

**Title: OSHA ETS – Occupational Safety and Health Administration Emergency
Temporary Standard Policy**

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 - Board Resolution:** 21-061
 - Last Revised**
 - **Policy:** November 17, 2021
 - **Procedure:** November 17, 2021
 - Last Reviewed:**
 - Effective:**
 - Next Review:** November 2024
 - Responsibility:** Human Resources
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POLICY:

Cecil College, in compliance with the Occupational Safety and Health Administration’s COVID-19 Vaccination and Testing Emergency Temporary Standard, adopts this COVID-19 Vaccination, Testing, and Face Covering Policy (the “Policy”).

The Policy requires that all College employees be fully vaccinated against COVID-19 or comply with testing and face covering requirements as set forth below. The Policy also requires that employees provide proof of vaccination.

Employees may be entitled to a reasonable accommodation if they cannot be vaccinated and/or comply with this Policy and Procedure (*i.e.*, wear a face covering or comply with required safety policy’s) because of a disability or sincerely held religious belief, practice, or observance of the employee. Employees must contact Human Resources if they are seeking information regarding a potential reasonable accommodation.

Employees are required to complete [Cecil College’s Employee Covid-19 Vaccination Status Form](#) regarding their vaccination status by December 6, 2021.

Failure to abide by the Policy and the accompanying procedures may lead to disciplinary action, up to and including termination of employment.

This Policy and the accompanying Procedure are effective immediately. The College may modify this Policy and the accompanying Procedure based on the State of Maryland’s adoption of the OSHA ETS and the outcome of pending court proceedings regarding the ETS.

This Policy complies with OSHA’s Emergency Temporary Standard on Vaccination and Testing (29 CFR 1910.501).

PROCEDURE:

Purpose

The purpose of this Policy and Procedure is to comply with OSHA’s Emergency Temporary Standard on Vaccination and Testing, as applied through Maryland’s state-approved plan, which

encourages full vaccination of the workforce against COVID-19. As noted above, this Policy and Procedure may be modified based on the State’s adoption of the OSHA ETS and pending court proceedings. The College is implementing these Policy’s to comply with the OSHA standards.

Scope

This Procedure applies to all College employees, regardless of worksite location, except for employees who do not report to a workplace where other individuals (*i.e.*, coworkers, students) are present; employees while working from home; and employees who work exclusively outdoors.

Employees who are not fully vaccinated will be required to provide proof of weekly COVID-19 testing and wear a face covering at the workplace.

Definitions

Fully Vaccinated - An employee is considered “Fully vaccinated” two weeks after receiving the second dose of a two-dose regimen or the first dose of a one-dose regimen, with at least the minimum recommended interval between doses (if a two-dose regimen).

COVID-19 Test - Under the ETS, a “COVID-19 test” must be a test for SARS-CoV-2 that is:

1. cleared, approved, or authorized, including in an Emergency Use Authorization (EUA), by the U.S. Food and Drug Administration (FDA) to detect current infection with the SARS-CoV-2 virus (*i.e.*, a viral test);
2. administered in accordance with the authorized instructions; and
3. not both self-administered and self-read unless observed by the employer or an authorized telehealth proctor.

Examples of tests that satisfy this requirement include tests with specimens that are processed by a laboratory (including home or on-site collected specimens which are processed either individually or as pooled specimens), proctored over-the-counter tests, point of care tests, and tests where specimen collection and processing is either done or observed by an employer.

COVID-19 tests can broadly be divided into two categories, diagnostic tests and antibody tests. Diagnostic tests detect parts of the SARS-CoV-2 virus and can be used to diagnose current infection. On the other hand, antibody tests look for antibodies in the immune system produced in response to SARS-CoV-2, and are not used to diagnose an active COVID-19 infection. Antibody tests do not meet the definition of COVID-19 test for the purposes of this ETS.

Diagnostic tests for current infection fall into two categories: nucleic acid amplification tests (NAATs) and antigen tests. NAATs are a type of molecular test that detect genetic material (nucleic acids); NAATs for COVID-19 identify the ribonucleic acid (RNA) sequences that comprise the genetic material of the virus. Most NAATs need to be processed in a laboratory with variable time to receive results (approximately 1–2 days), but some NAATs are point-of-care tests with results available in about 15–45 minutes.

