



New Mexico State Personnel Board

State Personnel Office


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Guidance

Date: December 10, 2021
To: Cabinet Secretaries, Agency Heads, and HR Managers
From: Ricky Serna, Acting Director 
Subject: Guidance on Executive Order 2021-066

1. Purpose.

Executive Order 2021-066 requires State employees to wear masks or face coverings during the course and scope of their employment, with limited exceptions, in accordance with the operative Public Health Order. In addition, it requires State employees to provide proof of a COVID-19 test every week if they are not fully vaccinated, if they are eligible for a booster dose of COVID-19 vaccine but have not received a booster dose by January 17, 2022, or within four weeks of being eligible, or if they are unwilling or unable to provide proof of such vaccination, with limited exceptions.

Executive Order 2021-066 also directs the State Personnel Office to provide State agencies with guidance on the implementation and administration of the Order.

This Guidance on Executive Order 2021-066 supersedes the Guidance on Executive Order 2021-046, issued July 30, 2021; the revised Guidance on Executive Order 2021-046, issued August 30, 2021; and the Guidance on Executive Order 2021-057, issued October 21, 2021.

2. Scope

This Guidance on Executive Order 2021-066 applies to all State agencies and employees.

3. Definitions

“Booster Dose”: An additional dose of Pfizer-BioNTech, Moderna, or Johnson & Johnson’s Janssen COVID-19 vaccine for an individual who has completed a primary series of Pfizer-BioNTech, Moderna, or Johnson & Johnson Janssen COVID-19 vaccination.

“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 occupied by a single employee with the door closed are not common areas.

“Fully Vaccinated”: Two weeks after an individual has completed the primary series of vaccination with a vaccine approved by the Food and Drug Administration, including on an emergency use basis, to prevent COVID-19. An individual will be fully vaccinated two weeks after the second dose of the Pfizer-BioNTech or Moderna COVID-19 vaccines or two weeks after single-dose Johnson & Johnson’s Janssen COVID-19 vaccine.

“Eligible for Booster Dose”: All individuals 18 years of age and older are eligible to receive a Booster Dose six months after an individual’s primary series of vaccination with Pfizer-BioNTech or Moderna COVID-19 vaccines or two months after an individual’s primary series of vaccination with Johnson & Johnson’s Janssen COVID-19 vaccine.

“Partially Vaccinated”: An individual who has started, but not completed, their primary series of vaccination.

“Primary Series of Vaccination”: The first and second doses of the Pfizer-BioNTech or Moderna COVID-19 vaccines or the first dose of Johnson & Johnson’s Janssen COVID-19 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(s) were received, and which COVID-19 vaccine(s) were 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 2021-062:

<https://www.governor.state.nm.us/wp-content/uploads/2021/11/Executive-Order-2021-062.pdf>

Executive Order 2021-066:

<https://www.governor.state.nm.us/wp-content/uploads/2021/12/Executive-Order-2021-066.pdf>

Food and Drug Administration, *Coronavirus (COVID-19) Update: FDA Expands Eligibility for COVID-19 Vaccine Boosters:*

<https://www.fda.gov/news-events/press-announcements/coronavirus-covid-19-update-fda-expands-eligibility-covid-19-vaccine-boosters>

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 2021-066 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 exempt status 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 2021-066.

5.2 *Vaccination and Vaccination Tracking.*

- a. State employees may request, and shall receive, up to four hours of administrative leave to receive each COVID-19 vaccine. For leave beyond four hours, employees may use accrued leave or compensatory time or may request leave without pay.
- b. State employees who experience side effects from a COVID-19 vaccine which interfere with their ability to work or telework may request leave to recover. Employees who request leave for recovery purposes must provide Proof of COVID-19 Vaccination to agency Human Resources and shall receive up to two days of administrative leave to recover from the side effects of each COVID-19 vaccine they receive. Recovery leave shall only be available the two calendar days immediately following an employee's COVID-19 vaccine. For recovery leave beyond two days, employees may use accrued leave or compensatory time.
- c. All State employees who are Fully Vaccinated and are willing and able to share their vaccination status shall submit their Proof of COVID-19 Vaccination to agency Human Resources. Any employee who fails to

submit Proof of COVID-19 Vaccination showing completion of a Primary Series of Vaccination shall be considered not Fully Vaccinated.

