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September 1, 2021

Ms. Joy Kuwabara
Field Services Consultant
Hawaii Government Employees Association
888 Mililani Street, Suite 401
Honolulu, HI 96813

Dear Ms. Kuwabara:

We received your August 31, 2021 letter providing questions and comments from the Union and affected employees. Our responses to your questions are below:

1. According to the supervisor guidance, affected employees must provide verification of a negative COVID-19 test result or attestation to their 'supervisor or designated human resources representative'. Will employees have a choice who to provide the verification to? If not, how will employee be notified who they should provide verification to?

Employees may either provide the information to their immediate supervisor or designated human resources representative. For the majority of situations, we would expect that employees wouldn't have concerns with providing the information to their immediate supervisor. However, we recognize that there may be some work settings where some employees may prefer to provide this information to the designated human resources representative, which is the reason that this option is provided.

2. Please provide an example of an ideal test schedule and possible scenarios of an adjusted schedule due to unforeseen scheduling issues.

Please see examples/scenarios below:

Scenario 1: An example of an ideal test schedule is below:

Monday – Employee contacts Free Testing Site to make an appointment for COVID Testing. Employee informs Supervisor that they have an appointment for COVID Testing on Wednesday,

at 3:45 pm. Supervisor confirms that its operationally feasible for employee to be released from work at 3:00 pm on Wednesday to obtain COVID Testing.

Wednesday – Employee is notified of negative test result. Employee provides a copy of the test notification or completes the testing attestation form and submits to supervisor or designated human resources representative.

Employee is cleared for work in the next work week.

Scenario 2: Testing appointment not available at the first free testing site that employee makes contact with

Monday- Employee contacts Free Testing Site to make an appointment for COVID Testing. Employee is informed that at test site A, no appointments are available for the rest of the week. Employee contacts another Free Testing Site and obtains an appointment for testing. Employee informs Supervisor that they have an appointment for COVID Testing on Wednesday, at 3:45 pm. Supervisor confirms that its operationally feasible for employee to be released from work at 3:00 pm on Wednesday to obtain COVID Testing.

Wednesday – Employee is notified of negative test result. Employee provides a copy of the test notification or completes the testing attestation form and submits to supervisor or designated human resources representative.

Employee is cleared for work in the next work week.

Scenario 3: Testing appointments not available on first attempts

Monday – Employee contacts five different Free Testing Sites and is informed there are currently no appointments for COVID Testing available that week. Employee informs supervisor of their efforts and provides supervisor with a chronology. Employee continues to contact additional Free Testing Sites on Tuesday and Wednesday.

Tuesday, Wednesday – Employee contacts different Free Testing Sites and obtains an appointment for testing on Thursday. Employee informs Supervisor that they have an appointment for COVID Testing on Thursday at 3:45 pm. Supervisor confirms that its operationally feasible for employee to be released from work at 3:00 pm on Thursday to obtain COVID Testing.

Saturday - Employee is notified of negative test result. Employee provides a copy of the test notification or completes the testing attestation form and submits to supervisor or designated human resources representative.

Employee is cleared for work in the next work week.

Scenario 4: Employee unable to obtain testing appointment

Monday – *Employee contacts five different Free Testing Sites and is informed there are currently no appointments for COVID Testing available that week. Employee informs supervisor of their efforts and provides supervisor with a chronology. Employee continues to contact additional Free Testing Sites on Tuesday through Thursday.*

Tuesday through Thursday – *Employee contacts different Free Testing Sites and is able to obtain an appointment on Monday at 8:30 am. Employee informs supervisor of their efforts and provides supervisor with a chronology. Supervisor reviews the employee’s chronology and determines that the employee made a reasonable effort to obtain a testing appointment. Supervisor informs employee that they are not to report to work on Monday but they are on paid release time to obtain the COVID test at 8:30 am.*

Monday- *Employee obtains COVID testing. Based on the supervisor’s verification of the employee’s efforts to secure a testing appointment and conclusion that reasonable efforts were made, the Chief Court Administrator/Department Head may allow the employee to telework or authorize release time until test results are obtained.*

Tuesday – *Employee is notified of negative test result and provides supervisor with test result. Supervisor allows employee to report to the workplace immediately after verifying negative test result.*

Scenario 5: Employee does not make reasonable efforts to secure testing appointment

Monday – *Employee contacts one Free Testing Sites and is unable to obtain an appointment for COVID Testing.*

Tuesday through Thursday – *Employee makes no additional efforts to obtain an appointment for COVID Testing.*

Friday - *At the end of the workday, employee informs supervisor that they were unable to be tested for COVID. Employee informs supervisor that they made contact with only one testing site on Monday.*

Supervisor informs employee that they cannot report to work the next week until they are able to provide a negative test result. Supervisor, in discussion with the Department Head/Chief Court Administrator determines whether the employee is able to telework or if the employee is required to utilize vacation leave until such time that they can provide a negative test result.

Sunday- *Employee obtains COVID testing.*

Tuesday – *Employee is notified of negative test result and provides supervisor with test result. Supervisor allows employee to report to the workplace immediately after verifying negative test result.*

Note 1: Any telework arrangement must be approved by management.

Note 2: Employees who obtain COVID testing at a site where payment is required are responsible for such payment, unless otherwise authorized by the Chief Court Administrator/Department Head or designee.

Note 3: Depending on the business practices of the respective Circuit or Department, Supervisors may be required to consult with their chain of command prior to making a decision.

3. Who will be responsible to determine if an employee has made ‘reasonable efforts’ to secure a testing appointment and get tested at a free testing site? What criteria will be used to make this determination to ensure consistency?

Information on free COVID testing sites is available on the Hawaii State Department of Health’s website at: <https://health.hawaii.gov/coronavirusdisease2019/testing-locations/>

When scheduling a testing appointment, employees should attempt to secure an appointment with the free testing sites at the larger venues (e.g., Aloha Stadium or Airport) as it is anticipated that these venues have a larger testing capacity.

Judiciary programs will determine reasonable efforts to secure a testing appointment. Programs will consider the information that the employee provides documenting their efforts which may include the dates and times of contact with the testing sites, phone records or screen shots; any direct correspondence with testing sites regarding scheduling delays; employees written chronology that details all efforts made to secure a testing appointment.

4. For better accessibility and convenience, has the Judiciary considered making testing available at Judiciary buildings and worksites?

Yes, the feasibility and availability of on-site testing options are currently being reviewed.

5. What type of COVID test(s) are approved/acceptable under this program?

Acceptable tests are those that are approved by the FDA and recommended by the Hawaii State Department of Health.

6. Is there a saliva test option that is approved/acceptable under this program?

See response to question #5 above.

7. Has the Judiciary considered allowing all employees up to two (2) hours per week of work time to get tested if it is required or recommended (close contact, possible exposure, etc.)?

The determination of allowing paid release time for this purpose falls under the discretion of the respective Chief Court Administrator or Department Director. It is our understanding however, that release time has been authorized in cases where employees were directed by Management to obtain a COVID test during working hours.

We greatly appreciate the Union's quick response and willingness to work with us on the implementation of our vaccination and testing program. We already have a follow-up meeting scheduled with the HGEA to further discuss this matter, however, please contact Eric Tanigawa, Deputy Director (539-4962), or me (539-4961) should any questions arise in the meantime.

Sincerely,



↳ Jason Minami
Human Resources Director