



## **NFTA Mandatory COVID-19 Vaccination Policy**

### **Purpose:**

The implementation and purpose of this Policy is to comply with Federal Executive Order 14042, Ensuring Adequate COVID-19 Safety protocols for Federal Contractors dated September 9, 2021 [“Order”], in addition to other laws, rules, regulations, policies and procedures as may be deemed applicable. The Order ensures that parties who contract with the Federal Government provide COVID-19 safeguards in workplaces with individuals working on or in connection with a Federal Government contract. The Order is a vital tool to reduce the presence and severity of COVID-19 cases in the workplace, in communities, and in the nation as a whole. Niagara Frontier Transportation Authority [“NFTA”] has adopted this Policy on mandatory vaccination to comply with the Order and the Safer Federal Workforce Task Force [“Task Force”] Guidance and further to safeguard the health of our employees from the hazard of COVID-19.

This Policy will remain in effect until further notice and may be amended as needed or required.

### **Scope:**

This Mandatory COVID-19 Policy applies to all employees of NFTA, except in limited circumstances where an employee is entitled to an accommodation. Employees that are granted an accommodation are subject to the testing and face covering requirements of this Policy which is more fully discussed below. Employees, except for those granted an accommodation, are not provided with an option to test out of this Policy.

All employees covered by this policy are required to be fully vaccinated as a term and condition of employment at the NFTA. Employees are considered fully vaccinated two weeks after completing primary vaccination with a COVID-19 vaccine, with, if applicable, at least the minimum recommended interval between doses. For example, this includes two weeks after a second dose in a two-dose series, such as the Pfizer or Moderna vaccines, two weeks after a single-dose vaccine, such as the Johnson & Johnson vaccine, or two weeks after the second dose of any combination of two doses of different COVID-19 vaccines as part of one primary vaccination series.

All employees of NFTA are required to report their vaccination status and to provide one of the designated proofs of vaccination to the Human Resource Department. In this regard, employees must provide truthful and accurate information about their COVID-19 vaccination status, and, if applicable, their testing results. Employees not in compliance with this Policy will be subject to the established discipline for providing false information or reports, including applicable collective bargaining agreements.

Employees may request an exemption from this 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 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 exemptions and reasonable accommodations must be initiated by the employee seeking the exemption or accommodation as soon as practical by submitting the required forms and/or documents to the Medical Department or the Human Resources Department in the case of claimed religious exemptions. All such requests will be handled in accordance with applicable laws and regulations.

Obtaining a medical or religious exemption that excuses becoming fully vaccinated will NOT exempt the employee from compliance with the mandatory testing or face covering provisions set forth in this Policy, unless further accommodation with respect to the COVID-19 testing or face covering is required for bona-fide medical reasons.

The NFTA reserves all rights to determine the type, scope and duration of accommodations which have been or are requested and approved, in accordance with applicable laws and regulations.

## **Procedures:**

### **Overview and General Information**

#### **Vaccination**

All NFTA employees are required to be vaccinated against COVID-19 must be fully vaccinated no later than JANUARY 19, 2022. Any employee, that has been granted an accommodation, and is not fully vaccinated by JANUARY 19, 2022, will be subject to the regular testing and face covering requirements described in this Policy.

To be fully vaccinated by JANUARY 19, 2022, an employee must:

- Obtain the first dose of a two dose vaccine no later than three (3) or four (4) weeks before JANUARY 5, 2022; and the second dose no later than JANUARY 5, 2022; or
- Obtain one dose of the single dose vaccine no later than JANUARY 5, 2022.

Employees will be considered fully vaccinated two weeks after receiving the requisite number of doses of a COVID-19 vaccine as stated above. An employee will be considered partially vaccinated if they have received only one dose of a two dose vaccine.

Interested employees may obtain vaccinations by locating a site providing such services from the following website: <https://www.vaccines.gov/search/>

Any questions regarding this Policy or the requirements set forth in this Policy may be submitted to the Human Resources Department.

### **Support for COVID-19 Vaccination**

An employee may take up to four (4) hours of paid time off per dose to travel to the vaccination site, receive a vaccination, and return to work. This would mean a maximum of eight (8) hours of paid time off for employees receiving two doses. If an employee spends less time getting the vaccine, only the necessary amount of duty time will be granted. This available paid time for vaccination will NOT result in any charge to an employee's available paid time off accruals.

In the unlikely event that employees might need longer than four (4) hours to get a vaccination dose, they must provide their supervisor with a note or send an email explaining the reason the additional time was needed (e.g., they may need to travel long distances to get the vaccine). Any such additional time requested above the above-mentioned four (4) hours of paid time off will be permitted, if reasonable, but will not be paid. In that situation, the employee can elect to use accrued leave, e.g., sick leave, to cover the additional time that proved necessary. If an employee is vaccinated outside of their approved duty time they will not be compensated.

