



For Immediate Release:

August 20, 2021

Educators and Support Staff Respond to School Employee Vaccine Mandate Order

Board of Education (BOE) Union Coalition statement on Governor Ned Lamont's latest executive order

The Board of Education (BOE) Union Coalition is reacting to Governor Ned Lamont's Executive Order No.13D (EO-13D) concerning mandatory school employee COVID-19 vaccination. EO-13D will apply to educators and school support staff effective September 27, 2021 who have not received at least their first dose of the vaccine. The order allows exceptions for a religious or medical exemption, as well as an alternative optional weekly testing requirement.

Union leaders and our membership are committed to working with employers and the Lamont Administration to implement creative and effective solutions to reduce the spread of COVID-19 throughout Connecticut. However, it is clear that the issues surrounding mandated vaccines and testing must be bargained at the negotiation table.

Throughout the pandemic, our educators and support staff rose to the challenge and provided their students a quality public education experience, whether remote, in-person or a hybrid of both. Along with our brothers and sisters in the private sector, they have continued to provide vital services to Connecticut residents, despite the obvious risks to themselves and their families. Their dedication to carrying out these services has been unwavering since the delta variant threatened a full-scale resurgence and is just the latest example of our members' continued commitment to mitigating the spread of the virus.

The BOE Union Coalition is a strong advocate of doing all we can to protect the safety of members and the public in these unprecedented times. We recognize that under state and federal law, employers have the right to create such mandates, subject to the duty to bargain its impact on employees. We will continue to fight for safety in the workplace and the rights of each and every individual employee.

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The Board of Education Union Coalition represents over 60,000 public school employees (teachers and non-certified education personnel) across the state and includes members in the following labor federations and their affiliated unions: AFSCME, AFT Connecticut, CEA, CSEA SEIU Local 2001, CEUI, MEUI, and UAW.

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Attached -

Connecticut Governor Ned Lamont's Executive Order 13D

STATE OF CONNECTICUT

BY HIS EXCELLENCY

NED LAMONT

EXECUTIVE ORDER NO. 13D

**PROTECTION OF PUBLIC HEALTH AND SAFETY DURING COVID-19 PANDEMIC –
VACCINATIONS REQUIRED FOR STATE EMPLOYEES, SCHOOL EMPLOYEES
AND CHILDCARE FACILITY STAFF**

WHEREAS, on March 10, 2020, I declared public health and civil preparedness emergencies throughout the State of Connecticut in response to the coronavirus disease 2019 (COVID-19) outbreak caused by the SARS-CoV-2 virus in the United States and Connecticut; and

WHEREAS, on several occasions since March 10, 2020, acting within my authority pursuant to Sections 19a-131 and 28-9 of the Connecticut General Statutes as well as Special Acts 21-2, 21-4, and 21-5 of the General Assembly, and in response to the continued need to respond adequately to the COVID-19 pandemic, I renewed the declarations of public health and civil preparedness emergencies and also issued new declarations of public health and civil preparedness emergencies; and

WHEREAS, pursuant to such declarations, I have issued various executive orders to protect public health, limit transmission of COVID-19, and mitigate the effects of the COVID-19 pandemic; and

WHEREAS, COVID-19 is a respiratory disease that spreads easily from person to person and may result in serious illness or death; and

WHEREAS, the World Health Organization has declared the COVID-19 outbreak a pandemic; and

WHEREAS, the Delta variant of COVID-19 is highly contagious and spreads more easily and quickly than other COVID-19 variants; and

WHEREAS, according to the Centers for Disease Control and Prevention (CDC) and Connecticut Department of Public Health (DPH), the number of COVID-19 cases associated with the Delta variant and the overall rate of infection and hospitalization has increased significantly in Connecticut, such that the CDC considers transmission to be high in multiple Connecticut counties; and

WHEREAS, COVID-19 vaccines are safe and effective, were evaluated in clinical trials involving tens of thousands of participants and met the U.S. Food & Drug Administration's rigorous scientific standards for safety, effectiveness, and manufacturing quality needed to support emergency use authorization; and

WHEREAS, on July 6, 2021, the Office of Legal Counsel of the United States Department of Justice issued a legal opinion stating that federal and state governments were not prohibited by federal law from imposing vaccination mandates, even when the only vaccines available are those authorized under U.S. Food and Drug Administration Emergency Use Authorizations; and

WHEREAS, vaccination is the most effective means of preventing infection, hospitalization, and death from COVID-19 and of limiting transmission and outbreaks of the disease, and is therefore a critical tool to respond to and slow the ongoing pandemic; and

