



## **PERSONNEL POLICY**

### **SUBJECT: COVID-19 VACCINATION & TESTING**

DATE: September 1, 2021

Number: 113-21

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#### **I. Statement of the Policy**

As it reopens services and returns more of its employees to the workplace, Fulton County remains committed to taking every precaution to safeguard the health and well-being of employees, the public and others who spend time in County facilities during the Coronavirus Disease 2019 (COVID-19) pandemic. In furtherance of its commitment to implementing any and all measures necessary to mitigate the spread of the disease, Fulton County will require all County employees, as a condition of employment, to either 1) be immunized by vaccination against COVID-19 or 2) be tested weekly for COVID-19. This condition of employment is mandatory unless an employee is granted a reasonable accommodation or when otherwise not permitted by law.

This policy is designed to protect the health of the Fulton County workforce to the greatest extent possible and to serve as a public health measure for those within the broader Fulton County community. The COVID-19 vaccines currently available in the United States are highly effective at decreasing the likelihood of contracting COVID-19, preventing serious illness in vaccinated individuals who contract COVID-19, and mitigating spread of the disease. Employees with a disability or other medical restriction that affects their eligibility for a vaccine, as verified by their medical provider, or those with a sincerely held religious belief that prohibits them from receiving a vaccine, may request a reasonable accommodation to be excused from this vaccination requirement.

This policy is intended to comply with all federal, state, and local laws and is based upon guidance provided by the U.S. Centers for Disease Control and Prevention (CDC), the U.S. Department of Health and Human Services, the Georgia Department of Public Health, the Fulton County Board of Health, and public health and licensing authorities, as applicable. However, this policy does not assume any legal duty not mandated by law.

These policies do not create a contract of employment. Employment for non-classified employees remains "at will".

## **II. Applicability**

This policy shall apply to all employees of Fulton County and to the employees of elected officials to the extent they adopt the same. This policy may apply to certain designated contractors, vendors, and other visitors with regular access and presence in County facilities (such individuals will be notified of their designation and resulting policy application).

## **III. Establishment and Implementation of Procedure**

The County Manager, in consultation with the Chief Human Resources Officer and the County Attorney, is authorized to establish and modify, as needed, a procedure for implementing this policy.

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## PERSONNEL PROCEDURE

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#### I. Definitions

- **“Booster dose”** refers to an additional dose of a vaccine, beyond the dose(s) required for initial vaccination, which is intended to boost immunity to COVID-19.
- **“Contraindications”** refers to a contraindication to COVID-19 vaccination recognized by the U.S. Centers for Disease Control and Prevention (“CDC”), or by the vaccine’s manufacturer, as based on a condition in the potential vaccine recipient that may increase the risk for a serious adverse reaction to the vaccine, may cause diagnostic confusion if the vaccine is administered, or may compromise the ability of the vaccine to produce immunity. “Contraindications” are limited and do not include conditions that are unrelated to vaccines or injectable therapies, such as food, pet, venom, or environmental allergies, or allergies to oral medications.
- **“COVID-19 testing”** or **“COVID-19 test”** refers to completion of a polymerase chain reaction/nucleic acid amplification test (PCR)(NAAT) recognized by the CDC to detect COVID-19 infection, but not to include an anti-bodies test. Such tests may be obtained through your healthcare provider or at a testing center.
- **“Deferral”** refers to an approved deferral of vaccination based on a pregnancy-related medical condition, including breastfeeding. Pregnancy Deferral will extend throughout the term of the pregnancy and until twenty-four months after childbirth, as applicable.
- **“Disability”** refers to a physical or mental impairment, disorder or condition that substantially limits a major life activity and any other condition recognized as a disability under applicable law, including but not limited to the Americans with

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Disabilities Act of 1990, as amended (“ADA”) and the Rehabilitation Act of 1973. “Disability,” for purposes of this policy, includes pregnancy-related medical conditions where reasonable accommodation is medically advisable.