Employees may utilize up to two (2) workdays of sick leave immediately following each dose if they have side effects from the COVID-19 vaccination that prevent them from working. Employees who have no sick leave available at the time of their vaccination doses will be granted up to two days of additional sick leave immediately following each dose if necessary.

Employees requiring time off from work immediately following a vaccine does must provide the notice required for any sick call-off and upon return to work provide a note from their physician or other health care professional attesting to the side effects suffered.

### **Testing, Face Coverings and Distancing**

All employees who are not fully vaccinated as of JANUARY 5, 2022, will be required as of January 19, 2022 to undergo regular COVID-19 testing and wear a face covering when in the workplace. Policies and procedures for testing and face coverings are described in the relevant sections of this Policy. To the extent practicable, among other things, employees who are not fully vaccinated should maintain a distance of at least six feet from others at all times, including in offices, conference rooms, and all other communal and work spaces.

### **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. Proof of vaccination status can be submitted to the Human Resources Department at 181 Ellicott Street via e-mail to [HR.COVID@NFTA.COM](mailto:HR.COVID@NFTA.COM) or by hand delivery to the Human Resources Department between the hours of 8:00 AM and 4:00 PM Monday thru Friday.

Acceptable proof of vaccination status is:

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, such as clinic site; in those circumstances 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 (e.g., 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.

Established discipline for dishonesty or providing false statements will apply to any attestation that is determined to be false.

### **Required Reporting of Vaccination Status**

Pursuant to the Order and the Task Force Guidance ALL employees, whether vaccinated, partially vaccinated or unvaccinated, must provide the Human Resources Department at 181 Ellicott Street with a statement of their vaccination status by DECEMBER 6, 2021.

Employees may report their vaccination status to the Human Resources Department at 181 Ellicott Street via email to [HR.COVID@NFTA.COM](mailto:HR.COVID@NFTA.COM) or by hand delivery to the Human Resources Department between the hours of 8:00 AM and 4:00 PM Monday thru Friday.

Fully vaccinated employees who are able should provide the above-described proof of vaccination by this DECEMBER 6, 2021 deadline if possible and employees in the process of becoming fully vaccinated should report the date or dates that they have received vaccination doses. Unvaccinated employees shall report that fact to the Human Resources Department by DECEMBER 6, 2021.

PLEASE NOTE that the above vaccination status reporting requirement is a requirement of the Federal Executive Order for Federal Contractors and this Policy. As such, regardless of an

employee's vaccination status as of DECEMBER 6, 2021, all employees must be fully vaccinated or begin observing the required testing and face masking requirements set forth in this Policy by the JANUARY 19, 2022 effective date.

PLEASE NOTE ALSO that employees who fail to report their vaccination status by DECEMBER 6, 2021, will be recorded as wholly unvaccinated unless or until they later provide proof of vaccination, and may be subject to disciplinary action for their non-compliance.

Refusal to comply with the Policy, including but not limited to failing to report vaccination status timely, will be considered just cause for discipline under any collective bargaining agreement applicable to the employee in question.

### **Employee Notification of COVID-19 and Removal from the Workplace**

#### Medical Removal from the Workplace

All employees must promptly notify their supervisor in accordance with the established procedures for reporting off sick when they have tested positive for COVID-19 or have been diagnosed with COVID-19 by a licensed healthcare provider and absent themselves for work immediately following such positive test result or diagnosis. Employees who are experiencing symptoms that could suggest COVID-19 infection should promptly seek testing and/or medical diagnosis and treatment.

Any employee who knowingly reports to work with infection by COVID-19 will face disciplinary action appropriate for endangering co-employees and others present at the workplace.

Employees who require absence from work due to experiencing COVID-19 symptoms or being infected by the COVID virus are entitled to paid time off, in accordance with the terms of the collective bargaining agreement under which the individual employee works and/or applicable state law.

#### Return to Work Criteria

Employees who have taken off work due to a positive COVID-19 test and/or infection by the COVID-19 virus may NOT return to work until the employee receives a negative result on a COVID-19 nucleic acid amplification test (NAAT) following a positive result on a COVID-19 antigen test if the employee chooses to seek a NAAT test for confirmatory testing; 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, return to work will occur in accordance with the guidance of that employee's licensed healthcare provider and as reviewed and approved by the NFTA Medical Department.

Any return to work in accordance with the above criteria will only become effective upon submission of the appropriate medical documentation to the NFTA Medical Department and the Medical Department's approval of that medical documentation.

