

EXECUTIVE ORDER NO. 21-29

COVID-19 VACCINATION REQUIREMENT FOR STATE EXECUTIVE BRANCH

Since early 2020, the COVID-19 pandemic has upended life for Oregonians. More than 2,900 Oregonians have lost their lives to this deadly disease since March 2020, and more than 12,000 Oregonians have been hospitalized. Oregon's frontline workers, children, parents, families, and businesses have all navigated immense challenges as we have worked together to protect the health and lives of Oregonians.

The arrival of safe and effective vaccines in late 2020 marked a new, hopeful phase in our state's collective efforts to fight the pandemic. Together, we worked our way through the early days of a painfully limited supply of vaccine from the federal government, and have now vaccinated more than two and a half million Oregonians. Lifesaving vaccines are now readily available and free of cost to any Oregonian over the age of 12.

Unfortunately, a new variant of COVID-19, known as the Delta variant, has exploded in Oregon and across the country. This variant has shown itself to be dramatically more contagious and possibly more severe. It is spreading most quickly among the unvaccinated; in Oregon, the vast majority of the reported COVID-19 cases in July were among people who were unvaccinated. However, there is emerging evidence that, while vaccinated people are less likely to contract COVID-19 than unvaccinated people, when cases do occur, people infected with the Delta variant can pass it to others. As a result of the Delta variant, COVID-19 hospitalizations and COVID-19 patients in Oregon's intensive care units are higher than they have ever been during this pandemic.

Fortunately, vaccines continue to be effective against severe disease. The vast majority of patients hospitalized with COVID-19 are unvaccinated. But with so many Oregonians still unvaccinated, the spread of the Delta variant has caused a dangerous surge in COVID-19 cases and hospitalizations. This surge is imperiling the state health system's ability to manage not just COVID-19 patients, but also those who require specialized medical care after car accidents, heart attacks, and other medical emergencies. The current struggle with the Delta variant shows that, in order for us to protect ourselves and our community—from this variant and variants that will continue to evolve so long as COVID-19 is circulating widely—it is vital that as many Oregonians as possible get vaccinated, as quickly as possible.

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Employers have a significant role to play in encouraging the uptake of vaccinations. Providing education, paid time off for vaccinations, facilitating access to vaccination through on-site clinics, and providing financial incentives are all strategies that employers can use to increase uptake and protect their workforces. Oregon companies like Nike and Intel have offered onsite vaccination clinics. Countless large and small businesses in Oregon have offered time off to their employees to get vaccinated. Walmart, a large employer of Oregonians, has offered \$150 incentives to employees who get vaccinated. The State of Oregon has worked hard to facilitate vaccine uptake by its workforce, including providing education, onsite vaccine clinics in some locations, and financial incentives for employees who choose to be vaccinated voluntarily before August 31, 2021. This has resulted in approximately seventy percent of the state's executive branch employees getting vaccinated to date.

Given the seriousness of the COVID-19 pandemic, employer vaccination requirements have become an important tool as well. According to polling from the Kaiser Family Foundation, some adults report they will only get vaccinated if required to do so for their employment. Public and private employers across the United States are beginning to move to vaccine mandates. Washington, California, New York, and Virginia have all recently announced some form of vaccine mandate for public employees, as have New York City, Honolulu, Washington, D.C., Denver, Los Angeles, San Jose, San Diego, Richmond, and New Orleans. Private companies like Walmart, Facebook, Cisco, Frontier Airlines, United Airlines, Google, Walgreens, Walt Disney Company, Washington Post, and Tyson Foods have also moved to implement employer vaccination mandates.

We all understand the urgency of moving past this pandemic. But in order to do that, we have to get vaccinated. As the leader of the executive branch of state government, one of the Oregon's largest employers, I have a responsibility to do everything I can to protect state workers, their coworkers, and the public that relies on state services. With the Delta variant raging in Oregon, with the state's ability to fully return to in-person work continuing to be hampered by the risks from COVID-19, having implemented a series of incentives aimed at achieving voluntary compliance, and with full FDA approval of the COVID-19 vaccine expected within weeks, the time has come for any remaining state employees and those who work alongside them in state government to get vaccinated.

