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September 8, 2021

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Department of Administration Organizational Circular: 2021-025A


MEMORANDUM

To: All Line Departments and Agency Heads
From: Director, Department of Administration
Subject: **Requirement of Government of Guam Executive Branch Workers to Vaccinate Against COVID-19 Guidance-Technical Update**

Buenas yan Hafa Adai! This is issued to provide an update to DOA Organizational Circular: 2021-025 relative to the Department of Administration's (DOA) guidance on the requirement of Government of Guam Executive Branch Workers to Vaccinate Against COVID-19 pursuant to Executive Order No. 2021-17 (attached).

The following updates our Circular and mainly applies to Government of Guam employees. Updates that apply to non-employees (e.g. Program Participants and volunteers) will be indicated in parentheses. Please provide the following information to all within your Department.

Please email Mr. Francis Flisco, Personnel Specialist IV at francis.flisco@doa.guam.gov if you have any questions. *Si Yu'us Ma'ase!*


EDWARD M. BIRN

Attachments:

DOA Organizational Circular 2021-025
Government of Guam Employee Report to COVID-19 Testing Form
Self-Attestation of COVID-19 Vaccination Form

**Requirement of Government of Guam Executive Branch Workers to Vaccinate Against
 COVID-19 Guidance-Technical Update**

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Government of Guam Employee Only Designated COVID-19 Testing Sites:

The DPHSS will establish COVID-19 Testing Sites that are for Government of Guam employees who have declined to be vaccinated, or have not provided proof of vaccination, and are now required to undergo once weekly testing pursuant to Executive Order 2021-17. It is expected that these sites will be established beginning September 27, 2021, or soon thereafter. The Government of Guam should announce testing location, dates, and times in advance.

Departments shall specifically instruct employees who have declined to be vaccinated, or have not provided proof of vaccination to report for testing at these Government of Guam Employee only testing sites. No substitution of testing sites is allowed. Supervisors shall work with their employees to identify the earliest date during the week of September 27, 2021 that their employees will report to testing. Supervisors will specifically instruct their employees as the date, time and location of the site they are to report for testing; then thereafter follow a specified schedule once weekly.

Supervisors shall use the attached Government of Guam Employee Report to COVID-19 Testing form to schedule their employee for testing. Employees shall bring their form to the testing site and request the COVID-19 Testing Official to complete the form as proof of being tested, and submit their completed form to their supervisor. The supervisor in turn shall forward the form to their Vaccination Status Coordinator who shall update any relevant information for their weekly reports.

It is preferred that supervisor instruct their employees to report to their designated testing site before reporting to work to minimize exposure to co-workers in the event the employee tests positive.

For employees whose work schedule does not coincide with any Government of Guam Employee Only Designated Testing Site schedule (i.e. shift employee), Department Heads shall adjust the employee's work schedule accordingly to best allow the employee to report to testing.

Employees who are tested at the testing site specified by their Department will be allowed three (3) hours of administrative leave, or actual time taken, whichever is less to be tested.

In the event a non-vaccinated employee who has opted for once weekly testing wants to undergo an additional test outside of their once weekly testing, and is accomplished during working hours, the employee may do so with the permission of their supervisor, however they will be charged sick leave.

If the employee undergoes a test where the employee can receive test results in minutes, the employee must stay at the testing site until the employee receives their results. If the results are negative, the employee shall return to their work site, and inform their supervisor.

If the employee's test results are positive, then the employee must call their supervisor to inform them of the results. For safety reasons, the supervisor shall inform the administrator/manager, who in turn will notify their Department Head of the result. The supervisor shall take necessary steps to ensure the work area of their employee who tested positive is properly sanitized.

However, if the employee undergoes a test where it will take 24 hours, or more to receive the results, the employee must follow DPHSS guidelines, and further instructions. If the guidelines instruct the employee to quarantine or isolate at home while waiting for test results, the employee

shall immediately contact their supervisor over the phone and inform their supervisor of the quarantine or isolation requirement and provide proof as soon as possible. The employee shall secure for the day and then go home.

The supervisor shall determine if the employee can telework and if that is possible, the employee must be instructed to do so. However, if teleworking is not possible, then the employee shall be placed on administrative leave while waiting for test results.

Status of Employee Who Does Not Get Tested as Instructed by Supervisor:

Employees who do not get tested as instructed by their supervisor may have not been tested due to the following:

- Requested to be exempted and awaiting review and possible approval
- Reasons beyond the control of the Employee that are due to the Government's situation
- An excuse not covered under the previous two reasons

For employees that have requested to be exempted and awaiting review and possible approval, see applicable response under: "Requests for Exemptions from COVID-19 Testing" section.

For employees that were not able to be tested due reasons beyond the control of the employee, and due to the Government's situation, the acceptable reasons that will not subject the employee to progressive discipline are: designated testing site was postponed or cancelled, or designated testing site did not have a test available for the employee. Any other reasons that may occur that the employee believes was due to the Government's situation will be handled on a case-by-case basis by the employee's supervisor. Such excuses shall be immediately verified by the supervisor. Once verified and acceptable, these employees shall be rescheduled on the next available Government of Guam Employee Only Designated Testing Site, and required to report to work.

After testing is completed and assuming the employee is negative, the employee shall return to work.

For employees that provide an excuse not covered under the previous two reasons, supervisors must find out what their employees' reason for not being tested on their scheduled test date and notate the reason (e.g. flat tire, traffic, needed to take child to an appointment, etc...). Supervisors will then reschedule their employees on the next available Government of Guam Only Designated Testing Site, and send them home due to non-compliance, and inform them that they are not to report back to work until they have tested. Supervisors will also inform their employees that they will be charged annual leave, until they report to their rescheduled test. If annual leave is exhausted, the department shall place the employee on Leave Without Pay (LWOP) status, until they report to their rescheduled test.

