

SALEM SCHOOL DISTRICT
Salem, Connecticut

PERSONNEL - CERTIFIED / NON-CERTIFIED

COVID-19 STAFF VACCINATION

The Board of Education's highest priority is ensuring the health and safety of the District's students and their families, the District's employees and their families, and our greater community. Pursuant to this obligation and Connecticut Governor Ned Lamont's September 10, 2021 Executive Order # 13G, the Board mandates that all District employees who perform work within the District's schools be vaccinated against COVID-19 unless otherwise exempt as set forth in this policy. The School Administration shall implement this policy, as may be amended by further State orders and guidance and the law.

Definitions

For the purposes of this policy, the following definitions apply:

"Fully vaccinated" means at least 14 days have elapsed since a person has received the final dose of a vaccine approved for use against COVID-19 by the U.S. Food and Drug Administration, or as otherwise defined by the Centers for Disease Control.

"District employee" refers to all Salem School District employees, both full and part-time, including substitutes and student teachers. This definition applies to all District staff regardless of the amount of student contact time a particular staff member may have. This definition does not apply to District volunteers.

Mandatory COVID-19 Vaccination

1. Prospective District Employees Hired On or After September 27, 2021

On or after September 27, 2021, the District shall offer employment only to individuals who are fully vaccinated. The exceptions to this rule are as follows:

- (1) The candidate has received the first dose and has either received a second dose (and less than 14 days have elapsed) or has an appointment for the second dose in a two-dose series vaccination, such as Pfizer or Moderna vaccines, or has received a single-dose vaccine, such as Johnson & Johnson's Janssen vaccine (and less than 14 days have elapsed) and he/she undergoes weekly COVID-19 testing and submits such results to the District until such time as the he/she is fully vaccinated; or

- (2) The candidate is exempt from the vaccination requirement because the vaccine is likely to be detrimental to the individual's health or the person is exempt due to a sincerely held religious belief and he/she undergoes weekly COVID-19 testing and submits such results to the District and he/she is able to perform the essential functions of his/her job with a reasonable accommodation that is not an undue burden to the Board.

It shall be the responsibility of the candidate to provide proof of vaccination or to obtain and provide documents in support of his or her entitlement to any exemption. Decisions regarding exemptions shall be determined on a case-by-case basis.

The failure to meet any of these conditions will result in the candidate not being offered a position of employment.

The Salem School District shall not pay for the costs associated with weekly COVID-19 testing.

2. Existing District Employees and Those Hired Prior to September 27, 2021

On or after September 27, 2021, all non-exempt employees must be fully vaccinated against COVID-19 in order to maintain employment with the Salem School District unless:

- (1) The employee has received the first dose and has either received a second dose (and less than 14 days have elapsed) or has an appointment for the second dose in a two-dose series vaccination, such as Pfizer or Moderna vaccines, or has received a single-dose vaccine, such as Johnson & Johnson's Janssen vaccine (and less than 14 days have elapsed), and undergoes weekly COVID-19 testing and submits such results to the District; or
- (2) The employee is exempt from the vaccination requirement because the vaccine is likely to be detrimental to the individual's health or the person is exempt due to a sincerely held religious belief and the employee undergoes weekly COVID-19 testing and submits such results to the District and the employee is able to perform the essential functions of his/her job with a reasonable accommodation that is not an undue burden to the Board; or
- (3) The employee undergoes weekly COVID-19 testing and submits such results to the District.

It shall be each employee's responsibility to provide proof of vaccination or to obtain and present documents in support of his or her entitlement to any exemption. Decisions regarding exemptions shall be determined on a case-by-case basis.

Employees who fail to comply with the above provisions will not be permitted to report to work or to enter into any school building or District facility. In addition, failure to produce proof of vaccination or weekly testing results will render employees ineligible for continued employment.

The Salem School District shall not pay for the costs associated with weekly COVID-19 testing.

Acceptable Proof of Vaccination

Employees may demonstrate proof of vaccination by providing one of the following:

- (1) A valid CDC Vaccination Card, which must contain the employee's name and date of birth, along with the manufacturer of (and date on which) the vaccine that was administered;
- (2) A record from the individual's vaccine provider providing the same information listed in #1, above;
- (3) A certificate from the Vaccine Administration Management System ("VAMS"), if the individual received vaccination through the VAMS system, providing that same information, and
- (4) A copy of the individual's official immunization record from the Connecticut Immunization Information System, (CT WiZ. State Immunization Information Record) providing that same information.

In addition, such documentation will not be deemed valid unless accompanied by the individual's signed declaration as to the authenticity of their proof of vaccination (including any copies of such records submitted). The School will provide you with access to the declaration form to be used. *Appendix A from "Implementation Guidance for Executive Order 13G" from Department of Public Health ("DPH"), dated 9/17/21.*

Personal attestation (without the required documents) will not be accepted as an acceptable form of proof of a COVID vaccination.

