coronavirus (COVID-19).

Refusal to test/submit (to a Coronavirus (COVID-19) test) – when an employee refuses to report for testing or engages in any of the following behaviors:

1. Fails to provide complete test results or proof of vaccination when requested, or within a required time limit.
2. Engages in conduct that clearly obstructs the Coronavirus (COVID-19) testing process.

Third Party Administrator – vendor selected to complete on-site COVID-19 testing (CVS Health).

IV. Procedure

A. Policy execution

1. The Department Director is responsible for ensuring policy compliance.
2. Supervisors are responsible for ensuring that employees are given time to test on-site during work hours, as needed.

B. Employee On-Site Testing

1. The City of Durham will establish COVID-19 testing sites at various City locations.
2. Employees will need to register for testing appointments using an CVS Health online scheduling system. Employees should consult with their supervisors about their scheduled testing time. (See Attachment A)
3. Employees are required to complete a COVID-19 test every seven days (168 hours).
4. Employees will be required to show valid identification (State Identification/City-Issued Badge) to confirm their identity at the testing site.
5. Employees who test onsite should receive their results within 15 minutes, and their results will be reported to Human Resources automatically by the third party administrator.
6. Employees are required to wait for the test results before going to work.
7. If an employee receives a positive result, the employee will be retested to confirm the positive status. If the second test is positive, the employee will be sent home and quarantined according to the Temporary Employee Wellness Policy; Human Resources will conduct contact tracing and quarantine close contacts as needed, and the department will be notified.
8. If an employee receives a negative result, no action is necessary.

C. Employee Off-Site Testing

1. The City of Durham encourages all employees to use on-site testing. However, if an employee is unable to access an on-site location, they must get prior supervisor approval and use a **free testing site** to obtain a test. Test sites are available via the NCDHHS site for no cost Community testing (See Attachment B)

2. Employees using off-site testing options must obtain a rapid COVID-19 test or a PCR COVID-19 test only. **Results from at-home testing kits will not be accepted.**
3. Employees must complete a COVID-19 test every seven days (168 hours), regardless of the location of the test.
4. Employees who test off site must submit their test results to Human Resources within 24 hours of receiving the test results using the CoVerified app. (See Attachment C)
5. The test results submitted must include the following elements:
 - Employee name
 - Employee date of birth
 - Date of specimen collection
 - Date of result
 - Diagnostic test result
 - Positive diagnostic results will say “positive,” “detected,” or “abnormal.”
 - Negative test results will say “negative,” “not detected,” or “normal.”
 - Inconclusive results will say “unsatisfactory,” “indeterminate,” or “not tested.”
6. Employees who are waiting for test results will be permitted to go to work while results are pending.
7. If an employee receives an inconclusive result, they must repeat the test.
8. If an employee receives a positive result, the employee will **not** be permitted to return to work and will be quarantined according to the Temporary Employee Wellness Policy; Human Resources will conduct contact tracing and quarantine close contacts as needed, and the department will be notified.
9. If an employee receives a negative result, no further action is necessary.

D. Testing While Off Duty

1. Employees who test during off-duty hours will not be eligible for compensation for testing time.

2. Mileage incurred while testing during off-duty hours will not be reimbursed.

E. Non-Standard Work Hours and Leaves

1. An employee with a work schedule that schedules them to be off seven or more consecutive days is not required to test every seven days (168 hours). They will be required to submit for on-site testing their first scheduled business day back at work.
2. An employee on approved leave for seven or more consecutive days is not required to obtain a test while off duty. They will be required to submit for on-site testing their first business day back at work.
3. Employees who are on family medical leave, worker's compensation, or paid parental leave are required to provide proof of vaccination status before returning to work. If the employee has not certified their vaccination status, they will be required to submit for on-site testing their first business day back at work and subsequently every seven days (168 hours).

F. Reasonable Accommodation

1. Employees who wish to opt out of weekly COVID-19 testing on the basis of their sincerely-held religious belief or for a medical reason must complete a request for religious accommodation (See Attachment D) or a request for medical accommodation (See Attachment E) and submit the request to Human Resources.
2. Human Resources will engage in the interactive process with the employee to ensure a timely and appropriate determination.
3. Religious accommodation requests require a written statement indicating how an individual's sincerely-held religious belief precludes them from receiving a COVID-19 test. Employees may be asked to provide supplemental information related to their religious accommodation request to HR. An employee who fails to cooperate with a reasonable request for verification of the sincerity or religious nature of a professed belief may be denied the accommodation request.
4. Medical accommodation requests require a written statement signed by a physician, nurse practitioner, or other licensed medical professional practicing under the license of a physician. Employees may be asked to provide supplemental information related to their medical accommodation request as allowed by the Americans with Disabilities Act.
5. Employees with a pending accommodation request must submit for weekly testing in accordance with this policy.

G. Disciplinary Action

1. If an unvaccinated employee fails to schedule and complete testing or submit the required weekly COVID-19 test results, the employee will be assigned an appointment date and time at an on-site clinic. The assigned appointment will be scheduled within 24-48 hours of the initial appointment. If the appointment is kept, testing completed and test results submitted, then no disciplinary action will be taken.
2. If the employee fails to report for their assigned appointment the City of Durham will consider this a first incident of failure to complete testing. The employee will be issued a Written Warning for insubordination and placed on leave without pay until they schedule and complete testing or submit test results. Employees may not use accrued leave or telework during this time.
3. Once an employee exceeds 14 calendar days on leave without pay and does not submit a test result, the employee will receive disciplinary action up to and including termination.
4. A second incident of failure either to schedule and complete testing, submit test results, or report for an assigned appointment will result in termination for insubordination for the employee.
5. If an employee submits falsified COVID-19 test documentation to the City, that action shall be deemed gross misconduct and the City will immediately terminate the employee without prior warning or progressive disciplinary action.

V. Other

Mask mandates remain in effect regardless of vaccination status. To ensure proper protocols are being followed, please reference the Risk Management guidance on mask use. (See Attachment F)

VI. Attachments

Attachment A – CVS Health Step-by-step scheduling (Coming Soon)

[Attachment B – No-Cost Community Testing Events](#)

Attachment C – CoVerified Instructions (Coming Soon)

[Attachment D – Request for Religious Exemption from COVID-19 Testing](#)

[Attachment E – Request for Medical Exemption from COVID-19 Testing](#)

[Attachment F – Risk Management Guidance on Mask Use](#)

[Attachment G – Temporary Employee Wellness Policy](#)