If the supervisor believes the reason provided by the employee as inexcusable, the supervisor shall discuss the matter with their administrator/manager and if the administrator/manager agrees that that the reason is inexcusable, then aside from rescheduling their employee, the supervisor must take progressive disciplinary action (see next Section).

Disciplinary Action:

Classified Permanent Employees

For classified permanent employees who do not fully vaccinate, or show proof of being vaccinated, these employees must submit to, and be tested once weekly beginning September 27, 2021 as per Executive Order 2021-17, unless exempted from such requirements. These employees shall only be scheduled at the Government of Guam Employee Only Designated COVID-19 Testing Sites (see applicable Section above).

For employees that do not submit to, and be tested once weekly, or if they do, they do not do so on a consistent basis, AND the Department has determined that the employees' reason(s) are inexcusable, Departments must follow progressive discipline, and exclude them from the workplace and charge them charged annual leave, until they report to their rescheduled test. If annual leave is exhausted, the department shall place the employee on Leave Without Pay (LWOP) status, until they report to their rescheduled test.

As in the case of progressive discipline, supervisors are to document all information related to the event where due to an inexcusable reason, their employee did not submit to, and get tested to meet their once weekly requirement.

The following table below indicates in general, action that should be followed if an employee who must submit to and test once weekly AND does NOT do so based on inexcusable reasons four (4) times. This table is not absolute and there may be situations which may require Departments to discipline employees on a case-by-case basis.

If there are any questions, please consult your department's administrative personnel who assist you with adverse action matters. Also, you may go to DOA's Human Resources Division web page at: www.hr.doa.guam.gov/branches and click on the "Employee Management Relations" link located on the right-hand side, then scroll down and download the "Taking Adverse Action", and "Guide to Taking Adverse Action" documents. These documents describe the different corrective and formal actions and procedures to take adverse action. You may contact the supervisor of the Employee Management Relations Branch, Ms. Kathryn Diaz, at 475-1249 or via email at: kathryn.diaz@doa.guam.gov (with Mr. Francis Flisco, Personnel Specialist IV, copied on your email: francis.flisco@doa.guam.gov) for further guidance.

No. of Times Employee does not submit to and test once weekly based on inexcusable reason	Supervisor's Action	Comment
1 st infraction – Date?	Counsel (Informal Corrective Action - supervisor calls to the employee's attention the employee's infraction, encourages to improve & comply)	Recommend to counsel employee on the day of but no later than the day after infraction. Document counseling session.

2 nd infraction – Date?	Letter of Warning (LOW) (Informal Corrective Action- In writing, supervisor calls attention that employee committed 2 nd infraction, encourages to comply & advises consequences may occur such as a LOR if commits infraction again)	Recommend to prepare LOW on the day of but no later than the day after infraction and sit down with employee to issue LOW and discuss. Have employee acknowledge receiving & maintain copy.
3 rd infraction – Date?	Letter of Reprimand (LOR) – (Formal Disciplinary Action-In writing, supervisor points out the 3 rd infraction, mention dates & content of previous discussions, copy will be in official Personnel File for 1 year, LOR must include statement that any additional infraction of not submitting to and testing once weekly that is inexcusable will result in adverse action being pursued.)	Recommend to prepare LOR on the day of but no later than the day after infraction and sit down with employee to issue and discuss. Have employee acknowledge receiving & maintain copy.
4 th infraction – Date?	Supervisor recommends to Management Adverse Action. If approved, Department prepares Notice of Proposed Adverse Action (NOPAA)	90 days time limit begins the day after the 4th infraction. This is when management knew or should have known the facts or events which form the alleged basis for the adverse action.
	Notice of Proposed Adverse Action (NOPAA)	Issue to employee on or before the 70 th day of the beginning of the 90 days time limit.
	Employee's Answer to NOPAA	Employee given 10 calendar days to respond.
	Department Head's Decision and Issuance of Final Notice of Adverse Action (FNOAA)	FNOAA is issued to employee within 10 calendar days after Employee's time period to answer has expired.

Disciplinary Action For Probationary and Unclassified Employees:

Probationary employees and Unclassified employees such as those under temporary, limited term, contractual, or serve at the pleasure of the appointing authority/Governor and do not attain permanent status are not subject to the Adverse Action Procedures in the DOA Personnel Rules and Regulations, and have no civil service protection.

For Probationary and Unclassified employees who do not comply with the Executive Order by not being fully vaccinated, or submit to once weekly testing and are not exempted from such requirements, Departments must counsel these employees and inform them that non-compliance may result in termination. In the event Department Heads wish to terminate these employees due to non-compliance, they should issue them a termination letter with an effective date of termination, and prepare the GG-1 and route through normal routing procedures.

Requests for Exemptions from Vaccination:

Inform employees (and non-employees) who want to request to be exempted from vaccination based on medical reasons, such as a disability to submit their request to the Department of Public Health & Social Services (DPHSS), instead of the Department of Administration.

These employees (and non-employees) must submit an official request with supporting documents to: publichealth@dphss.guam.gov, or deliver their request to the Immunization Program of DPHSS, located at Castle Mall, Unit #9, 130 University Drive, Mangilao, Guam 96913, from 8:00 a.m. to 12:00 p.m., Monday through Friday except on recognized Government of Guam holidays. Employees (and non-employees) may continue to work while waiting for issuance of DPHSS exemption; however, beginning September 27, 2021, if they are still waiting, or have submitted their request after this date, they must submit to once weekly COVID-19 testing.