WHEREAS, vaccines are widely available in Connecticut; and

WHEREAS, on August 14, 2021, the number of children hospitalized in the United States with COVID-19 hit a record high of more than 1,900 cases; and

WHEREAS, safe, full, in-person learning for students in Connecticut is a priority, especially following studies that show students benefit from in-person learning in schools; and

WHEREAS, mandating vaccination helps schools safely return to in-person learning as well as extracurricular and sports activities that enrich students' emotional and social well-being; and

WHEREAS, state hospital employees work in settings where the risk of COVID-19 infection is higher because of the concentration of large numbers of people and the presence of people with underlying conditions or compromised immune systems; and

WHEREAS, the significant percentage of unvaccinated staff in congregate settings, hospital settings, schools, and childcare facilities increases the risk of COVID-19 transmission and places this vulnerable population at increased risk of severe symptoms, hospitalization, and death; and

WHEREAS, such risks are heightened greatly for children who may not be able to receive the vaccine because of their age; for patients in hospital settings who, for medical reasons, are unable to receive a vaccination but do not have the option of avoiding such settings, and for people whose medical conditions reduce their immune response; and

WHEREAS, increasing the percentage of vaccinated persons, particularly those in hospital settings, congregate settings, school workers, and individuals in child care settings will better protect co-workers, residents, students, and patients and reduce the likelihood of spread of the infection as well as restrictions on visitation and in-person learning; and

WHEREAS, it is the duty of every employer to protect the health and safety of employees by establishing and maintaining a healthy and safe work environment and by requiring all employees to comply with health and safety measures; and

WHEREAS, state employees provide essential services to the public and interact with the public on a regular basis, and because of the nature of their work, a significant portion of state employees are not able to work remotely; and

WHEREAS, the increase in infections and hospitalizations has led to increased requirements for use of protective masks in indoor settings and, without the measures detailed in this order to limit the surge in infections, could result in additional impediments to conducting social, civic, recreational and business activity and significant disruptions to in-person schooling; and

WHEREAS, responding to and treating outbreaks of COVID-19 consumes priority healthcare and emergency management resources including personnel, hospital beds, and personal protective equipment, jeopardizing the efficient operation of the statewide healthcare infrastructure and thereby endangering public health and safety and civil preparedness; and

WHEREAS, multiple large employers throughout the State of Connecticut, in recognition of the urgent need to protect their employees, customers, and fellow residents, have announced that they intend to require employees to receive COVID-19 vaccinations, and all public and private employers are encouraged to join this collective effort to protect the public health; and

WHEREAS, the COVID-19 pandemic remains a grave threat to public health and safety and civil preparedness in the State of Connecticut;

NOW, THEREFORE, I, NED LAMONT, Governor of the State of Connecticut, by virtue of the authority vested in me by the Constitution and the laws of the State of Connecticut, do hereby **ORDER AND DIRECT**:

1. **Definitions.** For purposes of this order, the following definitions shall apply:
 - a. “Fully vaccinated” means at least 14 days have elapsed since a person has received the final dose of a vaccine approved for use against COVID-19 by the U.S. Food and Drug Administration, [or as otherwise defined by the Centers for Disease Control](#).
 - b. “State Hospital employee” refers to any person who is employed by or provides any services in the Albert J. Solnit Children’s Center-South, Whiting Forensic Hospital, John Dempsey Hospital, or Connecticut Valley Hospital, or any state employee or state contractor whose job duties require them to make regular or frequent visits to such facilities, or to long-term care facilities as defined in Executive Order No. 13B.
 - c. “State employee” refers to any employee or contractor of the executive branch, including all agencies and constitutional offices, whose primary place of work is in or on property owned or controlled by the state, but not a contractor or employee of an outside vendor who visits properties owned or controlled by the state only to provide one-time or limited-duration repairs, services, or construction.

- d. “Child Care Facilities” refers to Child Care Centers, Group Child Care Homes, and Family Child Care Homes as defined in Section 19a-77 of Connecticut General Statutes and Youth Camps as defined in Section 19a-420 of Connecticut General Statutes, provided the Youth Camp is operating during the school year.
- e. “School Board” refers to the operator of any public or non-public pre-K through grade 12 school.
- f. “Covered Worker” refers to all employees, both full and part-time, contractors, providers, assistants, substitutes, and other individuals working in a public or non-public pre-K to grade 12 school or Child Care Facility, including individuals providing operational or custodial services or administrative support or any person whose job duties require them to make regular or frequent visits to any such schools. Covered Worker does not include a contractor or employee of an outside vendor who visits a public or non-public pre-K through grade 12 school or Child Care Facility only to provide one-time or limited-duration repairs, services, or construction, or a volunteer.
- g. “Covered State Agency” means any state government entity that employs, contracts for services from, or provides a workspace for any state employee, as defined in subsection d. of this section.