- d. Each State agency Human Resources Division shall be responsible for developing and implementing its own process for collecting employees' Proof of COVID-19 Vaccination.
- e. All State agencies shall utilize the COVID-19 Vaccination and Testing Tracking function in SHARE HCM ("SHARE Tracking System") to maintain their employees' COVID-19 vaccination data.
- f. No later than 5:00 p.m., Wednesday, December 22, 2021, State agencies shall enter into the SHARE Tracking System the COVID-19 vaccination data of all employees who have provided Proof of COVID-19 Vaccination showing completion of a Primary Series of Vaccination, including the type of vaccine each employee received and the specific dates each employee received each vaccine of the Primary Series of Vaccination.
- g. Beginning Thursday, December 23, 2021, State agencies shall enter into the SHARE Tracking System the COVID-19 vaccination data of any employee who subsequently provides Proof of COVID-19 Vaccination showing completion of a Primary Series of Vaccination, including the type of vaccine each employee received and the specific dates the employee received each vaccine of the Primary Series of Vaccination, within three business days of receiving such Proof of COVID-19 Vaccination.
- h. No later than 5:00 p.m. January 21, 2022, or 5:00 p.m. on the thirtieth day after becoming Eligible for a Booster, all State employees who are Eligible for a Booster and are willing and able to share their vaccination status shall submit their Proof of COVID-19 Vaccination showing receipt of a Booster Dose to agency Human Resources. Any employee who fails to submit Proof of COVID-19 Vaccination showing receipt of a Booster Dose as required herein shall be considered not to have received a Booster Dose.
- i. State agencies shall enter into the SHARE Tracking System the Booster Dose data of all employees who provide Proof of COVID-19 Vaccination showing receipt of a Booster Dose, including the type of Booster Dose each employee received and the specific date each employee received the Booster Dose, within three business days of receiving such Proof of COVID-19 Vaccination.

- j. A State employee's Proof of COVID-19 Vaccination shall be treated as confidential medical information and shall be maintained by agency Human Resources separately from the employee's personnel file and/or maintained confidentially in SHARE.
- k. 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 2021-066.

5.3 *Testing and Testing Tracking.*

- a. State employees who are not Fully Vaccinated, or are unwilling or unable to provide Proof of COVID-19 Vaccination, must take a viral COVID-19 test (antigen or PCR) every week, between Saturday and Friday. This applies to State employees who are Partially Vaccinated.
- b. State employees who are Eligible for a Booster but have not received a Booster Dose by January 17, 2022, or within four weeks of becoming Eligible for a Booster, must take a viral COVID-19 test (antigen or PCR) every week thereafter between Saturday and Friday.
- c. These testing requirements apply to all State employees, including those with approved telework arrangements.
- d. State employees who are not Fully Vaccinated, are unwilling or unable to provide Proof of COVID-19 Vaccination, are Partially Vaccinated, or are Eligible for a Booster but have not received a Booster Dose by January 17, 2022, or within four weeks of becoming Eligible for a Booster, must provide their Proof of COVID-19 Test to agency Human Resources no later than 5:00 p.m. each Wednesday following each Saturday-Friday testing period.
- e. To minimize impact to business operations while complying with Executive Order 2021-066, 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. Employees shall use the COVID-19 Testing Time Reporting Code (TRC) "CVTST" when testing pursuant to Executive Order 2021-066.

- f. State employees who are not Fully Vaccinated, are unwilling or unable to provide Proof of COVID-19 Vaccination, are Partially Vaccinated, or are Eligible for a Booster but have not received a Booster Dose by January 17, 2022, or within four weeks of becoming Eligible for a Booster, 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 or administrative leave pending investigation or disciplinary action for failure to comply with a COVID-19-related Executive Order or Public Health Order must comply with the testing requirement during their leave. Employees shall use the COVID-19 Testing TRC “CVTST” when testing pursuant to Executive Order 2021-066.
- g. Each State agency Human Resources Division shall be responsible for developing and implementing its own process for collecting employees’ Proof of COVID-19 Test records.
- h. All State agencies shall utilize the SHARE Tracking System to maintain their employees’ COVID-19 testing data.
- i. State employees’ Proof of COVID-19 Test records shall be treated as confidential medical information and shall be maintained by agency Human Resources separately from employee personnel files and/or maintained confidentially in SHARE.
- j. Any State employee who tests positive for COVID-19 shall NOT report to work, shall notify their supervisor immediately, and shall follow the isolation instructions prescribed by their agency’s COVID-19 Mitigation, Self-Screening, and Reporting Policy and Procedure or by the New Mexico Department of Health, whichever requires a longer isolation period.
- k. State employees who are not Fully Vaccinated, are unwilling or unable to provide Proof of COVID-19 Vaccination, are Partially Vaccinated, or are Eligible for a Booster but have not received a Booster Dose by January 17, 2022, or within four weeks of becoming Eligible for a Booster, and who test positive for COVID-19 shall be exempt from the testing requirement of Executive Order 2021-066 for a period of 90 days following the date of their positive COVID-19 test result.

5.4 *Discipline.*

- a. Employees who refuse to abide by the requirements of Executive Order 2021-066 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 2021-066 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 is not Fully Vaccinated, is unwilling or unable to provide Proof of COVID-19 Vaccination, is Partially Vaccinated, or is Eligible for a Booster but has not received a Booster Dose by January 17, 2022, or within four weeks of becoming Eligible for a Booster, and fails to provide Proof of COVID-19 Test every week as directed by Executive Order 2021-066 shall be directed to test immediately, shall be removed from the workplace until they provide the required Proof of COVID-19 Test, 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.