Employees (and non-employees) shall provide a copy of DPHSS' decision on their request for exemption to their Department's Vaccination Status Coordinator (VSC). The VSC shall confidentially maintain the exemption. The VSC will inform the employee's (and non-employee's) supervisor of their approved/disapproved exemption. The VSC will not reveal any medically related information, unless authorized by the employee/non-employee.

Employees (and non-employees) who receive medical exemptions shall be required to undergo a COVID-19 PCR, or antigen test once weekly.

Employees (and non-employees) who are NOT approved by DPHSS for a medical exemption to being vaccinated shall be required to undergo a COVID-19 PCR, or antigen test once weekly.

Employees (and non-employees) who do not want to be vaccinated due to a sincerely held religious belief do not need to seek an exemption because their accommodation is to undergo a COVID-19 PCR, or antigen test once weekly.

Requests for Exemptions from COVID-19 Testing:

Inform employees that must submit to once weekly COVID-19 testing, and want to request to be exempted, are only able to do so based on medical reasons. These employees are to submit their official requests in writing directly to the DOA's Equal Employment Opportunity Specialist, Mr. Robert Taitano, or via email at: robert.taitano@doa.guam.gov. As part of their requests, the employees are to inform Mr. Taitano of their Department's Vaccination Status Coordinator's name and contact information. The employees' requests will be reviewed by the DOA's Human Resources Division and Mr. Taitano will inform the employee and VSC of the decision.

Employees who have requested an exemption from DOA may continue to work prior to September 24, 2021. Department Heads must ensure that after September 24, 2021, employees who have not yet been granted exemptions from DOA for Testing remain at home until such exemption is approved. Employees shall be on annual leave or Leave Without Pay (for those employees who have exhausted their leave) status while at home.

Non-employees cannot request for an exemption from COVID-19 Testing since there is no requirement to accommodate them. Department Heads shall inform the non-employees that they cannot work/volunteer at their department, thank them for their assistance, and contact their responsible department/organization (if any), to inform them of the situation.

Employees shall provide a copy of DOA's decision on their request for exemption to their Department's Vaccination Status Coordinator (VSC). The VSC shall confidentially maintain the exemption. The VSC will inform the employee's supervisor of their employee's approved/disapproved exemption. The VSC will not reveal any medically related information, unless authorized by the Worker.

Employees whose request for exemption from COVID-19 testing are NOT approved shall be required to undergo a COVID-19 PCR, or antigen test once weekly.

Employees who receive an exemption from COVID-19 testing shall NOT be required to undergo a COVID-19 PCR test, antigen test, or other test utilized by DPHSS once weekly; in this instance, see next section, "Employees who are Exempted from Vaccination AND Testing for COVID-19 Testing".

Employees who are Exempted from Vaccination AND Testing for COVID-19:

For employees who are exempted from vaccination AND Testing for COVID-19, Department Heads must determine if these workers can telework (i.e. work from home). If they can, Department Heads must make the necessary arrangements to allow their employees and to instruct them to do so immediately.

For those employees who cannot telework based on their current duties, Department Heads are to determine if they can telework based on other duties that they are qualified for and if necessary, officially detail these employees to these other positions of the same pay grade within their departments.

During the time period that Department Heads are attempting to find other duties to accommodate their employees, Department Heads are to send these employees home on administrative leave with the understanding that they may be contacted to telework, or recalled back to their work site and to update their supervisor on a daily basis as to their status and any change in contact information. Department Heads are to advise these employees that failure to make contact with their supervisor daily will result in leave without pay for that particular day and subsequent days should the employee continue to not make contact with their supervisor. In addition, disciplinary action will be taken.

For employees that cannot be accommodated in any way, they are to be sent home on administrative leave until such time they are contacted by their supervisor in the event duties are identified that will allow teleworking, or recalled back to their work site.

Supervisors shall require these employees to contact them daily to update them on their status and any change in contact information. Supervisors are to advise these employees that failure to make contact with their supervisor daily will result in being charged annual leave for that particular day, and subsequent days should the employee continue to not make contact with their supervisor. In addition, disciplinary action may be taken.

Reporting of Exemptions:

Any exemptions that are approved either by the DPHSS, or DOA must now be included in the two reports required pursuant to the DOA Circular, under the heading of "Approved Exemptions".

Acceptable Proof of Vaccination:

For employees and non-employees that have vaccinated, providing one of the following which indicates either a single shot of the Johnson & Johnson vaccine, or the two shot Pfizer, or Moderna series of vaccine are acceptable proof of vaccination:

1. Self-attestation that the employee signs stating that the employee has been fully vaccinated and acknowledges that falsification about being fully vaccinated are grounds for disciplinary action, up to and including dismissal/termination, and/or exclusion from the workplace (see attached Self-Attestation form);
2. Photo or copy of their COVID-19 Vaccination Record Card;
3. Vaccination document from their healthcare provider;
4. Printed WebIZ documentation of vaccination information;
5. Personal digital COVID-19 vaccine record or similar document issued by another State, local or foreign governmental jurisdiction;

6. Showing their vaccination card, or valid vaccination document from their healthcare provider to their Department's Vaccination Status Coordinator. The VSC shall write on the employee's Certification of Vaccination Status Form the type of document shown to the proving vaccination (i.e. COVID-19 Vaccination Record Card, etc...), the name of the vaccine taken by the employee, the date that the employee was inoculated with their final shot, and name of the site vaccinated. The VSC will sign and date next to the information; or
7. Other proof as approved by the DPHSS and provided to the VSC.