*Current illegal drug use is expressly excluded from this definition of “disability.”*

- **“Exception”** refers to an approved exception to COVID-19 vaccination based on a Medical Exemption, Disability, or Religious Objection. For purposes of this policy, a person who is pregnant or breastfeeding is not eligible on that basis alone for an Exception, but could be eligible for a Deferral for the duration of pregnancy and until twenty-four months after childbirth, as applicable.
- **“Vaccinated”** or **“completed vaccination”** for purposes of this policy refers to completion of a COVID-19 vaccination series authorized or approved by the U.S. Food and Drug Administration (“FDA”), or completion of a COVID-19 vaccination series pre-qualified or approved for Emergency Use Listing by the World Health Organization (“WHO”).
- **“Medical Exemption”** refers to an excuse from receiving COVID-19 vaccine due to a medical contraindication or precaution, disability, or medical impairment, disorder or condition.
- **“Reasonable Accommodation,”** for purposes of this policy and procedure, refers to an adjustment made to the requirements of the COVID-19 Vaccination Program for an individual who has received an approved Exception or Deferral.
- **“Religious Objection”** refers to an applicant or employee’s objection to receiving the COVID-19 vaccine based on that person’s sincerely held religious belief, practice, or observance.
- **“Unvaccinated,”** for the purposes of this policy, refers to a person who has not completed a COVID-19 vaccination series, including any employee or applicant whose vaccination status is not known. For the purposes of this policy and procedure, an employee is considered unvaccinated if they have not received any dose of a single dose vaccine or the first dose in a multi-dose vaccine.
- **“Vaccine,”** for purposes of this policy and procedure, refers to a vaccine intended to provide acquired immunity against severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), the virus that causes coronavirus disease 2019 (COVID-19). A COVID-19 vaccine satisfies the requirements of this policy and procedure if: (i) the U.S. Food and Drug Administration (FDA) has issued a License or an Emergency Use Authorization (EUA) for the vaccine or (ii) the World Health Organization has pre-qualified or approved Emergency Use Listing (EUL) for the vaccine.

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## II. COVID-19 Vaccination Program

As a condition of employment with Fulton County, unless otherwise not permitted by law, all employees must participate in the County's COVID-19 Vaccination Program by 1) providing proof of vaccination via the County's secured COVID-19 vaccination tracker system; or 2) submitting to weekly testing for the detection of COVID-19. An employee may be excused from this condition of employment by obtaining a reasonable accommodation through the Department for Diversity and Civil Rights Compliance (DCRC).

### A. COVID-19 Vaccination

Employees, who have not previously provided proof of completed vaccination to the County, must establish that they are vaccinated by uploading a copy of their CDC vaccination card or an official medical record to the County's secured COVID-19 vaccination tracker system on or before **September 6, 2021** unless they have an approved reasonable accommodation that excuses them from this completed vaccination requirement or have properly applied for such a reasonable accommodation based on an exception or deferral request. Employees hired on or after **September 6, 2021** will be required to provide proof of completed vaccination or request a reasonable accommodation that excuses them from the completed vaccination requirement based on an exception or deferral request no later than three (3) days prior to the candidate's start date. The process for requesting a reasonable accommodation is set forth in **Section III** below.

The County may, based on guidelines from the CDC or any federal, state or local public health agency, also require vaccinated employees to submit proof of booster dose(s) unless excused by a reasonable accommodation or otherwise by law. Vaccinated employees will receive advance notice of such requirement and instructions on how to submit proof of compliance.

Proof of completed vaccination may be subject to audit. Any falsification of vaccine information will result in termination of employment. Employees are not required to disclose and should not disclose genetic information or other medical information when verifying vaccination status.

### B. COVID-19 Testing Alternative

After **September 6, 2021**, employees who have not provided proof of completed vaccination, or a booster dose, if applicable, including employees with an approved reasonable accommodation that excuses them from the completed vaccination or booster dose requirement, must submit to weekly COVID-19 testing unless they have an

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approved reasonable accommodation that excuses them from this COVID-19 testing requirement based on an exception or deferral request.

Employees hired on or after **September 6, 2021** who will not provide proof of completed vaccination or booster dose, if applicable, as required in Section A above, must submit acceptable proof of having taken a COVID-19 test within three (3) days of submission or request a reasonable accommodation that excuses them from this COVID-19 testing requirement based on an exception or deferral request no later than three (3) days prior to the candidate's start date. The process for requesting a reasonable accommodation is set forth in **Section III** below.