Antigen tests may also meet the definition of COVID-19 test under this standard. Antigen tests indicate current infection by detecting the presence of a specific viral antigen. Most can be processed at the point of care with results available in about 15-30 minutes. Antigen tests generally have similar specificity to, but are less sensitive than, NAATs.

Antigen tests are the only type of diagnostic tests that can be self-administered. To be a valid COVID-19 test under this standard, an antigen test may not be both self-administered and self-read unless observed by an authorized telehealth proctor. If an over-the-counter (OTC) test is being used, it must be used in accordance with the authorized instructions and observed by an authorized telehealth proctor.

Vaccination or Testing/Face Covering Requirement

All Cecil College employees must be fully vaccinated against COVID-19 no later than January 4, 2022 **OR** submit to weekly testing and face covering requirements. Employees will be considered fully vaccinated two weeks after receiving the requisite number of doses of a COVID-19 vaccine. An employee will be considered partially vaccinated if they have received only one dose of a two-dose vaccine. Partially vaccinated employees must follow the requirements for unvaccinated employees until they become fully vaccinated. Those employees who have received all doses required by their choice of vaccine need not test weekly if they have received the required doses by January 4, 2022, and are waiting for the two-week post vaccination period to pass. See the COVID-19 Testing section of this Procedure, below.

To be fully vaccinated by January 4, 2022, an employee must:

1. Obtain the first dose of a two dose vaccine no later than December 14, 2021 (Pfizer) or December 7, 2021 (Moderna); and the second dose no later than January 4, 2022; or
2. Obtain one dose of a single dose vaccine no later than January 4, 2022.

Vaccination Status and Acceptable Forms of Proof of Vaccination

All vaccinated employees are required to provide proof of COVID-19 vaccination, regardless of where they received vaccination by December 6, 2021. If an employee's vaccination status changes after December 6, 2021, the employee must promptly provide updated information. Proof of vaccination status can be securely submitted via the [Cecil College's Employee Covid-19 Vaccination Status Form](#). The form includes information on uploading vaccination records.

The following are acceptable forms of proof:

1. The record of immunization from a healthcare provider or pharmacy;
2. A copy of the COVID-19 Vaccination Record Card;
3. A copy of medical records documenting the vaccination;
4. A copy of immunization records from a public health, state, or tribal immunization information system; or

5. A copy of any other official documentation that contains the type of vaccine administered, date(s) of administration, and the name of the healthcare professional(s) or clinic site(s) administering the vaccine(s).

Proof of vaccination generally should include the employee’s name, the type of vaccine administered, the date(s) of administration, and the name of the healthcare professional(s) or clinic site(s) that administered the vaccine. In some cases, state immunization records may not include one or more of these data fields (*i.e.*, clinic site). In those circumstances, the College will accept the state immunization record as acceptable proof of vaccination.

If an employee is unable to produce one of these acceptable forms of proof of vaccination, despite attempts to do so (*i.e.*, by trying to contact the vaccine administrator or state health department), the employee can provide a signed and dated statement attesting to their vaccination status (fully vaccinated or partially vaccinated); attesting that they have lost and are otherwise unable to produce one of the other forms of acceptable proof; and including the following language:

“I declare (or certify, verify, or state) that this statement about my vaccination status is true and accurate. I understand that knowingly providing false information regarding my vaccination status on this form may subject me to criminal penalties.”

An employee who attests to their vaccination status in this way should, to the best of their recollection, include in their attestation the type of vaccine administered, the date(s) of administration, and the name of the healthcare professional(s) or clinic site(s) administering the vaccine.

Employees must provide truthful and accurate information about their COVID-19 vaccination status, and, if not fully vaccinated, their testing results. Employees not in compliance with this Policy are subject to discipline, up to and including termination of employment.

Supporting COVID-19 Vaccination

All employees, both vaccinated (fully or partially) and unvaccinated, must inform the College of their vaccination status by December 6, 2021. The following table outlines the requirements for submitting vaccination status documentation.

Vaccination Status	Instructions	Deadline(s)
Employees who are full vaccinated.	Submit proof of vaccination that indicates full vaccination.	December 6, 2021
Employees who are partially vaccinated (<i>i.e.</i> , one dose of a two-dose vaccine regimen).	Submit proof of vaccination that indicates when the first dose of vaccination was received, followed by proof that the second dose when it is obtained.	December 6, 2021 and continuing (if applicable)

Employees who are not vaccinated.	<p>(1) Submit statement that you are unvaccinated, but are planning to receive a vaccination by the deadline; or</p> <p>(2) Submit statement that you are unvaccinated and not planning to receive a vaccination.</p>	December 6, 2021
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Time to Receive Vaccination

Effective immediately, an employee may take up to four (4) hours of work time during the workday per dose to receive vaccination. This time includes travel to and from the vaccination site and receipt of vaccination. This means that the College will provide up to eight (8) hours of paid time during the workday for employees to be vaccinated with two (2) doses and up to four (4) hours for a single dose regimen. If an employee spends less time getting the vaccine, only the necessary amount of paid time will be granted.

