

Revised:

491 - MANDATORY COVID-19 VACCINATION OR TESTING AND FACE COVERINGS

[Note: School districts are required by federal and state regulations to have a policy addressing these issues. The federal Occupational Safety and Health Administration ("OSHA") implemented the Emergency Temporary Standard on Vaccination and Testing ("ETS"). These regulations then were adopted by the Minnesota Occupational Safety and Health Administration ("MNOSHA") requiring employers, including school districts, to "establish, implement, and enforce" one of two policies: (1) a mandatory vaccination policy, or (2) a mandatory vaccination or testing and masking policy.]

I. PURPOSE

The purpose of this policy is to comply with federal and state legal requirements related to the health and safety of education district students, staff and visitors due to the COVID-19 pandemic. The education district's intent is that this policy meet, and should be read consistent with, the procedures mandated by the Occupational Safety and Health Administration's ("OSHA's") Emergency Temporary Standard on Vaccination and Testing ("ETS") (see 29 C.F.R. § 1910.501) as adopted by the Minnesota Occupational Safety and Health Administration ("MNOSHA"), to the extent these regulations are adopted and enforceable. This policy shall be governed by the laws of, and applicable to, the State of Minnesota. If any part of this policy is construed to be in violation of any law, it shall not be enforced, but portions remaining valid shall remain in full force and effect.

II. SCOPE

This policy applies to all employees of the education district, both full and part-time. For purposes of this policy, the term "employees" includes all part-time employees, student employees, and temporary or seasonal employees, but does not apply to volunteers, independent contractors, employees who are employed through a staffing agency, or employees who do not report to a workplace where other employees or students are present, except as modified by law.

III. DEFINITIONS

- A. "Authorized telehealth proctor" means someone who is trained to observe sample collection and provide instructions and result interpretation assistance to individuals taking a COVID-19 test.
- B. "COVID-19 antigen test" means an in vitro diagnostic test used to detect active SARS-CoV-2 infection approved or authorized for emergency use by the U.S. Food and Drug Administration ("FDA").
- C. "COVID-19 nucleic acid amplification test ("NAAT")" means a molecular test that detects the ribonucleic acid ("RNA") sequences that compromise the genetic material of the virus approved or authorized for emergency use by the FDA.

IV. OVERVIEW AND GENERAL INFORMATION

- A. Any employee that chooses to be vaccinated against COVID-19 must be fully vaccinated no later than January 10, 2022. Any employee not fully vaccinated by January 10, 2022, will be subject to the regular testing and face covering requirements of this policy until

fully vaccinated.

- B. Employees will be considered fully vaccinated two weeks after receiving the requisite number of doses of a COVID-19 vaccine. Employees will be considered partially vaccinated if they received only one dose of a two-dose vaccine. This policy does not require booster vaccinations.
- C. Employees are responsible for scheduling their own vaccination appointments through their medical provider or pharmacy. The education district may hold vaccine clinics that the employee may attend, but the availability of a vaccine clinic does not shift the responsibility of obtaining a vaccination from the employee.
- D. An employee who does not comply with this policy will be subject to disciplinary action as set forth in Education District policy and the employee's collective bargaining agreement ("CBA") or employment contract or other agreement, to the extent applicable.

V. VACCINATION STATUS AND ACCEPTABLE FORMS OF PROOF OF VACCINATION

- A. All vaccinated employees are required to provide proof of full COVID-19 vaccination, regardless of where they are vaccinated, and even if employees received a vaccination through a school district sponsored clinic. Proof must be provided before January 10, 2022. If the education district does not receive proof of full vaccination from an employee by January 10, 2022, that employee will be considered unvaccinated until such proof is received.
- B. Proof of vaccination must be submitted to the education district nurse. Acceptable submissions include emailing a copy of the proof of vaccination, providing a physical copy of the proof of vaccination, or bringing the proof of vaccination for the education district nurse to copy.
- C. Acceptable Proof of Vaccination Status

The following forms of proof of vaccination status will be accepted:

- 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).
- D. Proof of vaccination must include the employee's name and should include 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, such as clinic site. In those circumstances the education district will accept the state immunization record as acceptable proof of vaccination.

- E. If an employee is unable to produce one of these acceptable forms of proof of vaccination, despite attempts to do so (e.g., by trying to contact the vaccine administrator or state health department), the employee can provide a signed and dated statement attesting to his/her vaccination status (fully vaccinated or partially vaccinated); attesting that the employee lost and is 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.”

Employees who attest to their vaccination status in this manner shall, to the best of their recollection, include in their attestation the type of vaccine administered, the date(s) of the administration, and the name of the healthcare professional(s) or clinic site(s) administering the vaccine.