### **Mandatory COVID-19 Testing for Employees not Fully Vaccinated**

If an employee covered by this Policy is not fully vaccinated by JANUARY 19, 2022, (*e.g.*, if they are granted an exemption and/or accommodation from the mandatory vaccination requirement because the vaccine is contraindicated for them), the employee **MUST** comply with this Policy for testing beginning with the presentation to the Human Resources Department of an approved negative COVID-19 test result prior to beginning work on January 19, 2022, or their next scheduled work day thereafter.

Following January 19, 2022, and the presentation of the initial approved negative COVID test result documentation, 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 approved negative COVID-19 test result to the Human Resources Department no later than the seventh day following the date on which the employee last provided a test result.

Any employee who does not report to the workplace during a period of seven or more days (*e.g.*, if they were off work for two weeks prior to reporting to the workplace):

(A) must be tested for COVID-19 within seven days prior to returning to the workplace; and

(B) must provide documentation of that test result to the Human Resources Department upon return to the workplace and prior to commencing work.

Testing may be conducted at the following locations:

1. KSL Diagnostics
2. WNY Rapid Testing
3. Brighton Eggert Pharmacy
4. Vital Pharmacy

Testing may also be performed at any other testing site chosen by the employee. Tests may be self-administered but cannot be self-reported.

Any employee who does not provide documentation of an approved negative COVID-19 test result as required by this Policy will **NOT** be permitted to work or remain in the workplace until they



provide said approved negative test result. Employees who are granted an exemption or accommodation from being fully vaccinated are responsible for obtaining and presenting the required approved negative COVID-19 test result on their own. Employees who are unable to become fully vaccinated because of bona fide medical reasons will be able to seek and obtain a reasonable accommodation in accordance with the Federal Americans with Disabilities Act and other pertinent Federal and State laws.

An “approved negative COVID test result” means presentation via email to [HR.COVID@NFTA.COM](mailto:HR.COVID@NFTA.COM) or by hand-delivery to the Human Resources Department of the original or a copy of the official test result communication issued in connection an approved COVID tests.

If an employee does not provide documentation of a COVID-19 test result as required by this policy, they will be removed from the workplace or otherwise not permitted to work until they provide a test result.

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.

Any employee not permitted to work for failing to provide a negative COVID-19 test result shall be charged with accrued time available, if any. If no accrued paid leave is available, employees shall be placed on leave without pay until a negative COVID-19 test is provided. Refusal to comply with the Policy, including but not limited to failing to submit test results timely, or otherwise failing to adhere to the Policy, will be considered just cause for discipline under any collective bargaining agreement applicable to the employee in question.

### **Mandatory Face Coverings for Employees not Fully Vaccinated**

In addition to the ongoing COVID-19 testing requirements described above, all employees who are not fully vaccinated by JANUARY 19, 2022, MUST wear a face covering.

The face coverings must: (i) completely cover the nose and mouth; (ii) 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); (iii) be secured to the head with ties, ear loops, or elastic bands that go behind the head. If gaiters are worn, they should have two layers of fabric or be folded to make two layers; (iv) fit snugly over the nose, mouth, and chin with no large gaps on the outside of the face; and (v) 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.

Employees who are not fully vaccinated must wear the above-described face coverings over the nose and mouth when indoors and when occupying a vehicle with another person for work purposes. Additional or amended policies and procedures for face coverings may be implemented, along with the other provisions required by the Task Force, CDC or OSHA, as other or new

COVID-19 precautions may be required or directed in the future by governing Federal, State or local authorities and as part of a multi-layered infection control approach for unvaccinated workers.

Consistent with the practice throughout the COVID-19 pandemic required face coverings can be obtained from the NFTA upon request or as has been made available from time to time at no cost to the employee.

The following are exceptions to the face covering requirements:

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.
4. Where the use of face covering in cases of particular employees has been determined to be infeasible or creates a greater hazard (e.g., when it is important to see the employee's mouth for reasons related to their 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).

### **Non-compliance:**

Non-compliance with the requirements of this Policy will be considered "just cause" for disciplinary action within the meaning of the collective bargaining agreement covering the non-compliant employee, including applicable discipline for insubordination or dishonesty depending on the circumstances. Non-compliant unrepresented employees will be subject to comparable disciplinary action.

### **New Hires:**

All new employees are required to comply with the vaccination, testing, and face covering requirements outlined in this policy as soon as practicable and as a condition of employment, including by providing proof of vaccination prior to starting work or bringing an approved negative test result to provide their supervisor on the first day of reporting and every seven (7) days thereafter. 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, 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 the Human Resources Department.