

(Face) Covering COVID-19: Unmasking Campus Policies on Testing, Vaccines, Exceptions, Exemptions, Masks, & More

Division of Institutional Integrity Legal Symposium, November 15, 2021

Presented by

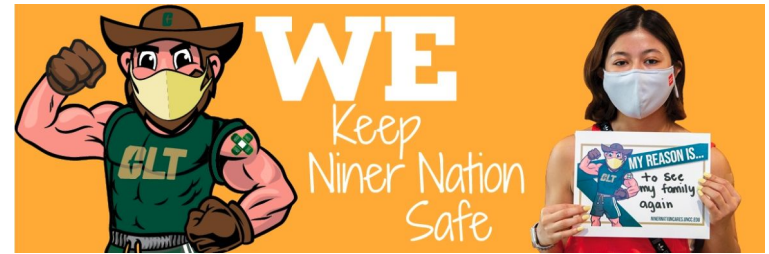
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What We'll “Cover”



- Testing what you know
- Guidance and directives that support our COVID-19 mitigation policies and practices
- Background on the new federal contractor employee vaccine requirement
- Current campus COVID-19 mitigation policies and practices
- Testing and vaccine attestation/exception/exemption processes
- Q&A (please put your questions in the Q&A, not the chat)



Testing What You Know



Not a nasal swab, but a few COVID questions to tickle your brain!



Multi-Layered Directives



- [CDC Guidance for Institutions of Higher Education \(IHEs\)](#) (updated July 23, 2021)
 - [Guidance where not everyone is fully vaccinated](#): Encourage vaccination, regular testing, face coverings
- [NCDHHS Guidance for Institutions of Higher Education](#) (updated August 16, 2021)
- UNC System Office & President, [Fall 2021 COVID-19 Mitigation Strategies](#) (August 5, 2021)
 - **“Get vaccinated or get tested regularly,”** face coverings, other mitigation strategies
- [White House Executive Order 14042](#) (September 9, 2021)
 - Federal contractor vaccination requirements
- [OSHA Emergency Temporary Standard \(ETS\)](#) (Interim Final Rule, November 4, 2021)
 - Workplaces with 100 or more employees: Get vaccinated, or get tested weekly & wear face coverings
 - Waiting for additional guidance on the interpretation of the EO and whether the ETS will go into effect
 - [OSHA ETS FAQs](#)



Federal Contractor Vaccine Requirement



[Executive Order 14042](#) (September 9, 2021)

- Requires certain institutions that contract with the federal government, such as UNC Charlotte, to comply with [guidance](#) from the [Safer Federal Workforce Task Force](#)
- “Covered contractor” employees must, **no later than January 4, 2022**, either:
 1. receive their final dose of COVID vaccine (2 doses for Pfizer or Moderna, 1 dose for J&J); or
 2. provide documentation of a medical condition or sincerely held religious/ethical belief that prevents vaccination.

Applies to:

- Employees **working directly on federal contracts**, regardless of their physical location, including students working on federal contracts; and
- Employees who **work in or frequent campus buildings** where those working on a federal contract are likely to be present.



Federal Contractor Vaccine Requirement

Current Status at Charlotte

- Narrow interpretation of Task Force guidance
- Only applicable to employees working on federal contracts
- Continuing to assess application of EO to universities, in consultation with the UNC System Office
- May be expanded to other employees in the future



OSHA ETS on Vaccination and Testing

EMERGENCY TEMPORARY STANDARD

OSHA Emergency Temporary Standard FAQs

Applicability

- NC is subject to OSHA rules (to get funds from federal government for occupational health/safety measures)
- [NC Department of Labor](#) must submit its intentions to OSHA to adopt, not adopt, or adopt with modifications the ETS (*NCDOL adopted verbatim the July OSHA ETS for Healthcare*)
- Exempts federal contractors subject to [Executive Order 14042](#), but **on the basis that the Executive Order is more stringent than the ETS**
 - Currently, we are interpreting the Executive Order narrowly, so we may **not** be exempt from the ETS
- Deadline: January 4, 2022
- Initial duration: 6 months

Requirements

- If deemed to apply, all **on-campus** employees must be **vaccinated** or **subject to weekly mitigation testing** and wearing face coverings while indoors or in a vehicle with others for work purposes (see exceptions in [FAQ 8.C](#))
- Unvaccinated employees with flexible work arrangements (remote or telework) are required to test at least 7 days prior to coming to campus ([see FAQ 6.B](#))



OSHA ETS on Vaccination and Testing

EMERGENCY TEMPORARY STANDARD

ON HOLD...

