# Department of Public Safety and Correctional Services

**Office of the Secretary**

300 East Joppa Road • Suite 1000 • Towson, Maryland 21286-3020

(410) 339-5000 • FAX (410) 339-4240 • TOLL FREE (877) 379-8636 • V/TTY (800) 735-2258 • www.dpscs.maryland.gov

STATE OF MARYLAND

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**OOS IB # 2020-11**

**Effective**: May 20, 2020 (Governor's Order)

**Issued:** June 5, 2020

**Expiration:** Until the Secretary determines that the COVID-19 contagion is no longer a direct threat within the correction facilities.

## OOS INFORMATION BULLETIN

**SUBJECT**: Universal and Mandatory COVID-19 Testing for DPSCS Employees Assigned to a Correctional Facility

## All Employees Assigned to a Correctional Facility Shall be Tested for COVID-19

In order to comply with the Governor's Order for universal testing for COVID-19 within the correctional system, and in order to protect the health and safety of the workforce and inmates within the correctional system, the Commissioner of Correction and the Commissioner of Pretrial Detention and Services are working with the Maryland Department of Health (MDH) and the Department's Occupational Health and Safety Unit to test employees for COVID-19.

Effective immediately, all employees are required as a condition of continued employment to take a test to determine if they currently have a SARS-CoV-2 infection.

Testing will be conducted regionally by facility and office. Employees will be notified by their appointing authority when testing is to occur.

Following the guidance of the CDC, some employees may be subject to re-test after initial or subsequent testing because the scope of immune protection in those who have been infected is not yet fully understood.

## Test Type

The Department will use a nasal swab to collect a nasopharyngeal (NP) specimen to determine if an employee currently has a SARS-CoV-2 infection, the virus that causes COVID-19. The test will identify if the virus is present in samples taken from your respiratory system by swabbing the inside of your nose.

Employees may be tested at a Departmental test site or offsite by a licensed healthcare provider. At home tests are prohibited. Furthermore, employees may not use test results from an antibody (serologic) test to fulfill this mandate. The CDC has offered guidance regarding antibody testing for COVID-19 that indicates:

- Serologic test results should not be used to make decisions about grouping persons residing in or being admitted to congregate settings, such as schools, dormitories, or correctional facilities.

- Serologic test results should not be used to make decisions about returning persons to the workplace.

## Testing Compliance

An employee who chooses to be tested at a Departmental test site shall report to the appropriate location as directed by their appointing authority.

An employee who chooses to be tested offsite by a licensed healthcare provider shall be tested not later than 5 business days from the date their appointing authority ordered testing. Upon receipt of test results (negative, positive, or inconclusive), the employee shall immediately provide those results to the Department's Office of Occupational Health and Safety.

An employee who refuses to be tested as mandated by the Governor's Order for universal testing of COVID-19 shall be considered unqualified for the position in accordance with COMAR 17.04.05.03B. Failure to meet current job qualifications *is an automatic performance based termination* that does not invoke the Correctional Officer's Bill of Rights (COBR) process. For the sake of your co-workers, families, friends, yourself, and the public trust you are strongly encouraged to take the test quickly and dutifully.

## Testing Cost and Overtime

An employee who chooses to be tested onsite by the Department shall receive the test at no cost.

- Employees tested during work hours (regular, volunteer overtime, or drafted) will not receive any additional compensation for being tested.

- Overtime eligible employees who are tested at the work site either before or after their scheduled shift will receive overtime for time involved in the testing process. The overtime applies to time spent waiting in line, filling out paperwork, or time taking the actual test.

- Compensatory time eligible employees who are tested at the work site either before or after their scheduled shift will receive comp-time for time involved in the testing process. The comp-time applies to time spent waiting in line, filling out paperwork, or time taking the actual test.

An employee who chooses to be tested off site, or with a private healthcare provider shall bear the costs associated with that testing process.

- Employees who chose the option to be tested offsite, will be compensated at the flat rate of 2 hours overtime (or comp-time as appropriate), regardless of the amount of time spent in the testing process.

## Test Results and Reporting Requirement

Employees tested onsite at a Department facility, who have a positive result will be contacted by the Department's Office of Occupational Health and Safety. The test results shall be communicated to the employee in a manner that maintains confidentially. Contact tracing will be initiated immediately by the Department's COVID-19 Response Teams in accordance with OOS IB 2020-08- Contact Tracing. The Department will **not** notify employees of negative test results.

If an employee is tested offsite, the healthcare provider will inform the employee of their results. All employees upon receipt of COVID-19 test results, regardless of the result, must immediately call **410-339-3529** or email health.safety@maryland.gov to disclose the results and provide a copy of the test results to the Department's Office of Occupational Health and Safety.

Test results from an offsite health care provider must indicate:

- The full name and date of birth of the employee;
- That a viral test for a current infection was conducted;
- The date the test was conducted; and
- The complete test results.

An offsite healthcare provider is required by law to report your test results to the MDH who will in turn report the results to the Department of Public Safety and Correctional Services. This does not relieve you of your obligation to directly report your results to the Department's Office of Occupational Health and Safety as provided above.

An employee who fails to disclose a COVID-19 positive status, in accordance with OOS IB # 2020-09 – Use of Unscheduled Sick Leave and Failure to Disclose COVID-19 Positive Status, shall be subject to disciplinary action.