Exemptions to COVID-19 Vaccination Requirement

1. Medical/Disability

Individuals who claim that they cannot receive a COVID-19 vaccination because the administration of COVID-19 vaccine is likely to be detrimental to the individual's health must request a medical exemption from Executive Order 13G's vaccination mandate via a form complying with the "Implementation Guidance for Executive Order 13G" (*Appendix B*) that is signed by that individual's physician (MD or DO), physician's assistant, or advance practice nurse practitioner. The District shall keep such documentation confidential to the extent permitted by law.

The Superintendent or his or her designee shall engage in discussion with the employee and make an individualized assessment as to whether the employee (if unvaccinated) will expose others to

the virus or otherwise pose a direct threat to safety and health of the school community, based upon the following considerations:

- the duration of the exposure to others;
- the nature and severity of the potential harm from exposure;
- the likelihood that this potential harm will occur; and
- the imminence of this potential harm.

If the Superintendent determines that the unvaccinated employee poses such a direct threat to the school community, the Superintendent will consider whether there are reasonable accommodations or mitigation efforts (absent undue hardship) that would eliminate or reduce the risk such that the unvaccinated employee will not pose a direct threat to others. Such measures may include but not be limited to greater isolation/social distancing and the use of enhanced personnel protective equipment, (for example, face shields worn in addition to masks), provided that they do not constitute an undue hardship to the District.

If the unvaccinated employee poses a direct threat that cannot be reduced to an acceptable level, the Superintendent may exclude the employee from physically entering any District schools or facilities. Such an employee may take, or be required to take, available leave pursuant to the terms of: 1) Any applicable collective bargaining agreement or individual contract of employment; 2) Any applicable Board policies, or; 3) Any applicable state or federal statutory provision such as the Americans with Disabilities Act (“ADA”) or the Family and Medical Leave Act (“FMLA”).

In making the above-described determinations, the Superintendent shall consult with local health authorities, and may consider the following factors, amongst others: 1) The general community (and workplace) spread of the virus; 2) The nature of the employee’s worksite, including the risk of exposing students, fellow District employees or other school community members to the virus; 3) The prevalence in the workplace of District employees who have already received a COVID-19 vaccination and the amount of contact with third parties, whose vaccination status may be unknown, and; 4. The availability and likely effectiveness of preventative measures.

2. Religious Practice or Belief

Individuals who object to vaccination on the basis of a sincerely held religious or spiritual belief may request an exemption from Executive Order 13G’s vaccination mandate by using an exemption request form provided by the District to the Superintendent; *Appendix C from “Implementation Guidance for Executive Order 13G”*; along with any supporting documentation as may be requested by the Administration.

The Superintendent or his or her designee shall engage in discussion with the employee and make an individualized assessment as to whether the employee (if unvaccinated) will expose others to the virus and thus pose a direct to the safety and health of the school community, based upon the factors described above.

If the Superintendent determines that the unvaccinated employee poses a direct threat to the school community, the Superintendent will consider whether there are reasonable accommodations or mitigation efforts (absent undue hardship, i.e., more than a *de minimis* cost or burden on the District) that would eliminate or reduce this risk so that the unvaccinated employee does not pose a direct threat to others. Such measures may include but are not limited to include greater isolation/social distancing and use of enhanced personnel protective equipment (for example, face shields in addition to masks), provided they do not impose an undue hardship on the District.

If the unvaccinated employee poses a direct threat that cannot be reduced to an acceptable level, the Superintendent may exclude the employee from physically entering the worksite. Such an employee may take, or be required to take, available leave pursuant to the terms of: 1. Any applicable collective bargaining agreement or individual contract of employment; 2. Any applicable Board policies, or; 3. Any applicable state or federal statutory provisions.

In making the above-described determinations, the Superintendent shall consult with local health authorities, and may consider the following factors, amongst others: 1. The general community (and workplace) spread of the virus; 2. The nature of the employee's worksite, including the risk of exposing students, fellow District employees or other school community members to the virus; 3. The prevalence in the workplace of District employees who have already received a COVID-19 vaccination and the amount of contact with third parties, whose vaccination status may be unknown, and; 4. The availability and likely effectiveness of preventative measures.

3. Weekly Testing

District employees who are not fully vaccinated by September 27, 2021, must obtain weekly testing for COVID-19 and present the results of such tests to the District. This requirement applies to District employees who are exempt from vaccination pursuant to the disability and religious practice or belief exemptions described above as well as any other District employees who were hired prior to September 27, 2021 and who are not fully vaccinated by September 27, 2021. Pursuant to Executive Order 13G, employees hired on or after September 27, 2021 do not have a COVID-19 testing option unless they apply for and are approved for an exemption or have received the first dose of the vaccine but are not yet fully vaccinated.