Court proceedings

- November 6, 2021: US Court of Appeals for the Fifth Circuit issued a stay on the OSHA ETA, pending further action
- Not repealed, just suspended
- Challenges also filed in other circuit courts of appeals
- November 8, 2021: US Department of Justice asked the Fifth Circuit to lift the order and indicated that judicial panel on multidistrict litigation would designate one court among the many where petitions have been filed
- Judicial panel may transfer case to different circuit court of appeals, and Department of Justice might ask that other court to vacate
- May end up in Supreme Court

Next steps

- Best to proceed as if it is effective (assuming it applies to the University)
- We are in a good position, since we are already requiring either vaccination or weekly testing



Award-Winning Campus Pandemic Response

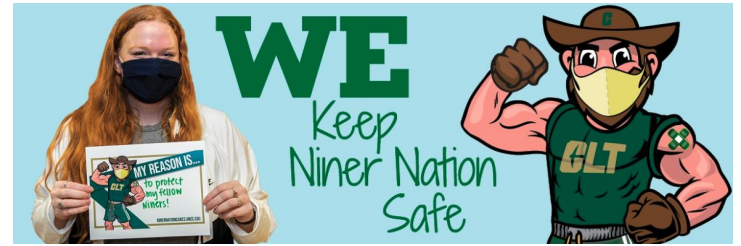
The American Association of State Colleges and Universities (AASCU) has named [UNC Charlotte](#) among its 2021 winners of its [Excellence and Innovation Awards](#) in recognition of the University's response to the global COVID-19 pandemic. [See video here](#)



Campus Pandemic Response

By the numbers:

- **655** days of Emergency Operations Center activation (late January 2020)
- **2.97 million** Niner Health Check surveys completed
- **118,000** "cases" (includes positives, symptomatic, close contacts, PUIs)
- **4,000** positive cases managed
- **500+** on-campus quarantine/isolation cases managed
- **40,000** tests through on-campus mitigation testing (Fall 2021)
- **81** residence halls surge tested, with **3,500** residents tested (Fall 2021)
- **5,000** emails and **2,600** inquiry forms responded to
- **120+** NinerNotices and campus updates
- **33,685** vaccination cards reviewed and approved (some duplicates)
- **13,150** negative test and exception requests reviewed



Campus Practices, Policies, and Processes



Niner Nation Cares: Health & safety information

- **Face coverings**: Currently required in all indoor spaces on campus, encouraged outdoors where physical distancing not possible; **may change** if Mecklenburg County transmission rate is below 5% for at least 30 days
- Vaccination: Highly encouraged, but not required **except** for employees working on federal contracts
- Niner Health Check: Only required for unvaccinated individuals
- Testing:
 - Mitigation testing required for all **unvaccinated** face-to-face students, face-to-face faculty and in-person staff
 - Wastewater testing in residence halls
 - Surge testing of unvaccinated individuals if virus is detected in wastewater
 - Available **free** on campus for anyone who wants to test (3 locations)
 - Failure to comply will result in loss of NinerNet credentials; continued failure to comply may result in disciplinary action



Campus Practices, Policies, and Processes

Testing and Niner Health Check Protocols

Based on vaccination and residential status

	I am vaccinated	I am a residential student and not vaccinated	I am a non-residential student or employee and not vaccinated
Testing and Notifications	<p>No testing -- You do not need to participate in testing unless you develop COVID-19 symptoms. <i>Note: Testing must continue until you have surpassed two weeks from your final vaccine dosage.</i></p>	<p>Wastewater-based testing -- You must participate in wastewater-based testing in your residence hall. If the virus that causes COVID-19 is found in your residence hall's wastewater, you will be notified by Housing and Residential Life. The frequency of this testing will depend on how often the virus is found in wastewater. There is no charge for on-campus testing. <i>You do not need to participate in mitigation testing.</i></p>	<p>Mitigation testing -- You are required to participate in weekly mitigation testing. Each week, you will receive an email reminder to sign up for testing. You must either participate in on-campus testing or submit an off-campus test by 11:59 p.m. each Friday. There is no charge for on-campus testing. Tests must be administered and submitted within the same week they are due.</p>
Niner Health Check	<p>Unless you are symptomatic, you can delete your daily health check reminder. If you develop symptoms, please complete the Niner Health Check.</p>	<p>You must complete the Niner Health Check daily.</p>	<p>You must complete the Niner Health Check daily.</p>