- F. To satisfy this policy, the COVID-19 vaccine must be approved or authorized for emergency use by the Federal Food and Drug Administration (“FDA”), or listed for emergency use by the World Health Organization (“WHO”).

VI. SUPPORTING COVID-19 VACCINATION

- A. An employee may take up to four hours of paid leave per dose to travel to the vaccination site, receive a COVID-19 vaccination, and return to work. A maximum of eight hours of paid leave will be provided for employees receiving two primary doses. Paid leave provided for obtaining a COVID-19 vaccination will not affect or reduce any accrued leave time (e.g., vacation or sick leave). If an employee does not require the full use of four or eight hours to obtain the vaccine, only the necessary amount of duty time will be granted. Employees who take longer than four or eight hours to obtain the vaccine must send their supervisor an email documenting the reason for the additional time. Any additional time requested will be granted, if reasonable, but will not be paid by the education district. An employee may elect, however, to substitute accrued paid leave in lieu of unpaid leave. Employees vaccinated outside of their approved work hours will not be compensated unless previously agreed to in writing by the education district.
- B. Employees may utilize up to two workdays of accrued paid sick leave immediately following receipt of each primary dose if they experience side effects from the COVID-19 vaccination that prevent them from working. Employees who have no accrued sick leave will be granted up to two days of additional paid sick leave immediately following each primary dose, if necessary, upon written approval by the education district.
- C. Employees are to follow the education district procedures in requesting sick leave for duty time missed to obtain the COVID-19 vaccine or sick leave to recover from side effects.
- D. Paid leave will not be provided by the education district for booster shots for employees who have been fully vaccinated.
- E. Nothing in this policy should be construed to create a right to paid leave for any vaccination other than the one or two primary COVID-19 vaccination doses.

VII. ACCOMMODATION REQUESTS

Employees may request an accommodation from this vaccination policy if the vaccine is

medically contraindicated for them or medical necessity requires a delay in vaccination. Employees also may be legally entitled to a reasonable accommodation if they cannot be vaccinated, test for COVID-19, and/or wear a face covering (as otherwise required by this policy) because of a disability, or if the provisions in this policy for vaccination, and/or testing for COVID-19, and/or wearing a face covering conflict with a sincerely held religious belief, practice, or observance. Requests for reasonable accommodations must be initiated by the employees by submitting a written request to the education district Executive Director, Cheryl Johnson by completing one of the two forms attached to this policy and submitting either through email to cjohnson@gcd.k12.mn.us or by mailing or delivering to the Executive Director at the education district main office at 395 Guernsey Lane, Red Wing, MN 55066. All such requests will be handled in accordance with applicable laws and regulations.

VIII. COVID-19 TESTING

- A. Effective January 10, 2022, all employees who are not fully vaccinated and who have not received a reasonable accommodation pursuant to Section VII. of this policy will be required to comply with Sections VIII. and IX. of this policy.
- B. Effective February 9, 2022, employees who report to the workplace at least once every seven days:
 - 1. Must be tested for COVID-19 at least once every seven days; and
 - 2. Must provide documentation of the most recent COVID-19 test result to *C19.Test.Result@gcd.k12.mn.us* no later than the seventh day following the date on which the employee last provided a test result.
- C. An employee who does not report to the workplace during a period of seven or more days (e.g., teleworking or on vacation for two weeks):
 - 1. Must be tested for COVID-19 within seven days prior to returning to the workplace; and
 - 2. Must provide documentation of that test result to *C19.Test.Result@gcd.k12.mn.us* upon return to the workplace.
- D. Employees who do not provide documentation of a COVID-19 test result as required by this policy, will be removed from the workplace until a test result is provided.
- E. Employees who 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 must provide proof of the positive test result or diagnosis to *C19.Test.Result@gcd.k12.mn.us*.
- F. Approved COVID-19 Tests
Approved COVID-19 tests are tests for SARS-CoV-2 that are:
 - 1. Cleared, approved, or authorized, including in an Emergency Use Authorization (EUA), by the FDA to detect current infection with the SARS-CoV-2 virus;
 - 2. Administered in accordance with the authorized instructions; and
 - 3. Not both self-administered and self-read unless observed by the school district or an authorized telehealth proctor.

- G. Employees who elect to complete weekly testing in lieu of getting fully vaccinated may test during the regular workday. Employees must abide by the following testing procedures:
1. Each building where staff are assigned will be assigned a day that all unvaccinated staff will be required to test.
 2. Staff will pick up a district-approved rapid antigen test from a designated location in their building at the beginning of their shift.
 3. Staff must complete the test and deliver the results by the end of the shift on the assigned day.
 4. Any staff that does not complete the test on their assigned day will not be allowed to come to work until a negative result is produced.
 5. Only test kits approved by the district will be accepted.