Employees who have Reconsidered their Decision to be Vaccinated:

For employees who either declined to be vaccinated, and/or declined to submit to once weekly COVID-19 testing, and now want to be vaccinated, may do so, however they must still submit to once weekly testing until they have completed their vaccination by having been inoculated by either a single shot of the Johnson & Johnson vaccine, or the two shot Pfizer, or Moderna series, and have provided proof of being completely vaccinated to their VSC. The VSC shall in turn update the employee's supervisor of their employee's change in status. Once the employee has submitted proof of being completely vaccinated, they will no longer be required to submit to once weekly testing.

Employees who are identified as Close Contacts and have been instructed by DPHSS to Quarantine:

For employees that DPHSS has identified as not being positive for COVID-19, but as a close contact and quarantined, employees must immediately inform their supervisor and provide proof of being quarantined, and the date that their quarantine began.

Departments must immediately determine if their employees can telework (i.e. work from home) for the duration of their quarantine. If they can, Department Heads must make the necessary arrangements to allow their employees and to instruct them to do so immediately.

For employees who cannot telework based on their current duties, Department Heads are to determine if they can telework based on other duties that they are qualified for and temporarily assign these employees to these other duties within their departments.

For employees that Departments have identified as not being able to telework, administrative leave shall be authorized.

Supervisors must inform their employees that after five (5) days has elapsed from the first day of quarantine, employees must submit to a COVID-19 test at a GovGuam employee only designated testing site on the 6th day, or the closest day to the 6th day.

If the employee undergoes a test where the employee can receive test results in minutes, the employee must stay at the testing site until the employee receives their results. However, if the employee undergoes a test where it will take 24 hours or more to receive the results, then the employee must return home and shall continue to either telework, or continue to be on administrative leave if applicable while waiting for test results.

The employee must inform their supervisor of their result over the phone as soon as they obtain their test result. If the employee tests negative, then the employee must return to work by the next work day after receiving their negative test result.

If, however, an employee test results are positive, then the employee shall isolate at home. If the employee has symptoms, the employee shall be placed on sick leave status and charged leave accordingly. However, if the employee does not feel any symptoms (i.e. asymptomatic), the employee may request to telework if such work can be accomplished at home, rather than be charged sick leave. Once the employee develops symptoms, the employee must cease teleworking and be placed on sick leave status and charged leave accordingly. If the employee's sick leave is exhausted, then the department shall charge its employee annual leave. If annual leave is exhausted, the department shall place the employee on Leave Without Pay (LWOP) status.

Employees who are identified as Positive for COVID-19 and have been instructed by DPHSS to Isolate:

For an employee who tests positive for COVID-19, the employee shall isolate at home following DPHSS guidelines. If the employee develops symptoms, the employees shall be placed on sick leave status and charged leave accordingly. However, if the employee does not feel any symptoms (i.e. asymptomatic), the employee may request to telework if such work can be accomplished at home, rather than be charged sick leave. Once the employee develops symptoms, the employee must cease teleworking and be placed on sick leave status and charged leave accordingly. If the employees' sick leave is exhausted, then the department shall charge their employees' annual leave. If annual leave is exhausted, the department shall place their employees on Leave Without Pay (LWOP) status.

Fully Vaccinated Employees who undergo a COVID-19 test based on testing on their own and not related to Executive Order 2021-17:

The following applies to fully vaccinated employees. They are employees who are not under the requirement of the once weekly testing pursuant to the Executive Order 2021-17:

Fully vaccinated employees may on their own, undergo testing for COVID-19 because they believe that they were exposed to someone such as a family member, or they are sick and want to check if they have COVID-19. These employees must be encouraged to test outside of their normal work schedule. However, if there are no available testing sites, they may request their supervisor to be tested during their normal working hours, at their supervisor's discretion depending on workload. Employee's may be eligible for administrative leave, however, they must request and receive permission BEFORE being tested in order to be considered for administrative leave.

Vaccinated employees who are not currently on sick leave and want to be tested to check if they are infected with COVID-19, and have permission from their supervisor to do so during working hours, are authorized up to three (3) hours of administrative leave, or actual time taken, whichever is less to be tested, no more than once every two (2) weeks.

Vaccinated employees who are on sick leave status and want to be tested to check if they are infected with COVID-19, may be tested during normal working hours, if they request and receive approval from their supervisor before being tested. For those that are approved, they are authorized up to three (3) hours of administrative leave, or actual time taken, whichever is less to be tested, no more than once every two (2) weeks.

They may attempt to go to the Government of Guam Only Designated Testing Sites, however priority will be given to those employees who have opted for the once weekly testing pursuant to the executive order.

New Employees Processing:

DOA Circular 2021-025 advised Departments that their hiring coordinators are to inform all new hires of the requirements of the Executive Order upon selection. They are to provide proof of vaccination, or show a negative PCR, or antigen test result within seven (7) days of the effective date of hire to their hiring coordinators. This Circular updates this information specific to new employees as follows:

1. Hiring Coordinators will inform all applicants that are offered the job, that their job offer is contingent upon them **FIRST**, clearing their pre-employment drug test, **AND SECOND**, providing provide proof of being fully vaccinated with one of the three approved vaccines, **OR** a negative COVID-19 PCR, or antigen test result.
2. Fully vaccinated means either a single shot of the Johnson & Johnson vaccine, or the two shot Pfizer, or Moderna series of vaccine.
3. **Inform the applicant that is offered the job and has cleared drug testing that the vaccination/test result information must be provided within five (5) days of being informed of the job offer. If it is not, then the hiring department shall rescind the job offer.**
4. The effective date of hire cannot be any earlier than six (6) days from the date the new hire was informed of the requirements to provide the above-mentioned proof.
5. If the new hire opts to test, the new hire may only undergo testing at the DPHSS testing site open to the public, or their healthcare provider (at their expense if any), and not a Government of Guam Employee Designated Testing Site, since they are not yet an employee.
6. The COVID-19 test must be taken no earlier than the day the new hire was informed of the requirements to provide the above-mentioned proof.
7. If the new hire is only partially vaccinated (meaning has had only one shot of either the two shot Pfizer or Moderna), at the time of being informed of the vaccination/test requirements, then the new hire may still be brought on board, however the new hire must undergo once weekly testing until the second shot has been administered.
8. The hiring coordinator shall forward the proof of full vaccination, or test results to the Vaccine Status Coordinator, and also inform the new hire's supervisor of their new employee's vaccine status, especially if the new hire needs to be scheduled for once weekly testing.

