



State of Utah

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State Public Health Order 2021-11

Updated School Face Mask and Test to Play Order

WHEREAS, Novel Coronavirus Disease 2019 (COVID-19) has been characterized by the World Health Organization as a worldwide pandemic caused by Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2), a virus that spreads easily from person to person and can cause serious illness or death;

WHEREAS, COVID-19 has and continues to spread and cause serious illness and death to Utah residents, threatening public health and wellness throughout the state;

WHEREAS, an infected individual can transmit COVID-19 even if the individual does not present symptoms or know that the individual is infected;

WHEREAS, the Centers for Disease Control (CDC) has called on Americans to wear face coverings;

WHEREAS, SARS-CoV-2 testing of 1,041 school contacts of 51 index patients across 20 elementary schools in Utah, during a period of high community transmission, revealed a 0.7% transmission rate when mask adherence was high;

WHEREAS, Utah Code § 26-1-30(3) requires and authorizes the Utah Department of Health (the "Department") to promote and protect the health and wellness of the people within the state;

WHEREAS, Utah Code §§ 26-1-30(5) and 26-6-3 require and authorize the Department to investigate and control the causes of epidemic, infectious, communicable and other diseases affecting the public health;

WHEREAS, Utah Code §§ 26-1-30(6) and 26-6-3 require and authorize the Department to prevent and control communicable infectious, acute, chronic, or any other disease or health hazard that the Department considers to be dangerous, important, or likely to affect the public health;

WHEREAS, Utah Code § 26-1-10 authorizes the executive director of the Department to issue public health orders to enforce state laws, including Utah Code §§ 26-1-30 and 26-6-3;

WHEREAS, published scientific research has shown that properly wearing a face mask can reduce the risk of viral spread and exposure up to 79%;

WHEREAS, Utah Code § 26-6-33(2) terminates any public health order in effect pertaining to COVID-19, other than orders pertaining to K-12 schools, when the state's COVID-19 14 day case rate is less than 191 per 100,000 people; the statewide seven-day average COVID-19 ICU utilization is less than 15%; and 1,633,000 prime doses of a COVID-19 vaccine has been allocated to the State;

WHEREAS, the criteria requiring termination of certain public health orders pertaining to COVID-19 has been met;

WHEREAS, transmission rates for school-aged children in close contact, such as occurs in school or with participation in sports, can range from 20% to over 50%;

WHEREAS, a growing number of studies in school settings with universal mask use have shown transmission rates of COVID-19 can be reduced to as low as 1% to 2%, while keeping schools open to in-person instruction;

WHEREAS, students and staff should be allowed to participate in in-person learning as safely as possible while lessening the burden of quarantine on students and their families, teachers, and school administrators.

WHEREAS, the CDC advises that the level of precautions taken should be determined by the characteristics of the unvaccinated people, who remain unprotected against COVID-19, and all K-12 students younger than age 16 are not vaccine eligible;

Based on the foregoing, in accordance with the authority vested in me as the Executive Director of the Utah Department of Health by Utah Code §§ 26-1-10, 26-1-30, and 26-6-3, and being fully advised and finding the factual basis and legal requirements have been established;

NOW, THEREFORE, I, Richard Saunders, Executive Director of the Utah Department of Health, hereby order the following:

1. Definitions. As used in this Order:

- a. “COVID-19” means:
 - i. severe acute respiratory syndrome coronavirus 2; or
 - ii. the disease caused by severe acute respiratory syndrome coronavirus 2.
- b. “COVID-19 test” means a test authorized by the FDA as a diagnostic test to determine current COVID-19 infection.
- c. “Department” means the Department of Health created in Utah Code § 26-1-8.
- d. “Extracurricular activity” means an activity, a course, or a program that is:
 - i. not directly related to delivering instruction;
 - ii. not a curricular activity or co-curricular activity as those terms are defined in Utah Code § 53G-7-501; and
 - iii. provided, sponsored, or supported by a school or a public or private institution of higher education, including a degree-granting institution or a technical college.
- e. “Face mask” means a mask that completely covers the nose and mouth, is made of tightly woven synthetic or natural fabrics, and fits snugly against the nose and sides of the face and under the chin. “Face mask” does not include a mask with an exhalation valve, vent, or other hole or opening, or a mask that is crocheted or made of lace, mesh, or similar open weblike construction or material.
- f. “Face shield” means a shield that covers the entire face—including the eyes, nostrils, and mouth of the wearer—is made of clear plastic or similar nonpermeable transparent material, and can be used in conjunction with a face mask for enhanced protection. “FDA” means the United States Food and Drug Administration.
- g. “Fully vaccinated” means:
 - i. an individual has been vaccinated with either:
 - A. the second dose in a two-dose series vaccine authorized by the FDA to immunize against COVID-19, including the Pfizer or Moderna COVID-19 vaccines; or
 - B. a single-dose vaccine authorized by the FDA to immunize against COVID-19, including the Johnson & Johnson COVID-19 vaccine; and
 - ii. fourteen or more days have passed since the individual was vaccinated as described in Subsection (1)(i)(i).