Employees may be responsible for paying the cost of testing depending on the employee's CBA or contract with the school district.

IX. FACE COVERINGS

The GCED 2021-22 Safe Learning Plan currently requires all staff, students and visitors to wear a face covering regardless of vaccination status. Unless the GCED 2021-22 Safe Learning Plan is changed to not require face coverings for all staff, students and visitors, this requirement will continue for all staff, students and visitors.

- A. Employees covered by this policy who are not fully vaccinated will be required to wear a face covering regardless of the policies and procedures that are in place for all employees. 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; (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. If gaiters are worn, they should have two layers of fabric or be folded to make two layers.
- B. Employees who are not fully vaccinated must wear face coverings over the nose and mouth when indoors and when occupying a vehicle with another person for work purposes.
- C. Employees who choose to remain unvaccinated are responsible for providing their own face covering that complies with this policy.
- D. The following are exceptions to the school district's requirements for face coverings required by this policy:

1. When an employee is alone in a room with floor-to-ceiling walls and a closed door.
 2. For a limited time, while an employee is eating or drinking at the workplace or for identification purposes in compliance with safety and security requirements.
 3. When an employee is wearing a respirator or facemask, as those terms are defined by 29 C.F.R. § 1910.501(c) or other applicable OSHA/MNOSHA regulation.
 4. Where the school district has determined that the use of face coverings is infeasible or creates a greater hazard (e.g., when it is important to see the employee's mouth for reasons related to the employee's job duties, when the work requires the use of the employee's uncovered mouth, or when the use of a face covering presents a risk of serious injury or death to the employee).
- E. The face covering requirements are applicable regardless of any other school district policy, resolution, regulation or administrative directives regarding face coverings.

X. EMPLOYEE NOTIFICATION OF COVID-19 AND REMOVAL FROM THE WORKPLACE

- A. The school district will require employees to promptly notify the education district nurse and provide proof of the positive test result or diagnosis to C19.Test.Result@gced.k12.mn.us when they test positive for COVID-19 or are diagnosed with COVID-19 by a licensed healthcare provider.

Education district employees must continue to complete daily health screenings outlined in the GCED 2021-22 Safe Learning Plan. If an employee has tested positive for COVID-19, has been in close contact with someone who recently tested positive for COVID-19, or is experiencing fever greater than or equal to 100.4 F, new onset and/or worsening cough, difficulty breathing, new loss of taste or smell OR at least two of the more common symptoms as defined by the CDC, the employee does not come to school and must report symptoms or exposure to the education district nurse at sjohnson@gced.k12.mn.us or be calling 651-388-4441 x1102.

- B. Medical Removal from the Workplace

The education district also implemented a policy for keeping COVID-19 positive employees from the workplace in certain circumstances. The education district will immediately remove employees from the workplace if they received a positive COVID-19 test or are diagnosed with COVID-19 by a licensed healthcare provider (i.e., immediately send them home or to seek medical care, as appropriate).

- C. Return to Work Criteria

1. For employees removed because they are COVID-19 positive, the education district will keep them removed from the workplace until the employees receive a negative result on a COVID-19 nucleic acid amplification test ("NAAT") following a positive result on a COVID-19 antigen test if the employees choose to seek a NAAT test for confirmatory testing; meet the return to work criteria in the "Isolation Guidance" of the Centers for Disease Control and Prevention ("CDC"); or receive a recommendation to return to work from a licensed healthcare provider.
2. Under the CDC's "Isolation Guidance," asymptomatic employees may return to work once 10 days have passed since a positive test, and symptomatic employees may return to work after all the following are true:

- a. At least 10 days have passed since symptoms first appeared, and
- b. At least 24 hours have passed with no fever without fever-reducing medication, and
- c. 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 education district will follow the guidance of a licensed healthcare provider regarding return to work.

XI. NEW HIRES

All new employees are required to be in compliance with this policy before arriving at the workplace as a condition of employment. Potential candidates for employment will be notified of the requirements of this policy prior to the start of employment.