9. If the applicant who is offered the job wishes to officially requests for a medical exemption to be vaccinated from DPHSS, or officially requests for a medical exemption from DOA to undergo testing, the applicant must be advised that they must do so within five (5) days of being offered the job and provide proof to the hiring department of their official request(s). If the hiring department receives such request(s) within the five (5) days, then the hiring department must hold their hiring in abeyance until the decision is made on both requests, and the applicant who is offered the job informs their hiring department of said decision(s), or until ten (10) days have elapsed, whichever comes first. **If ten (10) days has elapsed and the hiring department has not been informed by the applicant of the results of the medical exemption(s) request, then the job offer shall be rescinded.**

If the applicant is denied by both departments, then the hiring department will rescind the job offer.

If the applicant is approved to be exempted from vaccination, but not from testing, the applicant must submit proof of a negative PCR, or antigen test result within five (5) days of being informed of this requirement to their hiring coordinator.

If the applicant is approved by both departments for medical exemptions, then the hiring department must determine if the applicant can telework for the job hired. If the applicant can telework, then the hiring department shall proceed with the process of onboarding the applicant as a new employee, and allow the new employee to telework.

If however, the hiring department determines that the applicant CANNOT telework, then the job offer shall be rescinded.



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for
08/13/21

August 13, 2021

Department of Administration Organizational Circular: 2021-025

MEMORANDUM

To: All Line Departments and Agency Heads

From: Director, Department of Administration

Subject: Requirement of Government of Guam Executive Branch Workers to Vaccinate Against COVID-19 Guidance
RE: Executive Order No. 2021-17

Buenas yan Hafa Adai! On August 6, 2021, the Governor of Guam issued Executive Order No. 2021-17, relative to requiring Government of Guam Executive Branch workers to vaccinate against COVID-19, effective August 9, 2021 (attached). All full-time and part-time employees and volunteers (herein referred to as "workers") of the executive branch line agencies, regardless of whether paid or unpaid, shall be required to be fully vaccinated with either a single shot of the Johnson & Johnson vaccine, or the two shot Pfizer, or Moderna series **no later than September 24, 2021**.

Workers who decline to receive a COVID-19 vaccination, or do not provide proof of such vaccination, are required to undergo a COVID-19 PCR or antigen test once weekly. Workers who do not get vaccinated due to medical reasons, such as a disability, or a sincerely held religious belief shall also be accommodated by undergoing a COVID-19 PCR or antigen test once weekly.

In limited circumstances, there may be workers who can neither be vaccinated nor tested on a regular basis due to medical reasons, such as a disability. In accordance with applicable law, these individuals may be asked to submit supporting documentation for any such claim of exemption. If any worker seeks to be exempted on this basis, please take note of their request and refer their request directly to the Department of Administration's Equal Employment Opportunity Specialist, Mr. Robert Taitano at 475-1123, or via email at: robert.taitano@doa.guam.gov. Please inform Mr. Taitano of your department's point of contact regarding vaccination status matters so he can coordinate his review and advise accordingly.

Employees are allowed three (3) hours of administrative leave or actual time taken, whichever is less, with pay to get their vaccine shot. Employees must provide proof of their vaccination, or testing, to their supervisor or authorizing official upon return to work.

Please inform your department/agency staff of the above-mentioned requirements and the deadline to comply. Inform them that workers who do not comply with the vaccination mandate or submit to testing, or are not otherwise exempt from the requirement to vaccinate or submit to weekly testing shall be subject to disciplinary procedures, which may include progressive disciplinary action and/or involuntary exclusion from the workplace. Be advised that disciplinary action may be taken after September 24, 2021.

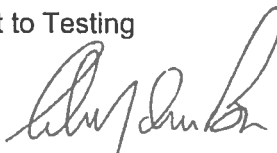
Regarding new hires, have your hiring coordinator within your department inform all new hires of requirements of the Executive Order upon selection. New hires must provide proof of vaccination, or show a negative PCR, or antigen test result within seven (7) days of the effective date of hire to your hiring coordinator.

As part of the process of complying with the Executive Order, please begin to identify workers within your department/agency of their vaccination status, and maintain your list of employees and their position titles. Please use the attached form to survey your workers. Be advised that the identification process and information collected is confidential and the vaccination status of your employees is not to be released, except upon request by competent authorities on a case-by-case basis.

In order to monitor compliance with the Executive Order, please have your Vaccination Status Coordinator submit a report of the vaccination status of your workers to our Department every Tuesday before 5:00 p.m. beginning August 24, 2021. Provide two (2) reports, one that indicates actual employees of your department and the other non-employees such as participants from work programs (i.e. Department of Labor program participants) and volunteers. Please submit your report to Administrative Officer, Ms. Carmen Astorga, via email at carmen.astorga@doa.guam.gov.

