

Staff Testing is **Mandated** State / County Order - **Union Facility**

1. Can a facility require staff undergo COVID-19 testing? **Yes**
2. Can a Staff member refuse to undergo testing? **Yes**
3. Is a Consent required? **Yes**
4. Is a physician order required? **No**
5. If an employee refuses testing, can they be furloughed? **Yes**
6. If an employee is furloughed, can they collect unemployment? **Will depend on State law.**

However, it may be difficult to qualify for unemployment compensation given that a job is available to the individual as long as they agreed to testing.

7. If an employee is furloughed for refusing to undergo COVID-19 testing, is the facility required to bring the employee back? **State law and/or Facility policy may govern.**

If neither State law or facility policy governs, the facility may make its own decision about whether or not to return a furloughed staff member to duty.

8. If an employee is brought back following furlough, how does a facility determine when to bring the employee back? **State law and/or Facility policy may govern.**

It is recommended that the facility not return a staff member to work before the Order that mandated staff testing is rescinded.

9. If an employee refuses testing, can their employment be terminated? **Yes.**

Where State law, or State/County order mandates staff testing, to continue to work at the facility, staff must either agree to testing or be removed from schedule. Allowing a staff member to continue to work without testing would be a violation of State law, or State/County order.

*If the facility is unionized, **you can still terminate employment but the employee may grieve the termination.** However, if the test is mandated by law, it is unlikely the employee would prevail.*

10. If an employee is terminated, can they collect unemployment? **Will depend on State law.**

However, it may be difficult to qualify for unemployment compensation given that a job is available to the individual as long as they agreed to testing.

11. What if the employee claims that testing violates their religious beliefs?

This work is licensed under the Creative Commons Attribution-NoDerivatives 4.0 International License. To view a copy of this license, visit <http://creativecommons.org/licenses/by-nd/4.0/>

This policy and procedure is not intended to replace the informed judgment of individual physicians, nurses or other clinicians nor is it intended as a statement of prevailing community standards or minimum standards of practice. It is a suggested method and technique for achieving optimal health care, not a minimum standard below which residents necessarily would be placed at risk.

Ask the employee to provide you with information as to what is their sincerely held religious belief and how does testing violate their beliefs. If the testing does violate their beliefs, and testing is mandated by law, you should seek guidance from your public health department.

12. What if the employee provides a doctor's note saying they cannot be tested?

Ask for more information as to how or why they cannot be tested. If they cannot be tested and testing is mandated by law then the person is not qualified to work at the facility and can be terminated or not hired.

SAMPLE

This work is licensed under the Creative Commons Attribution-NoDerivatives 4.0 International License. To view a copy of this license, visit <http://creativecommons.org/licenses/by-nd/4.0/>

This policy and procedure is not intended to replace the informed judgment of individual physicians, nurses or other clinicians nor is it intended as a statement of prevailing community standards or minimum standards of practice. It is a suggested method and technique for achieving optimal health care, not a minimum standard below which residents necessarily would be placed at risk.

Staff Testing is *Mandated* by State/County Order - *Non-Union Facility*

1. Can a facility require staff undergo COVID-19 testing? **Yes**
2. Can a Staff member refuse to undergo testing? **Yes**
3. Is a Consent required? **Yes**
4. Is a physician order required? **No**
5. If an employee refuses testing, can they be furloughed? **Yes**
6. If an employee is furloughed, can they collect unemployment? **Will depend on State law.**

However, it may be difficult to qualify for unemployment compensation given that a job is available to the individual as long as they agreed to testing.

7. If an employee is furloughed for refusing to undergo COVID-19 testing, is the facility required to bring the employee back? **State law and/or Facility policy may govern.**

If neither State law or facility policy governs, the facility may make its own decision about whether or not to return a furloughed staff member to duty.

8. If an employee is brought back following furlough, how does a facility determine when to bring the employee back? **State law and/or Facility policy may govern.**

It is recommended that the facility not return a staff member to work before the Order that mandated staff testing is rescinded.

9. If an employee refuses testing, can their employment be terminated? **Yes**

Where State law, or State/County order mandates staff testing, to continue to work at the facility, staff must either agree to testing, or be removed from schedule. Allowing a staff member to continue to work without testing would be a violation of State law, or State/County order.

10. If an employee is terminated, can they collect unemployment? **Will depend on State law**

However, it may be difficult to qualify for unemployment compensation given that a job is available to the individual as long as they agreed to testing.

11. What if the employee claims that testing violates their religious beliefs?

This work is licensed under the Creative Commons Attribution-NoDerivatives 4.0 International License. To view a copy of this license, visit <http://creativecommons.org/licenses/by-nd/4.0/>

This policy and procedure is not intended to replace the informed judgment of individual physicians, nurses or other clinicians nor is it intended as a statement of prevailing community standards or minimum standards of practice. It is a suggested method and technique for achieving optimal health care, not a minimum standard below which residents necessarily would be placed at risk.

Ask the employee to provide you with information as to what is their sincerely held religious belief and how does testing violate their beliefs. If the testing does violate their beliefs, and testing is mandated by law, you should seek guidance from your public health department.