Employees who take longer than four (4) hours to get the vaccine must send their supervisor an email documenting the reason for the additional time (*i.e.*, they may need to travel long distances to get the vaccine; unusual delays in getting to/from the vaccination site; long waiting time at the vaccination site). The College will treat additional time beyond four (4) hours per dose, if reasonable, as unpaid time, and employees may voluntarily choose to use available leave (*i.e.*, sick leave or annual leave) for that time.

If an employee is vaccinated outside of their approved working time they will not be compensated. An employee who is requesting time off to receive a vaccination, must email their supervisor with the date and time of their vaccine appointment.

Time to Recover from Vaccination Side Effects

Effective immediately, employees may utilize up to two (2) workdays of sick leave, if needed, because of side effects from the COVID-19 vaccination that prevent them from working. Employees must submit leave time within the electronic payroll/human resources system. Employees who have no sick leave will be granted up to two days of additional sick leave immediately following each dose, if necessary. Employees who have no sick leave must contact Human Resources.

Employee Notification of COVID-19 Diagnosis, Test, or Symptoms

Effective immediately, employees must promptly notify Human Resources when they have tested positive for COVID-19, have been diagnosed with COVID-19 by a licensed healthcare provider, and/or are experiencing symptoms while at home or at work. Employees who receive a positive COVID-19 test while at work on College premises, must immediately leave campus and contact Human Resources.

Employees who test positive for COVID-19 but are telework eligible and feel well, may work remotely during their isolation period. Employees who are not telework eligible and/or are not feeling well, should utilize sick leave, annual leave or personal leave during the isolation period.

Cecil College will comply with the Centers for Disease Control (CDC), State of Maryland, and Cecil County guidance regarding quarantine and isolation procedures. Human Resources will work with impacted employees to determine their on campus return to work date. Because the guidance is periodically updated, the guidance is not recited here. Review the current CDC guidance at <https://www.cdc.gov/coronavirus/2019-ncov/your-health/quarantine-isolation.html>.

COVID-19 Testing

Effective January 4, 2022, employees who are not fully vaccinated must comply with the procedures for weekly testing and wear a face covering while indoors at the workplace at all times and outdoors at the workplace when within six feet of another person. Such employees must also wear a face covering when in a vehicle with another person for work-related purposes.

Employees who choose the testing and face covering option instead of becoming fully vaccinated are responsible for the cost of the weekly COVID-19 tests. Employees who choose to get tested during the workday must request appropriate leave time, which must be approved by their supervisor.

The testing schedule depends on how frequently the employee reports to the workplace.

1. Employees who report to the workplace at least once every seven days:
 - (A) must be tested for COVID-19 at least once every seven days; and
 - (B) must provide documentation of the most recent COVID-19 test result to Human Resources no later than the seventh day following the date on which the employee last provided a test result.
2. Any employee who does not report to the workplace during a period of seven or more days: (*i.e.*, if you are on vacation for a week) do not have to provide a test result during the week in which they are on vacation. These employees must:
 - (A) be tested for COVID-19 within seven days prior to returning to the workplace; and
 - (B) provide documentation of that test result to Human Resources upon return to the workplace.

Employees who choose the testing option must submit their test results on a form provided by the College before the start of their scheduled workday every Tuesday, beginning January 4, 2022.

Employees who do not comply with this Policy, including applicable testing requirements, are not permitted to access College facilities and are subject to discipline, up to and including termination, subject to an approved accommodation. Use of leave and/or telework is not

generally an option for employees who refuse to test and submit test results as required by this Policy and Procedure.

Employees who have received a positive COVID-19 test, or have been diagnosed with COVID-19 by a licensed healthcare provider, are not required to undergo COVID-19 testing for 90 days following the date of their positive test or diagnosis. Employees who fall into this category must contact Human Resources and must continue to wear a face covering while on campus or in a vehicle for work purposes with another individual.