Campus COVID Resources: Niner Nation Cares

- [COVID Resources for Faculty and Staff](#)
 - Vaccination, testing, and health check
 - Teleworking, leave, and travel
 - Dining, parking, and transportation
 - Face coverings, signage, and supplies
 - Support and managing stress
- [COVID HR Information](#)
 - Vaccines - paid time off
 - Paid Administrative Leave
 - Adverse reactions
 - Quarantine



Testing & Vaccine Attestations

- Testing portal

- Submit testing results (*mitigation or re-entry*)
- Request testing exception (*no blanket exemptions from all testing*)

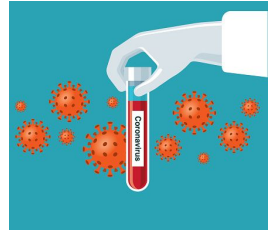


- Vaccine portal

- Submit vaccine records
- Request vaccine exemption



Testing Exceptions

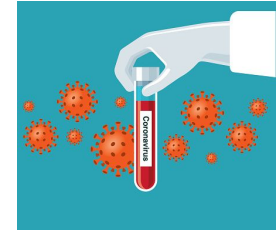


Testing Exception Portal

- Full COVID-19 vaccination
- Current COVID-19 condition or quarantine
- A positive COVID-19 test within the last three months
- A **medical condition** that precludes your ability to be tested
- A **sincerely held religious belief, practice, or observance**
 - *Any accommodation request that results in having an unvaccinated and untested individual in classrooms, residential facilities, or otherwise on campus is an undue burden and will be denied. **No blanket exemptions from weekly testing will be granted for individuals with a presence on campus.***



Testing Exception FAQs

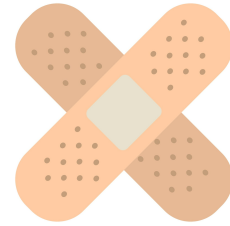


[FAQs: Religious Exceptions to COVID-19 Testing \(scroll down the page\)](#)

- In my religion, we don't believe in medical testing. Can I get a blanket exemption from COVID testing?
- What are some examples of reasonable accommodations that do not create an undue burden for the University?
- For employees, is remote work a reasonable accommodation?
- I am not opposed to COVID testing in general, but my religion teaches that I should not engage in nasal swab (invasive) testing. Can I get a blanket exemption from testing based on that belief?
- Isn't it a violation of my First Amendment rights for the University to deny my request for a testing exemption based on religion? What about other laws?



Vaccine Exemptions

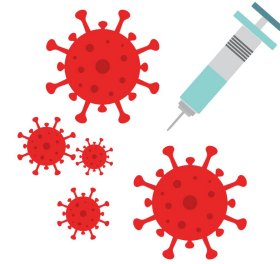


Vaccine Exemption Portal

- A **medical condition** that precludes your ability to be vaccinated
- A **sincerely held religious or ethical belief** that precludes your ability to be vaccinated
- Employees who are granted an exemption will continue to be subject to [campus policies](#) for unvaccinated individuals, including weekly testing, completing the daily Niner Health Check, wearing face coverings, physical distancing, etc.



Vaccine FAQs



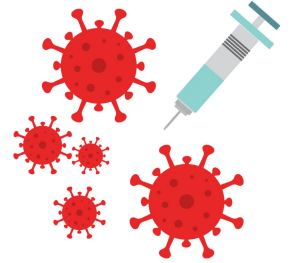
FAQs: COVID-19 Vaccines for Federal Contractor Employees

- How do I know whether I am working on a federal contract or working in or frequenting campus buildings where those working on a federal contract are likely to be present?
- Are fully remote employees required to be vaccinated?
- If I am not subject to the federal vaccine requirement now, will I be subject to it later?
- Who is entitled to an exemption from the vaccine requirement?
- What is considered a “religious or ethical belief”?
- If I am granted an exemption, do I still need to undergo mitigation testing?
- What happens if I do not submit vaccination records or an exemption request?





When Might All This End?



Current **testing** and **face covering** policies and practices in place at least until mid-January

Decisions about changing COVID policies in conjunction with:

- Mecklenburg County positivity rate
- UNC System Office guidance and directives
- CDC and NCDHHS guidance



QUESTIONS???

Please put them in the Q&A (not the chat)



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