



COUNTY OF HUMBOLDT

Legislation Text

File #: 21-1423, **Version:** 1

To: Board of Supervisors

From: County Administrative Office

Agenda Section: Departmental

SUBJECT:
Vaccination and/or Testing for County Employees

RECOMMENDATION(S):
That the Board of Supervisors:
1. Discuss and take action as appropriate.

SOURCE OF FUNDING:
All county funds

DISCUSSION:
As the county prepares for the upcoming holiday and winter season, and likely surge of COVID-19 cases, county staff are seeking direction from your Board on actions to take to help prevent the spread of COVID-19 in the workplace.

Last year, there was a surge in local case counts from 596 as of Nov. 1, 2020 to 2,825 as of Jan. 31, 2021. While daily reports have varied since that time, this summer there was another, more dramatic local surge in case counts from 4,588 as of July 1 to 8,380 as of Sept. 30. Since Nov. 2020, more than 80 county staff have reported exposures to COVID-19 or tested positive, with monthly case counts following trends similar to those of the community at large.

The summer surge among county cases contributed to the strain on the local healthcare system and affected the county's ability to deliver services to the community as employees were required to miss time from work to quarantine and/or recover from their exposures. Public health officials have warned about another surge of cases in the coming fall and winter seasons, and staff are seeking direction from your Board to help prevent the spread of COVID-19 among the county workforce and preserve delivery of essential services.

Following are potential options for your Board to consider:

Option #1
Remain Status Quo, Follow State, Federal and Public Health Regulations/Mandates/Orders

This option would have the county continue following the local masking order issued Aug. 6, 2021, and per the California Department of Public Health Officer's Aug. 5, 2021 and Sept. 28, 2021 orders, requiring healthcare workers and those who work in congregate settings to be vaccinated and/or submit to regular testing. As discussed later, this option does not preclude departments from exercising the county's interim telework policy and reducing the physical presence of staff in county facilities, as authorized by your Board last year. Should other state and/or federal regulations be issued, the county would adhere to those requirements, no matter the option your Board decides today.

There have been no state, federal or public health mandates requiring *all* county employees to either vaccinate or test as a condition of employment (as stated above, certain healthcare workers and those in congregate settings). However, the state and federal governments have implemented mandates on their own employees, and some other local governments have followed suit (Attachment 1). In addition, California's Occupational Safety and Health Administration (Cal/OSHA) recently issued initial draft language for proposed permanent COVID-19 regulations, which eventually could replace the agency's Emergency Temporary Standards with permanent standards. Pending Cal/OSHA final regulations, some of the initial takeaways of the proposed draft permanent standards are as follows:

- Build in flexibility by expressly incorporating CDPH guidelines and recommendations.
- Elimination of the COVID Prevention Plan by incorporating "workplace hazard of COVID through the Injury and Illness Prevention Plan (IIPP)."
- Face coverings, respirators and Personal Protective Equipment (PPE): Employers must provide these resources.
- Vaccine Ascertainment and Recordkeeping Requirements: The draft permanent standards require employers to maintain COVID-19 vaccination records, AB685 notices for at least 3 years.

It should be noted that the President has recently directed the Department of Labor's Occupational Safety and Health Administration (OSHA) to develop emergency standards including a vaccination or testing requirement for employers with 100 or more employees. Although these regulations would not apply to public employers, once adopted by the Department of Labor, Cal/OSHA would be required to adopt state regulations "as effective" as the federal regulations.

There are many unknown costs associated with various regulatory changes in the coming months. The timing on the above processes is not known at this point.

Last year, your Board adopted Resolution 20-20 and an Interim Telework Policy in response to the public health emergency related to COVID-19. The resolution directed departments to remove vulnerable employees from scenarios that put them at higher risk of contracting COVID-19, and afforded department heads with the discretion to close and/or limit in-person interactions with members of the public. To combat the flu season and the surge of cases experienced from fall through spring 2020, the county implemented a mitigation plan to include a 40/60 hybrid workforce of 40% employees in-person and 60% telework to provide public service; mandatory facial covering; adherence to social distancing; and strictly adherence to the county's COVID19 Prevention Plan

(Attachment 4). These mitigation measures resulted in fewer positive cases in the workplace. The Delta variant and related surge, re-opening efforts combined with minimal measures of facial coverings, social distancing since June 2021 has significantly impacted various operations.

Your Board could choose to direct departments to give further consideration to allowing teleworking opportunities for employees and reducing the physical presence of staff in county facilities, or adopting a hybrid schedule for employees such as a 40/60 work at home/at a normal worksite model. Such direction could be made with an emphasis that departments ensure that their essential functions identified in their respective Continuity of Operations Plans be carried out.

Potential Needs/Financial Impact:

Due in part to various COVID-19 related legislation (Attachment 2), the number of worker's compensation claims involving county employees has risen since last summer, and Human Resources staff have been required to take on significant additional contact tracing, tracking and noticing responsibilities related to employees who have had exposure to the virus. The tracking and noticing costs will remain regardless of the option chosen by your Board today, and your Board recently approved funding 3.0 full-time equivalent HR Analyst I/II (funded with American Rescue Plan Act funding) positions to help handle the tasks.

Prior to 2020, the county did not operate with a large teleworking workforce, and departments have expressed the difficulties they have had with supervision and maintaining productivity. In order to carry out this option, county staff would benefit from increased county-wide training on effective supervision and management of employees, regardless of a hybrid work environment.

