



New Mexico State Personnel Board

State Personnel Office

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Guidance

Date: August 30, 2021

To: Cabinet Secretaries, Agency Heads, and HR Managers

From: Ricky Serna, Acting Director

Subject: Guidance on Executive Order 2021-046 (Revised 8/30/21)

1. Purpose

Executive Order 2021-046 requires State employees to wear masks or face coverings in accordance with the operative 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**

“Common Areas”: Any areas of State buildings, facilities, or property generally accessible to all occupants and available for use by more than one person, including but not limited to: entrance areas, hallways, conference rooms, auditoriums, multi-occupant offices, kitchens, bathrooms, and State vehicles. Single-occupant offices and cubicles occupied by a single employee are not common areas.

“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, an authorized COVID-19 testing site, or a primary care physician, which indicates the name of the individual tested, the date the test was administered, the entity that administered the test, and whether the test was positive or negative for COVID-19. (An antibody test does not meet this definition.)

4. **Resources**

Executive Order 2021-046:

<https://www.governor.state.nm.us/wp-content/uploads/2021/08/Executive-Order-2021-046.pdf>

Operative Public Health Order:

<https://cv.nmhealth.org/public-health-orders-and-executive-orders/>

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 and the operative Public Health Order.

5.1 *Masking.*

- a. State employees, regardless of COVID-19 vaccination status, must wear face masks or multilayer cloth face-coverings in all Common Areas and when performing field work in indoor settings 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 trigger the ADA Reasonable Accommodation process, shall be treated as confidential medical information, and shall be maintained by agency Human Resources 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.

5.2 *Testing.*

- a. 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.
- b. 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. Any employee who fails to submit Proof of COVID-19 Vaccination shall be considered not Fully Vaccinated.
- c. 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.
- d. 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.

- e. 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.
- f. All State employees who are not Fully Vaccinated, or who are 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.
- g. 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.
- h. 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 new Proof of COVID-19 Test no later than 5:00 p.m. every Wednesday thereafter.
- i. To minimize impact to business operations while complying with Executive Order 2021-046, employees are encouraged to take a Vault Health COVID-19 test during regular work hours at their normal worksite or telework location (<https://learn.vaulthealth.com/nm>). If an employee cannot secure Vault Health testing, they must obtain approval from their supervisor prior to taking an alternative COVID-19 viral test during working hours. Beginning September 7, 2021, employees shall use the COVID-19 Testing Time Reporting Code (TRC) "CVTST" when testing pursuant to Executive Order 2021-046.
- j. State employees who are not Fully Vaccinated, or who are unwilling or unable to provide Proof of COVID-19 Vaccination, and who are on pre-approved leave (including but not limited to annual leave, sick leave, Family and Medical Leave Act leave, and Paid Parental Leave) are excused from the testing requirement during their leave, except such employees must provide Proof of COVID-19 Test no later than 5:00 p.m. on the Wednesday before any work week during which they will be returning to work for any amount of time, **even if that Wednesday is during their leave**. The goal is to have employees resume testing the week **before** they return to work. State employees who are on COVID-19-Related Conditions Leave must comply with the testing requirement during their leave. Beginning September 7, 2021, employees shall use the COVID-19 Testing TRC "CVTST" when testing pursuant to Executive Order 2021-046.

- k. 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.
- l. 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.
- m. 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 Discipline.

- a. 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.
- b. Any State employee who fails to wear a face mask or multilayer cloth face-covering 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.
- c. 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.
- d. 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.