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NOW, THEREFORE, IT IS ORDERED AND DIRECTED:

Pursuant to my authorities under Article V, section 1, of the Oregon Constitution, the emergency invoked in Executive Order 20-03, and ORS 401.168, I hereby order:

1. Definitions.
 - a. “*Executive Branch*” has the meaning given to the term Executive Department in ORS 174.112.
 - b. “*COVID-19*” means a disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).
 - c. “*Fully Vaccinated*” means having received both doses of a two-dose COVID-19 vaccine or one dose of a single-dose COVID-19 vaccine and at least 14 days have passed since the individual’s final dose of COVID-19 vaccine.
 - d. “*Proof of Vaccination*” means documentation provided by a tribal, federal, state or local government, or a health care provider, that includes an individual’s name, date of birth, type of COVID-19 vaccination given, date or dates given, depending on whether it is a one-dose or two-dose vaccine, and the name/location of the health care provider or site where the vaccine was administered. Documentation may include but is not limited to a COVID-19 vaccination record card, a copy or digital picture of the vaccination record card, or a print-out from the Oregon Health Authority’s immunization registry.
 - e. “*Employee*” means any person employed by the Executive Branch, but does not include individuals whose only work for the Executive Branch is as a volunteer board, commission, or council member, and whose compensation is limited to a stipend or per diem; does not include elected or appointed District Attorneys; and does not include Workers.
 - f. “*Worker*” means an individual who is not an Employee, and is engaged to provide goods or services to the Executive Branch through any formal or informal agreement, whether compensated or uncompensated, including Oregon Corrections Enterprises, but does not include a visitor,

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patron, adult in custody, or board, commission, or council member. Individuals are exempt from the definition of Worker unless any provision of the agreement to provide goods or services requires work to be performed in person and on site at an Executive Branch worksite, regardless of frequency, whether other persons are present, or any contingent nature of that requirement.

2. Prohibitions. This order prohibits the following:
 - a. Any Employee or Worker from engaging in work for the Executive Branch after October 18, 2021, or six weeks after the date that the United States Food and Drug Administration approves a vaccination against COVID-19, whichever is later, if the Employee or Worker has not been Fully Vaccinated against COVID-19.
 - b. The Executive Branch from permitting any Employee or Worker to engage in work for the Executive Branch after October 18, 2021, or six weeks after the date that the United States Food and Drug Administration approves a vaccination against COVID-19, whichever is later, if the Employee or Worker has not been fully vaccinated against COVID-19 and provided proof or documentation thereof, as required under this Executive Order.
3. Documentation of Vaccination for Employees. On or before October 18, 2021, or six weeks after the date that the United States Food and Drug Administration approves a vaccination against COVID-19, whichever is later, Employees must provide their employer with either:
 - a. Proof of Vaccination showing they are fully vaccinated; or
 - b. A written request for an exception if available under paragraph 5 of this Executive Order.
4. Documentation of Vaccination for Workers. On or before October 18, 2021, or six weeks after the date that the United States Food and Drug Administration approves a vaccination against COVID-19, whichever is later, the Executive Branch contracting agency must have documentation that all Workers subject to this Executive Order are in compliance with paragraph



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- 2 of this Executive Order, or that an exception applies under paragraph 6 of this Executive Order.
5. Compliance with State and Federal Law. The Executive Branch is expected to make reasonable accommodations in order to comply with the Americans with Disabilities Act and Title VII of the Civil Rights Act, and state law equivalents, for individuals unable to be vaccinated due to disability, qualifying medical condition, or a sincerely held religious belief.
 6. Exceptions to Prohibition. The prohibitions described in paragraph 2 of this Executive Order do not apply if:
 - a. An exception available under paragraph 5 of this Executive Order has been requested in writing by the Employee or Worker, and the request is pending or has been approved.
 - b. The director of a contracting agency has determined in writing that there is a critical business need for a Worker to perform work without first coming into compliance with paragraph 2 of this Executive Order.
 7. Enforcement. Employees who fail to comply with this directive will face personnel consequences up to and including separation from employment. Contracting agencies may take any action in contract, at law, or in equity for any noncompliance of Workers and entities for which a Worker is an employee, contractor, or volunteer. Timelines in this Executive Order may be extended at the Governor's discretion.
 8. Executive Branch May Exceed These Requirements. Nothing in this order prohibits entities within the Executive Branch from implementing requirements that exceed the requirements of this Executive Order, provided that compliance with paragraph 5 of this Executive Order is maintained.
 9. Legal Effect. Pursuant to ORS 401.192(1), the directives set forth in this Executive Order shall have the full force and effect of law, and any existing laws, ordinances, rules and orders shall be inoperative to the extent they are inconsistent with the directives set forth in this Order.
 10. Discretion; No Right of Action. Any decision made by the Governor pursuant to this Executive Order is made at her sole discretion. This Executive Order is not intended to create, and does not create, any individual



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right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of Oregon, its agencies, departments, or any officers, employees, or agents thereof.

11. Severability. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Executive Order is for any reason held to be invalid, such holding shall not affect the validity of the remaining portions of this Order.
12. Effective date. This Executive Order is effective August 13, 2021, and remains in effect until terminated by the Governor.

Done at Salem, Oregon, this 13th day of August, 2021.



A handwritten signature in black ink, reading "Kate Brown".

Kate Brown
GOVERNOR

ATTEST:

A handwritten signature in blue ink, reading "Shemia Fagan".

Shemia Fagan
SECRETARY OF STATE