2. **COVID-19 Vaccination Requirements.** Vaccines shall be required as provided below.

a. **State Employees and State Hospital Employees.**

- i. On or before September 27, 2021, a state hospital employee and a state employee shall: (1) be fully vaccinated against COVID-19, (2) have received the first dose and have either received a second dose or have an appointment for the second dose in a two-dose series vaccination, such as Pfizer or Moderna vaccines, or has received a single-dose vaccine, such as Johnson & Johnson’s Janssen vaccine, or (3) be exempt from this requirement because a physician, physician’s assistant, or advanced practice registered nurse determined that the administration of COVID-19 vaccine is likely to be detrimental to the health of the state employee or state hospital employee, or the state employee or state hospital employee objects to vaccination on the basis of a sincerely held religious or spiritual belief, and the state employee or state hospital employee is able to perform her or his essential job functions with a reasonable accommodation

that is not an undue burden on the state agency, provided that any state hospital employee or state employee claiming such exemption such shall apply for an exemption due to medical conditions or sincerely held religious or spiritual beliefs. Each request for an exemption will be considered on an individualized, case by case basis. Employees who have applied for an exemption must provide appropriate supporting documentation upon request; and

- ii. A covered state agency that employs or contracts for the services of a state hospital employee shall authenticate the vaccination status of all individuals subject to this order, maintain documentation of the vaccination or exemption of such individuals and report compliance with this order, in a form and manner directed by the Department of Public Health without adoption of such requirements by regulation in accordance with Chapter 54 of the Connecticut General Statutes; and
- iii. After September 27, 2021, no covered state agency shall employ, or contract for the provision of services from, any person subject to subsection (a)(i) or (a)(ii) of this section and is not exempt who has received the first dose of a two-dose series vaccination but fails to receive the second dose on the appropriate date as recommended by CDC or at the scheduled appointment without good cause.
- iv. Nothing in this order shall impair or disturb any agreements that the University of Connecticut has negotiated with its employees in the unclassified service.

b. School Boards and Child Care Facilities.

- i. On or before September 27, 2021, school boards and child care facilities shall, prior to extending an offer of employment to, or entering into a contract for the in-person services of, a covered worker or an entity that employs a covered worker, require that any covered worker (1) is fully vaccinated against COVID-19, (2) has received the first dose and has either received a second dose or has an appointment for the second dose in a two-dose series vaccination, such as Pfizer or Moderna vaccines, or has received a single-dose vaccine, such as Johnson & Johnson's Janssen vaccine, (3) is exempt from this requirement because a physician, physician's assistant, or advanced practice registered nurse determined

that the administration of COVID-19 vaccine is likely to be detrimental to the covered worker's health, or the covered worker objects to vaccination on the basis of a sincerely held religious or spiritual belief, and the covered worker is able to perform their essential job functions with a reasonable accommodation that is not an undue burden on the school board or child care facility; provided that any school board or childcare facility employee claiming such exemption shall apply for an exemption due to medical conditions or sincerely held religious or spiritual beliefs. Each request for an exemption will be considered on an individualized, case by case basis. Employees who have applied for an exemption must provide appropriate supporting documentation upon request; and

- ii. After September 27, 2021, a school board or childcare facility shall not employ, or maintain a contract for the provision of in-person services of, any covered worker or an entity that employs a covered worker, unless such covered worker (1) is fully vaccinated against COVID-19, (2) has received the first dose and has either received a second dose or has an appointment for the second dose in a two-dose series vaccination, such as Pfizer or Moderna vaccines, or has received a single-dose vaccine, such as Johnson & Johnson's Janssen vaccine, or (3) is exempt from this requirement because a physician, physician's assistant, or advanced practice registered nurse determined that the administration of COVID-19 vaccine is likely to be detrimental to the covered worker's health, or the individual objects to vaccination on the basis of a sincerely held religious or spiritual belief, and the covered worker is able to perform their essential job functions with a reasonable accommodation that is not an undue burden on the school board or child care facility; provided that any school board or childcare facility employee claiming such exemption shall apply for an exemption due to medical conditions or sincerely held religious or spiritual beliefs. Each request for an exemption will be considered on an individualized, case by case basis. Employees who have applied for an exemption must provide appropriate supporting documentation upon request; and
- iii. After September 27, 2021, no school board or child care facility shall employ, or contract for the provision of services from, any covered worker or entity that employs a covered

worker subject to subsection (b)(i) or (b)(ii) of this section and is not exempt who has received the first dose of a two-dose series vaccination but fails to receive the second dose on the appropriate date as recommended by CDC or at the scheduled appointment without good cause.