## What to Expect at the DPSCS Testing Site.

- You will be required to produce valid identification.
- An Environmental Compliance and Safety Officer (ESCO) or Supervisor shall verify your attendance.
- You must wear your PPE and maintain an appropriate social distance of 6 feet, except while the test is being conducted.
- Testing will be held inside an enclosed medical tent or other private area.
- Testing shall be conducted by trained and licensed healthcare providers.
- The healthcare provider will use a nasal swab to collect a nasopharyngeal (NP) specimen.
- For more information about the general guidelines for proper specimen collection visit the CDC's website.

## Isolation Timeframe Strategies for Employees with COVID-19

Employees should follow the treatment and self-isolation directions given by their healthcare provider. However, employees will not be permitted to return to the work place until the following CDC guidelines have been met:

**Persons with laboratory-confirmed COVID-19 who have NOT had any symptoms** and were directed to care for themselves at home may discontinue isolation under the following conditions:

- At least 10 days have passed since the date of the positive test.

**- OR-**

- Receive two consecutive negative test results for SARS-CoV-2 from respiratory specimens collected more than 24 hours apart.

**Persons with COVID-19 who have symptoms** and were directed to care for themselves at home may discontinue isolation under the following conditions:

- At least 3 days have passed since recovery, which is defined as:
  - Resolution of fever **without** the use of fever-reducing medications; **and**
  - Improvement in respiratory symptoms (e.g., cough, shortness of breath); **and**
- At least 10 days have passed since symptoms first appeared.

**- OR-**

- Resolution of fever without the use of fever-reducing medications and improvement in respiratory symptoms (e.g., cough, shortness of breath); **and**
- Receive consecutive two negative test results for SARS-CoV-2 from respiratory specimens collected more than 24 hours apart.

## What Kind of Leave is an Employee Allowed to Use during Isolation?

An employee who tests positive for COVID-19 as a result of mandatory testing and who is subject to self-isolation/quarantine may use:

- Emergency Paid Sick Leave (EPSL). An employee may request EPSL for up to 80 hours (10 days) of emergency paid sick leave. To request EPSL complete the hyperlinked application. If the EPSL is exhausted an employee may use their accrued or other paid leave while in isolation or quarantine.

- Sick Leave (Pandemic) – Level II Operations. An employee who tests positive for COVID-19 may use accrued sick, annual, or personal leave, or accrued comp time. If the employee has exhausted all accrued leave the employee may apply for Advanced Sick Leave.

- Advanced Sick Leave. An employee may request the use of advanced sick leave if the employee "has exhausted all earned sick, annual, and personal leave, compensatory time earned, and any other available paid time off". If the employee receives advanced sick leave the employee must agree to pay the leave back.

Robert L. Green
Secretary

Distribution: A – Facility/Agency Reference Set
B – All DPSCS Employees Assigned to a Correctional Facility – Signature required

**Universal and Mandatory COVID-19 Testing for DPSCS Employees Assigned to a Correctional Facility**

# MANDATORY COVID-19 TESTING NOTIFICATION FORM

By Order of the Secretary of Public Safety and Correctional Services, and under the authority of the Governor's Order for universal testing within the correctional system, all employees assigned to a Correctional Facility are required to be tested for COVID-19.

**Requirements:**

1. All employees must test within 5 business days after notification of the requirement to be tested. Each employee can elect to be tested at one of the following:

   a. A DPSCS facility, or

   b. Offsite by a licensed healthcare provider or a licensed pharmacist.

2. Employees who elect to be tested for COVID 19 offsite (outside of a correctional facility) MUST ensure that they are tested within 5 business days. Upon receipt of test results, the Employee must *immediately* submit documentation of the test result to the DPSCS Occupational Health and Safety Unit. Documentation of test results shall be submitted either by fax at _____ or email at _____, or by mail with a **tracking number**. **Testing must be completed within 5 days. Results must be reported *immediately* upon receipt by the Employee.**

**Failure to Test:** Participation in COVID-19 testing is required for an employee to remain qualified for continued employment in the Correctional Facility. Any employee who fails to test for COVID-19 after notification may be deemed unqualified for continued employment and subject to termination pursuant to COMAR 17.04.05.03.B.

**Testing Results:** Employees who elect to test off site are required to report their results to the Agency *immediately* and in the manner described above. An employee who fails to disclose a COVID-19 positive status, in accordance with OOS IB # 2020-09 – Use of Unscheduled Sick Leave and Failure to Disclose COVID-19 Positive Status, may be subject to discipline, up to termination from state service.

## Acknowledgement

I _____, hereby acknowledge the mandatory requirement to be

tested for COVID-19 within 5 business days of receipt of this notice.

**Please indicate below, election of testing site and reporting requirement:**

_____ I elect to be tested on site at a correctional facility.

_____ I do hereby acknowledge the requirement to be tested for COVID-19. I also acknowledge that I have elected to have the required test for COVID-19 at an offsite location within 5 business days. I will provide notice of my test date and provide documentation of my results immediately upon receipt of the results.

| | |
|---|---|
| Date | Employee Signature |
| | Employee Printed Name |

cc: File