Both reports must indicate the number of workers under the following categories; do not indicate names:

1. Total number of Employees (Second report – Total number of Non-Employees)
2. Number of Fully Vaccinated
3. Number Not Yet Fully Vaccinated
4. Number that Choose to Submit to Testing
5. Number that Decline to be Vaccinated/Submit to Testing



EDWARD M. BIRN

Attachments

cc: Chief of Staff

GOVERNMENT OF GUAM

Certification of Vaccination Status

Date: _____

Department: _____ Position Title: _____

Name: _____ Signature: _____

Phone No.: _____ Email: _____

Instructions:

Please fill out the information above and checkmark your vaccination status and submit directly to your department's Vaccination Status Coordinator, _____ no later than _____. Your coordinator may be contacted at: _____, or via email at: _____. The information you provide is confidential. If you can neither be vaccinated nor tested on a regular basis due to medical reasons, such as a disability, please checkmark, "I decline to be vaccinated" and contact your coordinator to request to be considered for exemption. Your request will be forwarded to the Department of Administration's Equal Employment Opportunity Specialist for review.

If you are not fully vaccinated at the time of filling out this form, please be advised that the Coordinator will be contacting you on a weekly basis to inquire if your vaccination status has changed. We appreciate your cooperation.

___ **I am fully vaccinated.**

Employees are considered "fully vaccinated" when they have received either a single shot of the Johnson & Johnson, or the two shot Pfizer or Moderna series. Please provide proof of vaccination such as a copy of your CDC Card or from your medical provider to our department appointed Vaccination Status Coordinator: _____. Your information will be confidentially maintained.

___ **I am not yet fully vaccinated.**

I received my first dose of Pfizer or Moderna and am still pending my second dose. I am responsible for coordinating this with my supervisor and may be granted administrative leave, up to three (3) hours, for this purpose if done during working hours.

___ **I have not been vaccinated and opt to submit to PCR or antigen testing once weekly.**

I am aware that if I opt to submit to PCR or antigen testing once weekly, that I am responsible for coordinating this with my supervisor and I must utilize sick or annual leave if done during working hours.

___ **I decline to be vaccinated and decline to be tested for COVID-19 once weekly.**

I am aware that I may request to be exempted as indicated in the instructions; however, if do not intend to seek exemption, or I am not approved for exemption and no accommodations may be made for me, I will be subject to disciplinary procedures, which may include disciplinary action.



**ISLAND OF GUAM
OFFICE OF THE GOVERNOR
HAGĀTRĀ, GUAM 96932
U.S.A.**

EXECUTIVE ORDER NO. 2021-17

**RELATIVE TO REQUIRING GOVERNMENT OF GUAM EXECUTIVE
BRANCH WORKERS TO VACCINATE AGAINST COVID-19**

WHEREAS, on March 14, 2020, I, Lourdes A. Leon Guerrero, *I Maga'hågan Guåhan*, Governor of Guam, acting pursuant to the power provided by the Organic Act of Guam and the laws of Guam, declared a public health emergency in the island of Guam due to dangers posed by the 2019 novel coronavirus ("COVID-19"); and

WHEREAS, since declaring a public health emergency, Guam has suffered One Hundred Forty-Three (143) COVID-19 related deaths; and

WHEREAS, as of the time of this writing, over Eight Thousand Six Hundred (8,600) individuals have tested positive for COVID-19 in Guam; and

WHEREAS, at the peak of COVID-19 hospitalizations in Guam, One Hundred Two (102) individuals were hospitalized for conditions related to COVID-19; and

WHEREAS, since February 19, 2021, the island has been in Pandemic Condition of Readiness 3 ("PCOR 3"), during which most businesses and activities are permitted to operate with moderately restrictive conditions; and

WHEREAS, since June 2020, Guam has relied on the COVID Area Risk ("CAR") Score to assess the risk of COVID-19 spread, which is calculated using three main data points – effective retransmission value, test positivity rate, and new cases per 100,000 persons; and

WHEREAS, Guam's CAR Score has held below five (5) since late November 2020, and, until recently, held below 2.5 since the second week of December 2020; and

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WHEREAS, as part of the vaccination plan, the Department of Public Health and Social Services (“DPHSS”) and the Guam National Guard have led community vaccination clinics; and

WHEREAS, vaccinations have been proven highly effective in preventing individuals from contracting COVID-19 and from suffering severe symptoms if they do contract the disease, which reduces hospitalizations and deaths, and potentially reduces the risk of infection to others; and

WHEREAS, as a result of the dedicated efforts of DPHSS, the Guam National Guard, and our community and military partners, on July 29, 2021, our island achieved its goal of 80% of adult vaccinations, fortifying our island against widespread infection and severe symptoms, and, importantly, reducing the rate of hospitalizations, ensuring that our healthcare system has resources and personnel to treat COVID-19 cases resulting in hospitalizations; and

WHEREAS, having achieved our community goal of 80% adult vaccinations, with the concurrence of DPHSS, the Physicians Advisory Group and the Guam National Guard Surgeon Cell, in Executive Order No 2021-16, I ordered broad reopening of our island’s economy, removing social gathering limitations and capacity limitations at local establishments, while maintaining our mask mandate; and

WHEREAS, notwithstanding the strong effort in our community to achieve this goal, tens of thousands of individuals remain unvaccinated, which renders them still vulnerable to infection, to suffering severe symptoms once infected, and to infecting others; and

WHEREAS, notwithstanding substantial vaccinations within our community, we have experienced a recent surge in positive cases on our island, with our daily new cases averaging 17.6 and our effective retransmission value at 2.0 as of the time of this writing; and

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WHEREAS, due to the recent rise in positive cases and the effective retransmission value number, the CAR Score is calculated at 5.4 as of the time of this writing, the highest it has been in 2021; and