Option #2

Require Weekly Testing for Unvaccinated Staff

This option would require employees to verify with the county whether they are vaccinated, and if unvaccinated would need to submit to weekly testing. This option is the most expensive. Due to the volume of testing that would likely need to be done to accommodate county employees, if your Board chooses this option staff would recommend as a long-term solution using a vendor other than the current Optum resource in the county. Optum is intended to serve residents, primarily those with current symptoms, and is neither intended nor appropriate to be used by employers conducting surveillance testing of their employees. Regular testing by county employees could overwhelm this resource. It is also not clear how long Optum will be available. It is not possible to order testing resources for all county employees from commercial and big box retailers.

Below is a summary of the services that could be provided with an outside vendor to perform testing:

- Three different kinds of testing: 15-minute Rapid Test; Polymerase chain reaction (PCR) administration with results within 24 hours or 1 -2 days; and Antibody Testing (immunity response level).
- Testing Deployment: Could be deployed within hours; mobile on-site and drive-through platforms.

- Cost: Maximum of \$150 per person for 15-minute Rapid Test; PCR test - may directly bill insurance.
- Test kit resources: Able to perform 10,000 rapid test per month.

Potential Needs/Financial Impact:

Staff have discussed a possible testing program with a vendor who could provide testing and analysis. Assuming roughly 500 staff need regular testing (or approximately 30% of staff), preliminary estimates are that it would cost a maximum of \$75,000 per week, \$300,000 per month and \$3.6 million per year. These initial estimates are likely on the high end, and staff continue to research potential vendors that could provide this service. It appears costs related to staff testing may be reimbursable through FEMA for the duration of the national emergency. However, reimbursement from the federal government often takes an extended period of time and the county would likely need to pay up front for expenses related to employee testing. American Rescue Plan Act (ARPA) funds may also be available for this purpose.

These are not finalized costs and staff are still researching other vendors who may offer more cost-effective services.

If your Board chooses this option, your Board would need to direct staff to identify funding for testing services. To help with efficient implementation of requirements related to this option, it would be beneficial for your Board to direct staff to develop a policy for testing and vaccination, and an expedited review/appeal process to address employees' due process rights while allowing the county to continue efficiently conducting other business.

Cal/OSHA's Emergency Temporary Standards, as well as follow up permanent standards, require the county to have an organizational infrastructure to track and maintain vaccination records. These standards would also likely result in additional costs related to personal protective equipment (PPE) such as masks for individuals exempt from a vaccination requirement. These costs are unknown at this point.

Option #3

Require Staff Vaccinations

COVID-19 vaccines are one of the most important tools to end the COVID-19 pandemic, and this option presents the best opportunity to reduce the spread of the virus that causes COVID-19 in the workplace. The Centers for Disease Control and Prevention (CDC) advises that federally approved vaccines are safe, free, and effective at helping protect against severe disease and death from variants of the virus that causes COVID-19 currently circulating, including the Delta variant. Over 396 million doses of COVID-19 vaccine have been given in the United States from Dec. 14, 2020 to Oct. 4, 2021. Three vaccines have been approved and authorized in the United States under federal Emergency Use Authorization to prevent COVID-19 (Pfizer-BioNTech, Moderna and Johnson & Johnson/Janssen), and the Pfizer-BioNTech in August was approved by the U.S. Food and Drug Administration.

California's Department of Fair Employment and Housing issued guidance (Attachment 3) affirming

that California employers can require employees to be vaccinated, even after an employee has already been hired. The guidance states, in part, “Under the (Fair Employment and Housing Act), an employer may require employees Federal and state law make it clear that employers may require employees to receive an FDA-approved vaccination against COVID-19 infection so long as the employer does not discriminate against or harass employees or job applicants on the basis of a protected characteristic, provides reasonable accommodations related to disability or sincerely-held religious beliefs or practices, and does not retaliate against anyone for engaging in protected activity such as requesting a reasonable accommodation. In other agencies within California where they have required vaccines, those agencies have given employees typically 4-6 weeks to comply with the requirements, followed by progressive discipline measures.

The primary costs associated with this option would be staff time to implement a program and carry out any related disciplinary action, and investments related to monitoring vaccination status.

Potential Needs/Financial Impact:

While Option #2 would require the county to pay for testing, the vaccines are free.

However, as with Option #2 above, if your Board requires staff vaccinations it would be beneficial to develop a vaccination policy with an expedited review process as staff would likely spend significant time working through issues related to implementation of a future policy. The county would also incur costs related to tracking and maintaining records, and costs for PPE for exempt individuals.

Option #4

Require All New Hires Be Vaccinated

This option would only apply to positions that have not yet been opened for recruitment. Some of the rationale to consider applying the requirement to new staff as opposed to currently employed staff includes, but is not limited to, concerns with expectations of current employees who were hired without a condition of having a vaccination that would include the COVID-19 vaccine.

Potential Needs/Financial Impact:

Staff would need to develop a policy around vaccination of new employees, update recruitments and position classifications to include the requirement. The above-describe tracking and PPE costs would also be incurred, but to a less extent.

Following today’s discussion, staff seek guidance from your Board on proceeding forward with an appropriate policy for county employees concerning vaccine requirements. Staff will confer with labor unions, develop any required policies and return to your Board for final approval and implementation.

FINANCIAL IMPACT:

Detailed above for each option.

STRATEGIC FRAMEWORK:

This action supports your Board’s Strategic Framework by providing community-appropriate levels of

service , creating opportunities for improved safety and health.

OTHER AGENCY INVOLVEMENT:

All county departments

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Board discretion

ATTACHMENTS:

1. Other county practices
2. Legislation and Worker's Compensation
3. DFEH Employment Information on COVID-19
4. Humboldt County COVID-19 Prevention Plan

PREVIOUS ACTION/REFERRAL:

Board Order No.: C-1, H-3, I-1, I-3

Meeting of: 3/16/20, 4/14/20, 5/11/21, 6/29/21

File No.: 20-384, 20-459, 21-588, 21-895