

New Mexico State Personnel Board

State Personnel Office

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Guidance

Date: July 30, 2021

To: Cabinet Secretaries, Agency Heads, and HR Managers

From: Ricky Serna, Acting Director 

Subject: Guidance on Executive Order 2021-046

1. Purpose

Executive Order 2021-046 requires State employees to wear masks or face coverings in accordance with the latest Public Health Order and requires State employees who are not fully vaccinated to wear a mask at all times during their employment, with limited exceptions. It also requires State employees to provide either proof of vaccination or proof of a COVID-19 test every week.

Executive Order 2021-046 also directs the State Personnel Office to provide State agencies with guidance on the implementation and administration of the Order.

2. Scope

This Guidance on Executive Order 2021-046 applies to all State agencies and employees.

3. Definitions

“Fully Vaccinated”: Two weeks or more have elapsed following the receipt of one dose of a single-dose vaccine or following the receipt of the second dose of a two-dose vaccine.

“Proof of COVID-19 Vaccination”: Proof of COVID-19 vaccination in the form of a CDC vaccine card or a vaccine record from the New Mexico Statewide Immunization Information System, which indicates the name of the vaccine recipient, the date(s) the vaccine was received, and which COVID-19 vaccine was received.

“Proof of COVID-19 Test”: An official result of a viral test (antigen or polymerase chain reaction (PCR)) for COVID-19 from Vault Health or an authorized COVID-19 testing site. (An antibody test does not meet this definition.)

4. **Resources**

COVID-19 Integrated County View:

<https://covid.cdc.gov/covid-data-tracker/#county-view>

New Mexico Statewide Immunization Information System:

https://nmsiis.health.state.nm.us/webiznet_nm_public/Application/PublicPortal

New Mexico Department of Health Test Sites:

<https://cv.nmhealth.org/public-health-screening-and-testing>

Vault Health:

<https://learn.vaulthealth.com/nm>

5. **Guidance**

This Guidance corresponds to the specific directives of Executive Order 2021-046.

5.1 State employees shall comply with the provisions regarding the use of masks contained in the operative Public Health Order issued by the Secretary of the Department of Health during the course and scope of their employment, and employees who are not Fully Vaccinated must wear face masks, with limited exceptions.

- a. State employees who are not Fully Vaccinated must wear face masks or multilayer cloth face-coverings at all times during the course and scope of their employment except when eating or drinking or the employee provides adequate proof that he or she has been instructed otherwise by a bona fide healthcare provider.

- b. State employees with proof of medical instruction not to wear a face mask shall submit such proof to agency Human Resources. Such proof shall be treated as confidential medical information and shall be maintained by the agency Human Resources Division separately from employee personnel files. A State employee's status as being exempted from the face mask requirement, but not the actual proof of medical instruction, can be shared with the employee's supervisors to determine compliance with Executive Order 2021-046.
- c. In accordance with the operative Public Health Order, State employees who are Fully Vaccinated are highly encouraged to wear a mask or multilayer cloth face-covering in all common areas in State buildings and facilities and when performing field work in indoor settings during the course and scope of their employment located in areas of substantial or high COVID-19 transmission, as identified by the CDC.
 - i. Fully Vaccinated State employees shall be responsible for determining if their work sites are located in a county with substantial or high COVID-19 transmission.
 - ii. To determine if your State building is located in a county with substantial or high COVID-19 transmission, visit the CDC's COVID-19 Integrated County View at <https://covid.cdc.gov/covid-data-tracker/#county-view>.

5.2 *State employees who are not Fully Vaccinated and not willing and able to provide Proof of COVID-19 Vaccination shall provide Proof of COVID-19 Test every week.*

- a. On Monday, August 2, 2021, each State agency shall direct employees who are Fully Vaccinated, and willing and able to share their vaccination status, to submit their Proof of COVID-19 Vaccination to agency Human Resources no later than 5:00 p.m., Wednesday, August 4, 2021.
- b. Each State agency Human Resources Division shall be responsible for developing and implementing their own process for collecting and maintaining employees' Proof of COVID-19 Vaccination.
- c. A State employee's Proof of COVID-19 Vaccination shall be treated as confidential medical information and shall be maintained by each agency's Human Resources Division separately from the employee's personnel file.
- d. A State employee's vaccination status, but not the actual Proof of COVID-19 Vaccination, can be shared with the employee's supervisors to determine compliance with Executive Order 2021-046.

- e. All State employees who are not Fully Vaccinated or not willing or able to provide Proof of COVID-19 Vaccination must receive a viral test (antigen or PCR) for COVID-19 every week. This applies to all State employees, including those with approved non-mandatory telework arrangements.
- f. No later than 5:00 p.m., Friday, August 6, 2021, each State agency shall direct employees who are not Fully Vaccinated, or who are unwilling or unable to provide Proof of COVID-19 Vaccination, to take a viral COVID-19 test (antigen or PCR) during the week beginning Saturday, August 7, 2021, and every week thereafter.
- g. State employees who are not Fully Vaccinated, or who are unwilling or unable to provide Proof of COVID-19 Vaccination, must provide their Proof of COVID-19 Test to their agency's Human Resources Division no later than 5:00 p.m., Wednesday, August 18, 2021, and no later than 5:00 p.m. every Wednesday thereafter.
- h. State employees' COVID-19 tests pursuant to Executive Order 2021-046 must occur outside of working hours and with minimal disruption to business operations whenever possible, including, for example, through Vault Health (<https://learn.vaulthealth.com/nm>). If an employee cannot secure COVID-19 testing outside of working hours, they must obtain approval from their supervisor prior to receiving the required COVID-19 test during working hours, on State paid time.
- i. Each State agency Human Resources Division shall be responsible for developing and implementing their own process for collecting and maintaining employees' Proof of COVID-19 Test records.
- j. State employees' Proof of COVID-19 Test records shall be treated as confidential medical information and shall be maintained by the agency Human Resources Division separately from employee personnel files.
- k. Any State employee who tests positive for COVID-19 shall NOT report to work, shall notify their supervisor immediately, and shall follow the Isolation and Quarantine Instructions in their agency's COVID-19 Mitigation, Self-Screening, and Reporting Policy and Procedure.

5.3 Employees who refuse to abide by the requirements of Executive Order 2021-046 may be subject to disciplinary action, up to and including termination, in accordance with applicable law.

- a. Any State employee who is required to wear a face mask or multilayer cloth face-covering and fails to do so as directed by Executive Order 2021-046 shall be directed to put on a face mask or cloth-face covering immediately and may be subject to discipline, up to and including dismissal.
- b. Any State employee who fails to provide Proof of COVID-19 Vaccination or Proof of COVID-19 Test every week shall be directed to be tested immediately and may be subject to discipline, up to and including dismissal.
- c. Any State employee who knowingly provides fraudulent Proof of COVID-19 Vaccination or Proof of COVID-19 Test may be subject to discipline, up to and including dismissal.