WHEREAS, as of the time of this writing, over Three Thousand (3,000) adults ages 60 and over, our most vulnerable population, remain unvaccinated; and

WHEREAS, unvaccinated individuals in Guam presently test positive for COVID-19 at a rate that is thirteen (13) times higher than fully vaccinated individuals; and

WHEREAS, COVID-19 cases in the United States have surged due to the prevalence of the highly infectious Delta variant, and while Guam had previously intercepted a single case of the Delta variant, it is anticipated that more cases of the Delta variant may already be present in Guam; and

WHEREAS, recent data suggests that the viral load is roughly One Thousand (1,000) times higher in people infected with the Delta variant than those infected with the original coronavirus strain; and

WHEREAS, while a period of increased positive cases is a natural and anticipated consequence of broader reopening, it is necessary that we take steps as a community to protect ourselves and each other from continued spread of this disease, particularly among our most vulnerable populations; and

WHEREAS, the risk posed to our community by exposure to the COVID-19 virus is demonstrably mitigated as the rate of vaccination in our community rises; and

WHEREAS, Title 10 Chapter 3 Section 3322(b) of the Guam Code Annotated provides that in case of an epidemic or to control a possible epidemic of a communicable disease, the Director of DPHSS may direct that the general population be vaccinated and immunized against said disease; and

WHEREAS, Title 10 Chapter 19 Section 19603 of the Guam Code Annotated provides further that during a state of public health emergency, DPHSS may exercise emergency powers over persons including vaccinating persons as protection against infectious disease and to prevent spread of contagious or possibly contagious disease; and

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WHEREAS, on May 28, 2021, the U.S. Equal Employment Opportunity Commission (“EEOC”) issued technical guidance clarifying that federal EEO laws do not prevent employers from requiring all employees physically entering the workplace to be vaccinated for COVID-19, subject to reasonable accommodations as provided in Title VII of the Americans with Disabilities Act and other federal employment discrimination laws, which may require an employer to provide reasonable accommodations for employees who do not get vaccinated for COVID-19 because of a disability or a sincerely held religious belief, practice or observance; and

WHEREAS, on July 26, 2021, the U.S. Department of Veterans Affairs announced mandatory vaccinations for all Title 38 VA health care personnel working in Veterans Health Administration facilities, who visit VHA facilities, or who provide direct care to VA patients; and

WHEREAS, on July 26, 2021, the U.S. Department of Justice issued a Memorandum Opinion concluding that Section 564 of the Federal Food, Drug and Cosmetic Act permits public and private employers alike to impose the COVID-19 vaccination as a condition of employment even when the vaccine is subject to Emergency Use Authorization; and

WHEREAS, in the seminal, oft-cited case *Jacobson v. Massachusetts*, 197 U.S. 11 (1905), the United States Supreme Court, observing that a community has the right to protect itself against disease that threatens the safety of its members, upheld mandatory vaccinations as a valid exercise of a state’s police powers, subject to specific exemptions; and

WHEREAS, the United States Supreme Court, in *Zucht v. King*, 260 U.S. 174, 176, 43 S. Ct. 24, 25, 67 L. Ed. 194 (1922), reiterated the principle stated in *Jacobson* that it is within the police power of a state to provide for compulsory vaccination; and

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WHEREAS, in *Bridges v. Houston Methodist Hosp.*, No. CV H-21-1774, 2021 WL 2399994 (S.D. Tex. June 12, 2021), the United States District Court for the Southern District of Texas issued an order, dismissing an action for wrongful termination brought by employees of a public hospital subjected to mandatory vaccinations, finding that the employee could freely choose to accept a COVID-19 vaccine or refuse and simply work elsewhere; and

WHEREAS, every U.S. jurisdiction has laws requiring students to receive certain vaccinations to attend school, subject to certain exemptions; and

WHEREAS, in *Klaassen v. Trustees of Indiana Univ.*, No. 1:21-CV-238 DRL, 2021 WL 3073926 (N.D. Ind. July 18, 2021), the United States District Court for the Northern District of Indiana, in a 70-page decision, denied a preliminary injunction to students seeking to enjoin Indiana University from mandating vaccinations (subject to exemptions) as a condition of enrollment, finding that the students had not established a likelihood of success on the merits, and specifically recognizing that the policy did not force vaccinations given that the students had alternatives to taking the vaccine, including applying for an exemption or deferral or attending another university; and

WHEREAS, in *Klaassen v. Trustees of Indiana Univ.*, the court recognized that notwithstanding Emergency Use Authorization of the U.S. COVID-19 vaccines, the FDA, prior to issuing EUAs to U.S. COVID-19 vaccines, required manufacturers to go beyond statutory safety and efficacy requirements and to consult with the FDA on non-clinical components of vaccine distribution and development as clinical trials progressed in order to attain the same level of efficacy data as the FDA would receive for full approval, enough safety data to justify providing the vaccine to healthy individuals, and confirmation of technical procedures and verification steps necessary to support full approval; and

WHEREAS, in *Klaassen v. Trustees of Indiana Univ.*, the court further acknowledged that while the 2-month timeline for the safety follow-up to receive an EUA was indeed shorter than the data of 6-month monitoring of severe adverse events after clinical trials conclude necessary for full approval, the FDA's acceptance of the 2-month follow-up was made in light of its expert assessment and experience that significant latent negative outcomes associated with vaccinations typically occur within 6 weeks of receipt of a vaccination; and

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WHEREAS, over one hundred sixty-five million Americans are fully vaccinated against COVID-19, including over one hundred thousand in Guam; and

