

EXECUTIVE ORDER 2022-010

**FOURTH AMENDED ORDER REQUIRING STATE EMPLOYEES
TO COMPLY WITH CERTAIN PUBLIC HEALTH REQUIREMENTS**

WHEREAS, on January 30, 2020, the World Health Organization ("WHO") announced the emergence of a novel Coronavirus Disease 2019 ("COVID-19") that had not previously circulated in humans, but has been found to have adapted to humans such that it is contagious and easily spread from one person to another and one country to another;

WHEREAS, COVID-19 cases had been confirmed in New Mexico since March 11, 2020, when the New Mexico Department of Health confirmed the first cases of individuals infected with COVID-19 in New Mexico and additional cases have been confirmed each day since then;

WHEREAS, on March 11, 2020, because of the spread of COVID-19, I issued Executive Order 2020-004 declaring a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked my authority under the All Hazards Emergency Management Act;

WHEREAS, I have renewed the declaration of a Public Health Emergency through March 4, 2022;

WHEREAS, the currently available COVID-19 vaccines are a safe and effective way of preventing serious illness or death;

WHEREAS, one such highly-transmissible variant, B.1.1.529, commonly known as the Omicron variant, now accounts for the majority of new infections;

WHEREAS, new scientific data demonstrates waning immunity after six months after the primary series of the Pfizer-BioNTech and Moderna vaccines and two months after the Johnson & Johnson's Janssen vaccine, and those with a booster vaccine have reduced risk for a breakthrough infection and serious illness or death;

WHEREAS, the State has recorded a significant increase in new COVID-19 cases in recent weeks;

WHEREAS, the further spread of COVID-19 in the State of New Mexico poses a threat to the health, safety, and wellbeing of all New Mexicans;

WHEREAS, State employees who become ill cannot adequately perform their duties, which disrupts the orderly operation of State government;

WHEREAS, the Food and Drug Administration (FDA) has approved every adult for a booster dose six months after the completion of the individual's primary series of vaccination with Pfizer- BioNTech and Moderna vaccines or two months after the completion of the individual's primary series of vaccination with Johnson & Johnson's Janssen vaccine, and the Centers for Disease Control and Prevention (CDC) has stated recently that all adults 18 and over should receive a booster vaccine;

WHEREAS, it is of critical importance to ensure that State employees receive boosters doses of the vaccine, if eligible, to fight rising rates of spread; and

WHEREAS, regular testing, masks, and social-distancing remain some of the most effective ways to minimize the spread of COVID-19.

NOW THEREFORE, I, Michelle Lujan Grisham, Governor of the State of New Mexico, by virtue of the authority vested in me by the Constitution and laws of the State of New Mexico, hereby ORDER and DIRECT as follows:

1. State employees shall comply with the provisions regarding the use of masks contained in the operative Public Health Order issued by the Secretary of the Department of Health during the course and scope of their employment.

2. State employees who (i) are not fully vaccinated against COVID-19, as defined by the Centers for Disease Control and Prevention; (ii) have not received a booster dose of the vaccine, if eligible according to the FDA, by February 17, 2022, or within four weeks of becoming eligible; or (iii) are not willing and able to provide adequate proof or such vaccination shall provide adequate proof that the employee has tested negative for COVID-19 on a weekly basis.

3. Any state employee who is not fully vaccinated or has not received a booster dose of the vaccine, if eligible, and who tests positive for COVID-19 may return to work following the completion of any mandatory isolation period prescribed by the New Mexico Department of Health. A negative COVID-19 test result is not required to return to work, provided the employee completes the mandatory isolation period. All

such employees who test positive for COVID-19 shall be exempt from the testing requirement in Paragraph 2 for a period of 90 days following the date of the employee's positive COVID-19 result.

4. Employees who refuse to abide by the above requirements may be subject to disciplinary action, up to and including termination, in accordance with applicable law.

5. State agencies shall ensure, consistent with law, that any documentation related to vaccination status, healthcare directives, or test results are not disclosed to individuals other than those necessary to ensure compliance with this Order.

6. The New Mexico State Personnel Office shall provide agencies with guidance on the full implementation and administration this Order.

I FURTHER ORDER and DIRECT as follows:

1. This Order supersedes any previous orders, proclamations, policies or directives to the extent they are in conflict.

2. This Order shall take effect immediately, and shall remain in effect until renewed, modified, or rescinded.

ATTEST:

/ S /

MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

DONE AT THE EXECUTIVE OFFICE
THIS 17TH DAY OF FEBRUARY 2022

WITNESS MY HAND AND THE GREAT
SEAL OF THE STATE OF NEW MEXICO

/ S /

MICHELLE LUJAN GRISHAM GOVERNOR