The only exemption to this testing requirement is for situations where employees can provide documented proof that they have tested positive for, or been diagnosed with, COVID-19 infection in the prior 90 days, using a form that is included with the Department of Public Health's "Implementation Guidance for Executive Order 13G." *Appendix D.*

The procedures for submission of testing results shall be determined by the Superintendent or his or her designee. It shall be the responsibility of the District employee to obtain such testing at his or her cost. Employees are expected to obtain such testing outside of regular working hours. The Salem School District shall not pay for the costs associated with weekly COVID-19 testing.

Such testing must be either PCR or antigen SARS-CoV-2 tests and must be administered and reported by a state licensed clinical laboratory, pharmacy-based testing provider, or other healthcare provider facility with a current "Clinical Laboratory Improvement Amendments"

waiver. Only test results submitted to the District within 72 hours of the test administration date will be deemed compliant with the testing requirement. Test result reports should include the name and location of the testing laboratory or provider facility, the name of the person tested, the date the sample was collected, and the test result. Please note: Home-based testing and results obtained outside of the above listed types of facilities are *not* considered adequate proof of a test.

Weekly testing results along with proof of vaccination shall be maintained by the District as confidential employee medical information and only disclosed to District staff on a need to know basis.

Compliance and Discipline

District employees who fail to comply with the above provisions will not be permitted to report to work or to enter into any school building or District facility. In addition, failure to produce proof of vaccination or weekly testing results will render Salem School District employees ineligible for continued employment with the District. Accordingly, such employees may be subject to discipline, up to and including termination of employment. Any District employee who knowingly provides false or misleading information to the District regarding his or her vaccination status, eligibility or qualification to receive the vaccine, and/or in connection with a request for a reasonable accommodation, will be subject to discipline, up to and including termination of employment.

Employees who are subject to testing due to not being fully vaccinated will not be permitted to report to work or to enter into any school building or District facility unless the most recent test result provided is “negative” or indicate that virus material is “not detected”. Results provided as “inconclusive” are not considered negative results and as such require retesting. If an individual receives an inconclusive result and cannot be retested and provide a negative result within 7 days of their last negative test, then that individual should be excluded from on-site work until they can provide a negative test result.

Confidentiality of Medical Information

District employee vaccination information, weekly testing results and other medical information will be kept confidential as required by law. The District will maintain the confidentiality of such information to the most reasonable extent possible, in compliance with applicable laws and regulations, including but not limited to the Americans with Disabilities Act and Title VII of the Civil Rights Act, as may be applicable. If necessary, medical information may be shared in limited circumstances and subject to appropriate controls to those persons who have a legitimate need to know including but not limited to District administration, first aid and safety personnel, and government officials, as required by law or other relevant guidance.

SCHOOL DISTRICT CONTRACTORS

Vaccination: On and after September 27, 2021, contractors must 1) authenticate the vaccination status of its contract workers, 2) maintain documentation of vaccination or exemption of such contract workers, and 3) provide such documentation upon request and report compliance to the

District on September 28, 2021 and thereafter upon request in a form and manner directed by the Department of Public Health.

Testing: On and after September 27, 2021, contractors must 1) implement a policy that requires their contract workers who have not demonstrated proof of full vaccination to submit to COVID-19 testing not less than once per week on an ongoing basis until fully vaccinated and 2) provide adequate proof of the results of the testing on a weekly basis to the District, in a form and manner prescribed by the Department of Public Health. The Department of Public Health may promulgate a policy and procedures for limited-duration waivers of the testing requirements contained herein.

LEGAL REFERENCES:

Governor Lamont's Executive Order #13G, dated September 10, 2021

Frequently Asked Questions Regarding Vaccinations for Covered Workers in Schools, Connecticut State Department of Education Guidance dated August 25, 2021

Implementation Guidance for Executive Order 13G, Connecticut State Department of Public Health, dated September 17, 2021

Jacobson v. Massachusetts, 197 U.S. 11 (1905)

What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws, Equal Employment Opportunity Commission (December 16, 2020)

42 U.S.C. 2000ff, Genetic Information Nondiscrimination Act of 2008

42 U.S.C. 2000e, *et seq.*, Title VII of the Civil Rights Act of 1964, as amended

42 U.S.C. 12101, *et seq.*, Americans with Disabilities Act of 1990, as amended

Cf. Connecticut General Statutes §10-210

Cf. Connecticut General Statutes §10-204a

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