

## Employment Law Update: NJ Executive Order 271 Institutes Vaccination or Testing Requirement for State Contracted Employees

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On October 20, 2021, New Jersey Governor Philip Murphy signed [Executive Order 271](#) requiring employers who are state contractors to prove that their employees who enter, work at, or provide services to any state department or agency are fully vaccinated against COVID-19 or undergo at least once weekly COVID-19 testing. Governor Murphy's Executive Order went into effect immediately, clarifying that this mandate is necessary for the safety of New Jersey citizens since parties that contract with the State government provide essential services, interact with the public, and often are unable to perform their jobs remotely.

Additionally, Executive Order 271 requires that contractual agreements between contractors and State government entities, such as a department or agency, include a clause stating the contractor must have a policy that requires all "covered workers" to either provide adequate proof of full vaccination or submit to "COVID-19 testing at minimum one to two times per week." The Order also applies to sub-contractors. This blog highlights the Executive Order's framework, including the definition of a covered worker and the required vaccination documentation.

### The Definition of "Covered Worker"

Executive Order 271 defines "*covered worker*" as any full-time or part-time worker for a covered state contractor working on or in connection with a contract with an executive department or agency that requires such worker to enter, work at, or provide services in any place, site, installation, building, room, or facility in which any executive department or agency conducts official business or is within an executive department or agency's jurisdiction, custody, or control, or that relates to offering services for State employees, their dependents, or the general public.

There are some exceptions to this Order, including employees who work outside of the State of New Jersey or on contracts solely for the provision of goods.

### Vaccination Proof Required

Covered workers may demonstrate proof of full vaccination status by presenting the following documents to the covered contractor:

- The CDC COVID-19 Vaccination Card issued to the vaccine recipient by the vaccination site, or an electronic or physical copy of the same;
- Official record from the New Jersey Immunization Information System or other State immunization registry;
- A record from a health care provider's portal/medical record system on official letterhead signed by a licensed physician, nurse practitioner, physician's assistant, registered nurse, or pharmacist;
- A military immunization or health record from the United States Armed Forces; or
- Docket mobile phone application record or any state-specific application that produces a digital health record.

A covered worker who is not vaccinated may present evidence of either an antigen or molecular test to the contractor. Likewise, if a covered contractor provides on-site testing, the covered contractor can choose either test to administer to its workers.

### **Contractor Documentation**

The Commissioner of the New Jersey Department of Health (“NJDOH”) is authorized by Executive Order 271 to issue a directive regarding requirements for reporting vaccination and testing data to the NJDOH. Employers who contract with the State of New Jersey should be on the lookout for this directive in the near future.

**Takeaway:** State contractors must comply with Executive Order 271. If you are an employer and need help navigating Executive Order 271, or any other employment laws, contact [Stephanie Gironda](#) or any member of the Wilentz [Employment Law](#) Team.

### **Attorney**

- Stephanie D. Gironda

### **Practice**

- Employment Law