XII. CONFIDENTIALITY AND PRIVACY

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

Legal References: Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
 Minn. Stat. Ch. 182 (Occupational Safety and Health)
 Minn. Stat. § 363A.20 (Exemption Based on Employment)
 Minn. R. Pt. 5205.0010, subp. 2, QQ (Adoption of Federal Occupational Health and Safety Standards by Reference)
 29 C.F.R. § 1910.501 (Emergency Temporary Standard on Vaccination and Testing)
 42 U.S.C. § 2000-e, et seq. (Equal Employment Opportunity)
 42 U.S.C. § 12101, et seq. (Americans with Disabilities Act)
 29 C.F.R. § 1630.14(d)(4) (Medical Examinations and Inquiries Specifically Permitted)

Cross References: MSBA/MASA Model Policy 401 (Equal Employment Opportunity)
 MSBA/MASA Model Policy 402 (Disability Nondiscrimination Policy)
 MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)
 MSBA/MASA Model Policy 406 (Public and Private Personnel Data)
 MSBA/MASA Model Policy 412 (Expense Reimbursement)
 MSBA/MASA Model Policy 807 (Health and Safety)
 Centers for Disease Control’s “Isolation Guidance” found at: <https://www.cdc.gov/coronavirus/2019-ncov/your-health/quarantine-isolation.html>.

**GOODHUE COUNTY EDUCATION DISTRICT (GCED)
COVID-19 VACCINATION POLICY – RELIGIOUS ACCOMMODATION REQUEST**

This form is for employees requesting a religious accommodation to requirements in the Mandatory COVID-19 Vaccination Policy. To request a religious accommodation, this form must be completed in full and returned to the GCED Executive Director, Cheryl Johnson. The Education District will contact you when a determination is made or if additional information or clarification is needed to further evaluate this request.

Data Privacy Notice: The Education District is collecting the requested information to determine whether you may be provided another means of safely accessing Education District property in lieu of the requirements in the Education District’s COVID-19 Vaccination Policy. You are not required to provide the requested information; however, if you do not provide the requested information, your request for an accommodation from the Policy cannot be processed and you must continue to abide by the requirements in the Policy. If you provide the information requested on this form, it will be reviewed by school officials whose input is necessary in order to consider the request and school officials who have a legitimate educational interest in the data.

Name: _____ Position: _____

Date of Birth: ____/____/____ School: _____

Supervisor: _____

1. Specify from which requirements of the Policy you are requesting an accommodation:

2. Describe the religious belief or practice that necessitates this request:

3. Describe any alternative accommodations that might address your needs:

By signing below, I hereby certify that the above statements and all information provided in connection with this COVID-19 Vaccination Religious Accommodation Request are true and accurate, and that the religious beliefs and practices that require the accommodation are sincerely held. I further certify that I have read and understand the above Data Privacy Notice. I understand that the accommodation requested above may not be granted. I also understand that the Education District may need to obtain additional information or clarification to further evaluate my request.

Signature: _____ Date: _____

Contact Information: (Phone) _____ (Email) _____

**GOODHUE COUNTY EDUCATION DISTRICT (GCED)
COVID-19 VACCINATION POLICY – MEDICAL ACCOMMODATION REQUEST**

This form is for employees requesting a medical accommodation to requirements in the Mandatory COVID-19 Vaccination Policy. To request a medical accommodation, this form must be completed in full and returned to the GCED Executive Director, Cheryl Johnson. This form will be evaluated by school officials including the school district’s School Nurse. The Education District will contact you when a determination is made or if additional information or clarification is needed to further evaluate this request.

Data Privacy Notice: The Education District is collecting the requested information to determine whether you may be provided another means of safely accessing Education District property in lieu of the requirements in the Education District’s COVID-19 Vaccination Policy. You are not required to provide the requested information; however, if you do not provide the requested information, your request for an accommodation from the Policy cannot be processed and you must continue to abide by the requirements in the Policy. If you provide the information requested on this form, it will be reviewed by school officials whose input is necessary in order to consider the request and school officials who have a legitimate educational interest in the data.

Name: _____ Position: _____

Date of Birth: ___/___/_____ School: _____

Supervisor: _____

1. Specify from which requirement(s) of the Policy you are requesting an accommodation:

2. What is the medical condition that prevents you from following the requirement(s)?

3. Is the medical condition permanent? If not, what is the expected duration of the medical condition impacting your ability to follow the requirements of the Policy?

4. Are there specific activities that impact your ability to wear a mask during the school day or at school events? If so, what are those activities?

By signing below, I hereby certify that the above statements and all information provided in connection with this COVID-19 Vaccination Policy Medical Accommodation Request are true and accurate. I further certify that I have read and understand the above Data Privacy Notice. I understand that the accommodation requested above may not be granted. I also understand that the Education District may need to obtain additional information or clarification to further evaluate my request.

Signature: _____ Date: _____

Contact Information: (Phone) _____ (Email) _____