To satisfy the COVID-19 testing requirement, employees must undergo COVID-19 testing at minimum once each calendar week. On the first work day in a calendar week, employees must submit acceptable proof of having taken a COVID-19 test within three (3) days of submission of the proof to the Department of Human Resources Management. Employees who receive a positive COVID-19 test result during their weekly testing must inform their Appointing Authority immediately and follow the County's COVID-19 Confirmed Positive Case Protocol.

Proof of COVID-19 testing may be subject to audit. Any falsification of COVID-19 testing information will result in termination of employment. Employees are not required to disclose and should not disclose genetic information or other medical information when verifying COVID-19 testing.

If an employee is on leave during an entire calendar week, the employee is not required to submit proof of COVID-19 testing during that week.

### **III. Request for Vaccine Exception or Deferral**

To request an exception from the completed vaccination requirement and/or the COVID-19 testing requirement based on a medical exemption, disability, or religious objection or to request a deferral of the completed vaccination requirement, employees are required to submit a completed Request for Exception/Deferral from Mandatory COVID-19 Vaccination/Testing & Reasonable Accommodation Form to DCRC. Employees are encouraged to submit their requests as soon as possible. Employees may request an exception/deferral and seek workplace accommodation without fear of retaliation. The County will review requests for exception/deferral on a case-by-case basis through its existing reasonable accommodation process as set forth in the Americans with Disabilities Act - Reasonable Accommodation Policy and Procedure (No. 100-16) or the Religious Accommodations Policy and Procedure (No. 109-16), whichever is applicable.

Safety protocols will be required or recommended, as appropriate, for those who are granted a reasonable accommodation based on an exception or deferral request.

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#### **IV. Non-Discrimination/Non-Retaliation**

As stated in its Equal Employment Opportunity and Prejudicial Act Policy and Procedure (No. 103-16), Fulton County is an equal opportunity employer and is committed to the principles of non-discrimination and equality of employment opportunities. Fulton County does not discriminate against applicants or employees with regard to race, color, religion, sex (including pregnancy, sexual orientation, gender identity or expression), national origin, age, disability and genetic information (including family medical history), or any other characteristic protected by applicable federal, state, or local law. Fulton County also accommodates disabilities and sincerely held religious beliefs, practices or observances to the extent required by law and prohibits retaliation for any conduct protected by applicable law. Although an accommodation request may be denied if it is unreasonable or poses an undue burden and/or presents a direct threat to the health and safety of others, Fulton County will not retaliate against any employee or applicant merely for requesting an accommodation.

#### **VI. Confidentiality**

Fulton County will keep all individuals' vaccination status, underlying medical condition(s), supporting documentation, and COVID-19 test results confidential, in accordance with the Americans with Disabilities Act (ADA) and any other applicable law or regulation.

#### **VII. Compliance**

Assessment of employee compliance will begin **October 3, 2021** and continue weekly thereafter. Employees will be subject to the following discipline for failure to comply with this Policy and Procedure:

(1) First offense:	1 day suspension w/o pay
(2) Second offense:	5 days suspension w/o pay
(3) Third offense:	10 days suspension w/o pay
(4) Fourth offense:	Dismissal

Suspension(s) need not occur in the same week as the employee's lack of compliance, and multiple suspensions may be served consecutively with other suspensions and/or immediately preceding dismissal.

An offer of employment may be rescinded for candidates who fail to timely submit proof of completed vaccination or COVID-19 testing or fail to timely request a reasonable accommodation excusing them from both requirements.

#### **VIII. Paid Time Off for COVID-19 Vaccination and Testing**

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Every employee shall be provided paid time off in the form of two (2) hours of administrative leave per vaccine injection, to receive vaccination for COVID-19. Employees who were vaccinated prior to the effective date of this policy will be credited four (4) hours of administrative leave.

Employees who experience adverse side effects within twenty four (24) hours of receiving a vaccine injection may request up to a total of forty (40) hours of administrative leave to be utilized on the days immediately following a vaccine injection or booster dose.

Administrative leave may be offered for purposes of taking a COVID-19 test. Employees may also use personal time outside of the administrative leave offered at their own expense.

The entire period of time off granted pursuant to this section shall be provided at the employee's regular rate of pay and shall not be charged against any other accrued leave category, including sick leave.

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