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___, 2021

MEMORANDUM 2021-004

TO: Chief Court Administrators, Department Directors

FROM: Rodney A. Maile
Administrative Director of the Courts

SUBJECT: Vaccination and Testing Program

The Judiciary fully supports COVID-19 vaccinations, as a fully vaccinated workforce is necessary for the health and safety of our workforce, those with whom we interact, and the entire community, which continues to suffer greatly from this devastating virus. We also recognize the importance of providing individual employees with options, as reflected in the Judiciary's COVID-19 Vaccination and Testing Program below:

Definitions

Fully vaccinated – Employees are considered "fully vaccinated" two weeks after completing the second dose of a two-dose COVID-19 vaccine (e.g., Pfizer or Moderna) or two weeks after receiving a single dose of a one-dose vaccine (e.g., Johnson & Johnson/Janssen).

Partially vaccinated – Employees are considered "partially vaccinated" if they received their first dose of Moderna or Pfizer, and their second appointment is scheduled, or if they received their final dose less than two weeks ago.

Not vaccinated – Employees are considered "not vaccinated" if they are unable to provide verification of receiving the COVID-19 vaccine.

Program

Beginning on [date], the Judiciary's vaccination and testing program requires testing for all employees who are either "not vaccinated" or who decline to provide information about their vaccination status. Employees who are "partially vaccinated" as of [date] are exempt from testing requirements so long as they timely receive their final dose as scheduled plus two weeks after the date of the final dose to attain full vaccination status. Partially vaccinated employees who do not schedule and obtain their final dose may be deemed as "not vaccinated" and subject to the testing requirements accordingly.

Employees deemed as “not vaccinated” as of the effective date must test at least once every seven (7) days for COVID-19 and must provide sufficient verification of a negative COVID-19 test result to their supervisor or designated human resources representative. Employees may show proof of the negative test result if documentation is provided by the testing site or submit an attestation that they have received a negative test result for COVID-19 within the past seven (7) days from a testing site approved by the State Department of Health or the respective county of employment. See attachment (COVID-19 Testing Attestation). Proof of the negative test result or a COVID-19 Testing Attestation is required to be submitted to the employee’s supervisor prior to the commencement of the employee’s scheduled workweek.

Employees who test positive for COVID-19 remain subject to established Judiciary protocols in consideration of guidance from the United States Centers for Disease Control and Prevention and the Hawaii State Department of Health.

Employees who are required to obtain a COVID-19 test will be allowed up to two (2) hours per week of work time to get tested. Employees must coordinate scheduling with their supervisor. Employees are expected to undertake all reasonable efforts to get tested at a free testing site as early as possible; waiting to secure a test at a free testing site may lead to a delay in obtaining the test results. Locations of free testing sites may be found by contacting your medical provider or under the Free Testing Resources section on the Department of Health’s website at <https://hawaiicovid19.com/testing-isolation-quarantine/>.

Employees who are unable to secure a testing appointment or get tested within the first four (4) work days of the week prior to the scheduled work week must immediately notify their supervisor of the situation, and provide evidence of all of their efforts to secure the testing reservation (including but not limited to dates and times of contact with the testing site(s), information provided by the testing site regarding scheduling delays or unavailability, etc.) so that other testing options may be explored. Employees who are unable to provide sufficient evidence of reasonable efforts to secure a testing appointment at a free testing site as determined by the respective program may be responsible for any resulting testing costs; these circumstances will be evaluated on a case-by-case basis.

Employees who are unable to provide a negative test result or COVID-19 Testing Attestation prior to the start of the employee’s workweek will not be allowed in the worksite. Each situation falling into this category will be evaluated on a case-by-case basis to determine whether the employee must use their own accrued leave or leave without pay to cover the time away from work to get tested and, in situations when an employee refuses to get tested or fails to make reasonable efforts to be tested, whether they may be subject to disciplinary action up to and including discharge.

We continue to urge all employees to be vaccinated. Should you have questions about vaccinations, please consult public health authorities, such as the Centers for Disease Control and Prevention (cdc.gov) and the Hawai’i State Department of Health (DOH) (health.hawaii.gov).

As previously advised, employees may take up to two (2) hours of paid time off for each vaccination dose and any booster shot recommended by the DOH, as operations

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permit. Employees must coordinate with and receive authorization from their supervisor prior to leaving the worksite and may be required to provide proof of registration.

Employees may update their vaccination status at any time by notifying their immediate supervisor or designated human resources representative and completing the Judiciary's vaccination questionnaire.

This program begins on [date] and will continue until modified or cancelled by a subsequent memorandum from the Administrative Director of the Courts.

Hawai'i State Judiciary

COVID-19 TESTING ATTESTATION

I am attesting to information that is accurate and complete to the best of my knowledge.

I understand that making a false statement on this form may result in disciplinary action, up to and including the termination of my employment with the Judiciary. I also understand that knowingly making a false statement on this form could be considered a crime for which a fine or imprisonment could result.

I took a COVID-19 test on _____ (date), which was administered at _____ (location of test) in _____, Hawaii.

I received a negative test result for COVID-19 following the test I took, specified above, within the past seven days. This test result was provided to me by _____ (name of the test administrator or representative).