WHEREAS, outside of anecdotal references, there is simply no substantial evidence that the COVID-19 vaccines are harmful, and to the contrary, it is beyond reasonable dispute that the vaccines reduce the risk of infection and death; and

WHEREAS, it is beyond reasonable dispute that these vaccines save lives; and

WHEREAS, employers are responsible for the safety of their employees in the workplace; and

WHEREAS, the government of Guam is the largest employer on the island; and

WHEREAS, with the concurrence and support of DPHSS, the Physicians Advisory Group, and the Guam National Guard Surgeon Cell, it is timely, necessary, and appropriate, given the availability of safe vaccines and the dangers COVID-19 continues to pose, particularly the Delta variant that is prevalent in U.S. jurisdictions, for the executive branch of the government of Guam to take the difficult but critical step of mandating COVID-19 vaccinations for its employees; and

WHEREAS, mandating vaccinations for executive branch employees will ensure the safety of our employees, particularly our frontline and front-facing employees who engage with the public; and

WHEREAS, it is important that we continue to be mindful of the reality that the COVID-19 pandemic remains a threat to our safety as a community, and that we all exercise personal judgment, and take steps as individuals towards protecting ourselves and our loved ones against this disease, including getting vaccinated; and

WHEREAS, we must encourage our friends and family, especially those with comorbidity factors, to get vaccinated, keep themselves and their loved ones safe, and do their part to help achieve herd immunity on our island; and

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WHEREAS, as our community works to recover from this global pandemic's impact on our lives, it is important to recognize that the emergency has not yet ended and that we are now, and will continue to be for some time, engaged in emergency response; and

WHEREAS, with continued practice of the basic mitigation measures of washing hands and wearing masks, we will continue to make strides towards containing the spread of COVID-19 on our island, and keeping our community safe.

NOW THEREFORE, I, LOURDES A. LEON GUERRERO, *I Maga'hågan Guåhan*, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam as amended, do hereby order:

- 1. MANDATORY COVID-19 VACCINATIONS FOR EXECUTIVE BRANCH WORKERS.** Effective Monday, August 9, 2021, all workers of the executive branch agencies of the government of Guam shall be required to receive one of the three authorized COVID-19 vaccines. Workers shall be fully vaccinated with either a single shot of the Johnson & Johnson or the two shot Pfizer or Moderna series no later than September 24, 2021.

In the event a worker declines to receive a COVID-19 vaccination or provide proof of such vaccination, they will be required to test for COVID-19 with a PCR or antigen test once weekly. Non-exempt workers are required to vaccinate or submit to weekly testing as provided herein, or they shall be subject to disciplinary procedures, which may include disciplinary action.

- a. **Applicability.** This Section shall apply to full-time or part-time employees and volunteers of executive branch line agencies, regardless of whether paid or unpaid.
- b. **Vaccination Clinics.** Executive Branch line agencies shall coordinate with DPHSS and the Guam National Guard for the scheduling of vaccination clinics at their respective agencies. Individual workers may make personal arrangements to get vaccinated, and provide proof of vaccination to their respective agencies according to the aforementioned deadlines.
- c. **Records.** Executive branch line agencies shall, consistent with applicable privacy laws and regulations, maintain records of workers' vaccination status, declination forms, and/or testing results as applicable and provide such records to DPHSS upon request.

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2. **USE OF THE GUAM COVID ALERT APP ENCOURAGED.** All residents with smartphone capability are encouraged to download the Guam COVID Alert app, which will alert individuals who may have been exposed to another individual who has tested positive for COVID-19. The app is free, and available to download for Apple and Android devices.
3. **SEVERABILITY.** If any provision of this Executive Order or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Order that can be given effect without the invalid provision or application, and to this end, the provisions of this order are severable.
4. **PRIOR ORDERS REMAIN IN EFFECT.** All prior Executive Orders remain in full force and effect except to the extent they conflict with this Order.

SIGNED AND PROMULGATED at Hagátña, Guam, this 6th day of August, 2021.

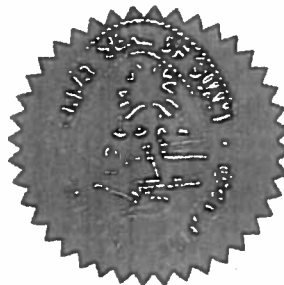
Lou de Leon Guerrero

LOURDES A. LEON GUERRERO
Maga'hågan Guåhan
Governor of Guam

Attested by:

Joshua F. Tenorio

JOSHUA F. TENORIO
Sigundo Maga'låhen Guåhan
Lieutenant Governor of Guam



GOVERNMENT OF GUAM

SELF-ATTESTATION OF COVID-19 VACCINATION FORM

This self-attestation of being fully vaccinated with one of the three authorized COVID-19 vaccines will meet the requirements of providing proof of vaccination for the "I am fully vaccinated" choice on the **Government of Guam Certification of Vaccination Status form** which was distributed based on Department of Administration Organizational Circular: 2021-025. After completion, please submit to your Vaccination Status Coordinator, and inform your supervisor.

I, _____, Position Title: _____

from Department of: _____, hereby self-attest and declare that I have been fully vaccinated with one of the following COVID-19 vaccines: Pfizer-BioNTech, Moderna, or Johnson & Johnson.

I received my second dose (Pfizer-BioNTech/Moderna), or single dose of Johnson & Johnson Vaccine on the date of: _____, at the location of: _____.

I understand and acknowledge that, if any fact stated in this Self-Attestation is false, I may be subject to disciplinary action, up to and including dismissal/termination, and/or involuntary exclusion from the workplace.

Signature: _____ Date: _____

Phone No.: _____ Email: _____