12. What if the employee provides a doctor's note saying they cannot be tested?

Ask for more information as to how or why they cannot be tested. If they cannot be tested and testing is mandated by law then the person is not qualified to work at the facility and can be terminated or not hired.

Staff Testing **not mandated** by State/County Order - **Non-Union Facility**

1. Can a facility require staff undergo COVID-19 testing? **Yes**
2. Can a Staff member refuse to undergo testing? **Yes**
3. Is a Consent required? **Yes**
4. Is a physician order required? **No**
5. If an employee refuses testing, can they be furloughed? **Yes**
6. If an employee is furloughed, can they collect unemployment? **Will depend on State law.**
However, it may be difficult to qualify for unemployment compensation given that a job is available to the individual as long as they agreed to testing.
7. If an employee is furloughed for refusing to undergo COVID-19 testing, is the facility required to bring the employee back? **State or Facility policy may govern.**
If facility policy governs, the facility may make its own decision about whether or not to return a furloughed staff member to duty.
8. If an employee is brought back following furlough, how does a facility determine when to bring the employee back? **Facility policy will govern.**
9. If an employee refuses testing, can their employment be terminated? **Yes, if you require it for health or safety reasons.**
10. If an employee is terminated, can they collect unemployment? **Will depend on State law.**
However, it may be difficult to qualify for unemployment compensation given that a job is available to the individual as long as they agreed to testing.
11. What if the employee claims that testing violates their religious beliefs?
Ask the employee to provide you with information as to what is their sincerely held religious belief and how does testing violate their beliefs. If testing violates their sincerely held beliefs, you may grant an accommodation and not require testing. If you still are going to demand testing, you may fire him/her but realize you may be open to a discrimination claim. You would have to show how other steps, such as screening were not sufficient.
12. What if the employee provides a doctor's note saying they cannot be tested?

This work is licensed under the Creative Commons Attribution-NoDerivatives 4.0 International License. To view a copy of this license, visit <http://creativecommons.org/licenses/by-nd/4.0/>

This policy and procedure is not intended to replace the informed judgment of individual physicians, nurses or other clinicians nor is it intended as a statement of prevailing community standards or minimum standards of practice. It is a suggested method and technique for achieving optimal health care, not a minimum standard below which residents necessarily would be placed at risk.

If there is a medical reason they cannot be tested, as the employee to provide you with the medical reason. If it is valid you may have to grant an accommodation and show how other screening methods were not sufficient if you fire him/her.

SAMPLE

This work is licensed under the Creative Commons Attribution-NoDerivatives 4.0 International License. To view a copy of this license, visit <http://creativecommons.org/licenses/by-nd/4.0/>

This policy and procedure is not intended to replace the informed judgment of individual physicians, nurses or other clinicians nor is it intended as a statement of prevailing community standards or minimum standards of practice. It is a suggested method and technique for achieving optimal health care, not a minimum standard below which residents necessarily would be placed at risk.

Staff Testing *not mandated* State/County Order - *Union Facility*

1. Can a facility require staff undergo COVID-19 testing? **Yes**
2. Can a Staff member refuse to undergo testing? **Yes**
3. Is a Consent required? **Yes**
4. Is a physician order required? **No**
5. If an employee refuses testing, can they be furloughed? **Yes, but they may grieve the furlough.**
6. If an employee is furloughed, can they collect unemployment? **Will depend on State law.**

However, it may be difficult to qualify for unemployment compensation given that a job is available to the individual as long as they agreed to testing.

7. If an employee is furloughed for refusing to undergo COVID-19 testing, is the facility required to bring the employee back? **Facility policy will govern.**

The facility may make its own decision about whether or not to return a furloughed staff member to duty. If not returned to work, the employee may grieve the refusal to return them to work.

8. If an employee is brought back following furlough, how does a facility determine when to bring the employee back? **Facility policy will govern.**

9. If an employee refuses testing, can their employment be terminated? **Yes.**

If it is your policy to require testing for health and safety reasons. The employee may grieve the termination.

10. If an employee is terminated, can they collect unemployment? **Will depend on State law.**

However, it may be difficult to qualify for unemployment compensation given that a job is available to the individual as long as they agreed to testing.

This work is licensed under the Creative Commons Attribution-NoDerivatives 4.0 International License. To view a copy of this license, visit <http://creativecommons.org/licenses/by-nd/4.0/>

This policy and procedure is not intended to replace the informed judgment of individual physicians, nurses or other clinicians nor is it intended as a statement of prevailing community standards or minimum standards of practice. It is a suggested method and technique for achieving optimal health care, not a minimum standard below which residents necessarily would be placed at risk.

11. What if the employee claims that testing violates their religious beliefs?

Ask the employee to provide you with information as to what is their sincerely held religious belief and how does testing violate their beliefs. If testing violates their sincerely held beliefs, you may grant an accommodation and not require testing. If you still are going to demand testing, you may fire him/her but realize you may be open to a discrimination claim. You would have to show how other steps, such as screening were not sufficient.

12. What if the employee provides a doctor's note saying they cannot be tested?

If there is a medical reason they cannot be tested, ask the employee to provide you with the medical reason. If it is valid you may have to grant an accommodation and show how other screening methods were not sufficient if you fire him/her.