3. Vaccination Verification and Testing for State Employees and Covered Workers

a. State Employees

- i. A covered state agency that employs or contracts for the services of any state employee shall authenticate the vaccination status of the state employees, maintain documentation of vaccination or exemption of such individuals and report compliance with this order, in a form and manner directed by the Department of Public Health without adoption of such requirements by regulation in accordance with Chapter 54 of the Connecticut General Statutes.
- ii. A covered state agency that employs or contracts for the services of state employees shall implement a policy, or where applicable direct a contractor to implement a policy, that requires state employees who have not demonstrated proof of full vaccination to submit to COVID-19 testing once per week on an ongoing basis until fully vaccinated and to provide the adequate proof of the results of the testing on a weekly basis to the applicable state agency. This requirement shall take effect on September 27, 2021.

b. Covered Workers.

- i. A school board or childcare facility shall authenticate, or where applicable require that the contractor providing the services of a covered worker authenticate, the vaccination status of covered workers, maintain documentation of vaccination or exemption of such covered workers and report compliance with this order, in a form and manner directed by the Department of Public Health without adoption of such requirements by regulation in accordance with Chapter 54 of the Connecticut General Statutes.
- ii. implement a policy, or where applicable direct a contractor of a covered worker to implement a policy, that requires covered workers who have not demonstrated proof of either full

vaccination to submit to COVID-19 testing one time per week on an ongoing basis until fully vaccinated and to provide adequate proof of the test results on a weekly basis to the school board or child care facility. This requirement shall take effect on September 27, 2021.

- c. **Acceptable Proof of Vaccination.** State employees, state hospital employees, and covered workers may demonstrate proof of vaccination by providing one of the following: (1) CDC COVID-19 Vaccination Record Card or photo of the Vaccination Record Card; (2) Documentation from a health care provider or electronic health care records; or (3) State Immunization Information record. Personal attestation will not be accepted as an acceptable form of proof of a COVID-19 vaccination. The Commissioner of Public Health may promulgate binding standards for authentication of a Vaccination Record Card.

4. **Violations and Enforcement**

- a. Any state hospital employee, state employee, or covered worker who fails to comply with this order shall not be allowed on the premises of a state agency, school board, or child care facility until the individual provides adequate proof of compliance or without prior written authorization of the employer.
- b. Any school board or child care facility shall be in violation of this order when it permits a covered worker who has not complied with this order to be in a public or private pre-K through grade 12 school or a child care facility. A school board or child care facility also commits a violation if it fails to maintain documentation of vaccination, testing, or allowable exemptions as required by this order.
- c. Section 10-145 of the Connecticut General Statutes is modified to additionally provide:

If the State Department of Education determines that a school board, as defined in this order, is not in compliance with this order, the State Department of Education may require the school board to forfeit a portion of the total sum which is paid to such school board from the State Treasury in an amount to be determined by the Commissioner of Education, which amount shall be not less than one thousand dollars nor more than ten thousand dollars. The amount so forfeited shall be withheld from a grant payment, as determined by the Commissioner, during the fiscal year following the fiscal year in

which noncompliance is determined pursuant to this subsection. Notwithstanding the penalty provision of this section, the Commissioner of Education may waive such forfeiture if the Commissioner determines that the failure of a school board to comply with such a provision was due to circumstances beyond its control.

- d. Section 19a-87b-15 of the Regulations of Connecticut State Agencies is modified to provide that a violation of this order shall constitute a basis upon which the Office of Early Childhood may take enforcement action under that section against any child care facility, as defined herein.
- e. Nothing in this section shall be construed to limit, alter, modify, or suspend any disciplinary action, penalties, or remedies otherwise provided by law or other valid authority.

This order shall take effect immediately and remain in effect through September 30, 2021 unless earlier modified or terminated.

Dated at Hartford, Connecticut, this 19th day of August, 2021.



Ned Lamont
Governor



By His Excellency's Command



Denise W. Merrill
Secretary of the State