Face Coverings

Effective immediately, if an employee covered by this Policy is not fully vaccinated the employee must properly wear a face covering indoors at the workplace (unless alone in an office with the door closed) outdoors at the workplace when within six feet of another person, and when occupying a vehicle with another person for work purposes. The employee is responsible for purchasing the appropriate face covering.

Face coverings must:

1. completely cover the nose and mouth;
2. be made with two or more layers of a breathable fabric that is tightly woven (*i.e.*, fabrics that do not let light pass through when held up to a light source);
3. be secured to the head with ties, ear loops, or elastic bands that go behind the head. Note: If gaiters are worn, they should have two layers of fabric or be folded to make two layers;
4. fit snugly over the nose, mouth, and chin with no large gaps on the outside of the face; and
5. be a solid piece of material without slits, exhalation valves, visible holes, punctures, or other openings.

Acceptable face coverings include clear face coverings or cloth face coverings with a clear plastic panel that, despite the non-cloth material allowing light to pass through, otherwise meet these criteria and which may be used to facilitate communication with people who are deaf or hard-of-hearing or others who need to see a speaker's mouth or facial expressions to understand speech or sign language respectively.

Return to Work Criteria

For any employee removed because they are COVID-19 positive, the College will keep them removed from the workplace until the employee meets the return-to-work criteria in CDC's "Isolation Guidance"; or receives a recommendation to return to work from a licensed healthcare provider.

Under CDC's "Isolation Guidance," asymptomatic employees may return to work once 10 days have passed since the positive test, and symptomatic employees may return to work after all the following are true:

- At least 10 days have passed since symptoms first appeared, and
- At least 24 hours have passed with no fever without fever-reducing medication, and
- Other symptoms of COVID-19 are improving (loss of taste and smell may persist for weeks or months and need not delay the end of isolation).

If an employee has severe COVID-19 or an immune disease, the College will follow the guidance of a licensed healthcare provider regarding return to work.

Additional Safety Protocols

The College may adopt additional safety protocols consistent with OSHA's COVID-19 Vaccination and Testing ETS, CDC guidance, and guidance from state and local officials, as part of a multi-layered infection control approach for unvaccinated workers.

Reasonable Accommodations

Employees may be entitled to a reasonable accommodation if they cannot be vaccinated and/or wear a face covering because of a disability or sincerely held religious belief, practice, or observance. Requests for exceptions and reasonable accommodations must be initiated by December 6, 2021. All such requests will be handled in accordance with applicable laws and the College's reasonable accommodation Policy and procedure.

Resources and Additional Information for Employees

Information regarding COVID-19 vaccination and OSHA's ETS is available at the following sites:

- COVID-19 vaccine efficacy, safety, and the benefits of being vaccinated-*Key Things to Know About COVID-19 Vaccines*," available at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/keythingstoknow.html>);
- Emergency Temporary Standard Information: <https://www.osha.gov/coronavirus/ets2/faqs>

Protection from Retaliation and Discrimination

Pursuant to 29 CFR 1904.35(b)(1)(iv), employers are prohibited from discharging or in any manner discriminating against an employee for reporting work-related injuries or illness. Section 11(c) of the OSH Act prohibits employers from discriminating against an employee for exercising rights under, or as a result of actions that are required by, the ETS. Section 11(c) also protects employees from retaliation for filing an occupational safety or health complaint, reporting a work-related injuries or illness, or otherwise exercising any rights afforded by the OSH Act. Please see the fact sheets, which are available at the following links in [English](#) and [Spanish](#).

18 U.S.C. § 1001 and Section 17(g) of the OSH Act provide for criminal penalties associated with knowingly supplying false statements or documentation. Please see the fact sheets, which are available at the following links in [English](#) and [Spanish](#).

New Hires

All new employees are required to comply with this Policy as a condition of employment. If a new employee is fully vaccinated, then the provisions of this Policy and Procedure regarding fully vaccinated employees applies. If a new employee is partially vaccinated or not vaccinated, the provisions of this Policy and Procedure applying to those individuals applies. Potential candidates for employment will be notified of the requirements of this Policy prior to the start of employment.

Confidentiality and Privacy

All medical information collected from individuals, including vaccination information, test results, reasonable accommodation forms and information, and any other information obtained as a result of testing, will be treated in accordance with applicable laws and policies on confidentiality and privacy.

Questions

Please direct any questions regarding this Policy to Human Resources.