- h. “Household” means an individual or a group of individuals who reside in the same residence.
 - i. “Local Education Agency” or “LEA” means:
 - i. a school district;
 - ii. a charter school; or
 - iii. the Utah Schools for the Deaf and the Blind.
 - j. “Person” means the same as that term is defined in Utah Code § 68-3-12.5(18).
 - k. “School” means a school other than an online-only charter school or an online-only public school.
 - l. “School bus” means a vehicle used for district- or school-provided transportation that transports a student to or from a school or a school-sponsored activity.
 - m. “School property” means any real property, including any building, structure, facility, or part thereof, that is owned, leased, occupied, or controlled by a school.
2. **Face mask requirement.** Each individual on school property or on a school bus shall wear a face mask, except as provided in Section (3).
3. **Face mask exceptions.**
- a. Notwithstanding any other provision of this Order, an individual required to wear a face mask may remove the face mask in the following situations:
 - i. while outdoors and maintaining at least six feet physical distance from any individual from a separate household;
 - ii. while actively eating or drinking provided that the individual is stationary while eating or drinking;
 - iii. while alone or with only other members of the same household in a room, cubicle, vehicle, or similar enclosure;
 - iv. when communicating with an individual who is deaf or hard of hearing;
 - v. while obtaining or providing a service that requires the temporary removal of the face mask, such as dental services or speech therapy services;
 - vi. while actively performing as an athlete at an organized athletic event authorized under Section (6);
 - vii. while giving an educational, artistic, cultural, musical, or theatrical presentation or performance for an audience;
 - viii. while exercising or engaging in athletic training while:
 - A. outdoors; or
 - B. indoors and maintaining at least six feet of physical distance from any other individual from a separate household.
 - ix. while swimming or on duty as a lifeguard;
 - x. when engaging in work where wearing a face mask would create a risk to the individual, as determined by government safety guidelines;

- xi. when necessary to confirm the individual's identity; and
 - xii. when federal or state law or regulations prohibit wearing a face mask.
- b. The following individuals are exempt from the face mask requirements of this Order:
- i. a child who is younger than three years of age;
 - ii. an individual who is unconscious, incapacitated, or otherwise unable to remove the face mask without assistance;
 - iii. an individual with a medical condition, mental health condition, or intellectual or developmental disability, that prevents the individual from wearing a face mask; and
 - iv. an individual who has an Individualized Education Program (IEP) under the Individuals with Disabilities Education Act, 20 U.S.C. section 1414, or an accommodation under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. section 794, that would necessitate exempting the individual from wearing a face mask.
4. **Proof of medical exemption.** A school may require an individual to provide a medical directive from a Doctor of Medicine (MD), Doctor of Osteopathic Medicine (DO), Physician Assistant (PA), Advanced Practice Registered Nurse (APRN), documenting a need for an exemption under Subsection (3)(b)(iii).
5. **Documentation of accommodation.** For an individual described in Subsection (3)(b)(iv), a local education agency shall document the accommodation in accordance with 34 CFR 104.33(a) as part of the student's IEP or Section 504 accommodation plan.
6. **High school athletic events and extracurricular activities.** A person may not sponsor, host, or participate in a high school sponsored athletic event or extracurricular activity, including a competition or practice, unless:
- a. if the athletic event or extracurricular activity is a recurring athletic event or extracurricular activity, the high school verifies that each participant:
 - i. received a COVID-19 test within 14 days immediately prior to the athletic event or extracurricular activity; or
 - ii. has been fully vaccinated;
 - b. if the athletic event or extracurricular activity is a single-occurring athletic event or extracurricular activity, including a school social dance, the high school requires each attendee to wear a mask; and
 - c. immediately prior to participating in the recurring or single-occurring athletic event or extracurricular activity, including a school social dance, each participant confirms that the participant:
 - i. has completed any quarantine or isolation period required by the COVID-19 School Manual provided by the Department; and
 - ii. is not experiencing any symptom of COVID-19.

7. **Effect on other laws.**

- a. Nothing in this Order may be construed to prohibit a local health department from issuing a health order that is more stringent than this Order.
 - b. This order supersedes State Public Health Orders 2021-2 and 2021-10.
8. **Severability.** If a provision of this Order or the application of a provision to any person or circumstance is held invalid, the remainder of this Order shall be given effect without the invalid provision or application. The provisions of this Order are severable.

This Order is effective May 4, 2021 and shall remain in effect through the end of the 2020-21 school year or June 15, 2021, whichever occurs first, unless otherwise modified, amended, rescinded, or superseded.

Made at 7:00 p.m. the 4th day of May, 2021.

A handwritten signature in black ink, appearing to read "Richard G. Saunders". The signature is fluid and cursive, with the first name "Richard" being more prominent than the last name "Saunders".

Richard G. Saunders
Executive Director
Utah Department of Health