Printed Name:

Office:

Signature:

Date:

Hawaii State Judiciary – COVID-19 Vaccination and Testing Program

Supervisor Guidance #1 – (DATE)

1. Who is subject to weekly COVID-19 testing under the Judiciary's COVID-19 Vaccination and Testing Program?

Beginning on [date], the Judiciary's vaccination and testing program requires testing for all employees who are either "not vaccinated" or who decline to provide information about their vaccination status. Employees who are "partially vaccinated" as of [date] are allowed to receive their final dose as scheduled plus two weeks after the date of the final dose to attain full vaccination status. Partially vaccinated employees who do not schedule and obtain their final dose may be deemed as "not vaccinated" and subject to the testing requirements accordingly.

2. What is acceptable proof of a negative COVID-19 test?

Employees may show proof of the negative test result if documentation is provided by the testing site or submit an attestation that they have received a negative test result for COVID-19 within the past seven (7) days from a testing site approved by the State Department of Health or the respective county of employment. See *attachment* (COVID-19 Testing Attestation).

3. When must employees provide proof of a negative COVID-19 test?

Proof of the negative test result or a COVID-19 Testing Attestation is required to be submitted to the employee's supervisor prior to the commencement of the employee's scheduled workweek.

4. To whom should an affected employee provide verification of a required negative COVID-19 test?

Affected employees must provide sufficient verification of a negative COVID-19 test result or the executed COVID-19 Testing Attestation to their supervisor or designated human resources representative.

5. What happens if an employee is unable to provide verification of a negative COVID-19 test result prior to the due date?

Employees who are unable to provide a sufficient verification or information sufficient to confirm the negative test result by the required deadline will not be allowed in the worksite. Each situation falling into this category is to be evaluated on a case-by-case basis to determine whether the employee will be required to utilize their own accrued leave to cover the time away from work to get tested and whether they may be subject to disciplinary action up to and including discharge.

6. Are employees allowed time-off to obtain a COVID-19 Test under the Judiciary's Vaccination and Testing Program?

Employees who are required to obtain a COVID-19 test will be allowed up to two (2) hours of time off from work per week, to get tested, subject to operational requirements. Employees

must coordinate this time-off with their supervisor. Employees are expected to undertake all reasonable efforts to get tested at a free testing site as early as possible and not wait until the last minute to attempt to secure a test at a free testing site. The locations of free testing sites can be found by contacting your medical provider or under the Free Testing Resources section on the Department of Health's website at <https://hawaiiicovid19.com/testing-isolation-quarantine/>.

7. What if my employee reports difficulty with securing a COVID-19 testing appointment?

Employees who are unable to secure a testing appointment within the first four (4) days of the week prior to the scheduled work week must immediately notify their supervisor of the situation, and provide evidence of their efforts to secure the testing reservation. Employees who are unable to provide sufficient evidence of reasonable efforts to secure a testing appointment at a free testing site may be responsible for any testing costs. Questions you may consider asking the employee who reports difficulty with securing a COVID-19 testing appointment could include but not be limited to:

- The dates and times of contact with the testing site(s), verified with phone records or screen shots if contacted online;
- Any direct correspondence (emails, voice messages, etc.) with the testing site regarding scheduling delays or unavailability; and
- A written chronology that details all efforts made to secure a testing appointment or test.

8. Are "partially vaccinated" employees required to obtain a weekly COVID-19 test?

Employees who are "partially vaccinated" as of [date] are exempt from testing requirements so long as they timely receive their final dose as scheduled plus two weeks after the date of the final dose to attain full vaccination status. Partially vaccinated employees who do not schedule and obtain their final dose may be deemed as "not vaccinated" and subject to the testing requirements accordingly.

9. Can an employee update their vaccination status after the Judiciary's COVID-19 Vaccination Status and Testing program has been implemented?

Employees may update their vaccination status at any time by providing such information to their immediate supervisor or designated human resources representative. Once an employee is deemed "fully vaccinated," they will no longer be subject to the weekly testing requirements.

10. If an employee who is unvaccinated decides to obtain the COVID-19 Vaccine, will they be allowed time off to do so?

Yes, employees may take up to two (2) hours of paid time off for each vaccination dose, as operations permit. Employees must coordinate with and receive authorization from their supervisor prior to leaving the worksite and may be required to provide proof of registration.

11. What happens if an employee reports a positive test result for COVID-19?

Employees who test positive for COVID-19 will not be allowed in the worksite and will be subject to established Judiciary protocols in consideration of guidance from the United States Centers for Disease Control and the Hawaii State Department of Health.

12. Are there any situations where an Employee may be granted a temporary exemption from the weekly testing requirements?

Yes, employees who have recovered from COVID-19 within the past 90 days without developing new symptoms, are not required to get tested on the following condition: Written documentation from a licensed health care provider or letter from the State of Hawaii Department of Health stating the following: (1) the date of infection; and (2) are released from isolation or quarantine. Immediately following the 90-day period, the employee will be required to again submit to weekly testing.

Please note that this guidance may be updated. Thank you very much for your patience and cooperation as we work together to implement this new testing program.