

In the Matter of Imposing)	CHIEF JUSTICE ORDER
Vaccination Requirement)	No. 21-039
)	
)	ORDER IMPOSING VACCINATION
)	REQUIREMENT
)	

I HEREBY FIND AS FOLLOWS:

1. ORS 1.002 provides that the Chief Justice of the Oregon Supreme Court is the administrative head of the judicial department of government in this state; shall exercise administrative authority and supervision over the courts of this state consistent with applicable provisions of law; and, to facilitate exercise of that administrative authority and supervision, may make rules and issue orders as appropriate or take any other action appropriate to perform the functions of the office of Chief Justice.
2. On March 8, 2020, Governor Kate Brown signed Executive Order 20-03, which declared a state of emergency because of the threat that the COVID-19 coronavirus posed to public health and safety (hereafter, "COVID-19 state of emergency"). On June 25, 2021, Governor Brown issued Executive Order 21-15, which extended the COVID-19 state of emergency to December 31, 2021, but otherwise rescinded earlier Executive Orders.
3. Between December 11, 2020, and February 27, 2021, the U.S. Food and Drug Administration (FDA) issued an emergency use authorization for three COVID-19 vaccines for individuals either 16 or 18 years of age, or older.
4. On July 27, 2021, the Centers for Disease Control and Prevention (CDC) issued Guidance to the effect that local decision-makers should assess certain factors to inform the need for prevention strategies to minimize preventable morbidity and mortality related to COVID-19, including the level of COVID-19 transmission, health system capacity, vaccination coverage, capacity for early detection of increases in COVID-19 cases, and populations at risk for severe outcomes from COVID-19.
5. On August 13, 2021, as a result of the rapid and extensive spread of the highly contagious Delta variant of COVID-19, Governor Brown signed Executive Order 21-29, which requires state executive branch employees to be fully vaccinated against COVID-19 by six weeks from the date when the FDA fully approves a vaccine or by October 18, 2021, whichever is later, with an exception available for individuals unable to be vaccinated due to disability, qualifying medical condition, or sincerely held religious belief. As part of announcing that action, the Governor encouraged the judicial and legislative branches to institute the same vaccination requirement as will apply to executive branch employees, to try to mitigate this public health crisis. She also cited new modeling from the Oregon Health Authority (OHA) and the Oregon Health & Science University projecting that, without new health and safety interventions in place, COVID-19 hospitalizations would far exceed Oregon's health system capacity within the next several weeks.
6. On August 23, 2021, the FDA fully approved one of the three current available vaccines, to be named Comirnaty, for individuals 16 years of age and older. The CDC states that COVID-19 vaccinations are effective at helping protect against severe disease and

death from currently circulating variants of the virus that causes COVID-19, including the Delta variant. Additionally, OHA states that vaccination is the safest and most effective public health tool for preventing disease and death.

7. On August 24, 2021, Governor Brown announced that the Delta variant had created a level of crisis not yet seen during the pandemic in Oregon, with statewide cases of COVID-19 and hospitalizations at a record high. The variant also has significantly impacted court operations across the state.
8. To prevent the risk of the spread of the COVID-19 virus in our courts and disruptions to court operations, to reduce the risk of spread in our communities, including to those who cannot be vaccinated, to alleviate the ongoing strain on our local and statewide healthcare systems, and to keep those working in and entering our courthouses safe, our goal is that as many judges and staff as possible become vaccinated as soon as possible, except for those who are unable to do so.
9. On August 24, 2021, I sent a message to all Oregon Judicial Department (OJD) judges and staff, reporting that likely at least 80% of judges and staff were vaccinated against COVID-19, and asking those who were not, but who were able to do so, to become vaccinated as soon as possible. As part of that effort, I asked court and division leaders to speak to unvaccinated judges and staff individually, to listen to their concerns, and to find answers to questions. Additionally, our OJD Marshal's Office webpage is being updated daily with new educational and accurate information about COVID-19 and the effectiveness of vaccines to mitigate the spread and the risk posed by the Delta variant, and to protect public health. Although those efforts have thankfully persuaded some judges and staff to become vaccinated, they have not been sufficient to reach our goal, and unvaccinated individuals continue pose a risk to those working in and entering our courthouses; a risk to the continuity of our court operations; a risk to the health of our communities, including to those who cannot be vaccinated; and a strain on our local and statewide healthcare systems. To further ensure that our goal is achieved, I have determined that the vaccination requirement set out in this order is required.

In issuing this Order, I have considered the Governor's actions and encouragement that the judicial branch take similar action to the executive branch; CDC Guidance and OHA recommendations; current risk levels across Oregon's judicial districts; the jurors and potential jurors who are required to report to our courts; the need to maintain access to justice and protect the vulnerable populations that our courts serve; and the need to act so that judges, court staff, and the public are protected.

This Order is based on the foregoing and on currently available information concerning the risks and spread of the COVID-19 virus, and the effectiveness of vaccines, and may be revised as further information becomes available or as directives from the Governor or guidance from health authorities change.

I hereby ORDER as follows:

1. Definitions. As used in this order:
 - a. "Administrative Authority" means, as to any judge, the Presiding Judge; as to any staff, "Administrative Authority" has the meaning set out in Judicial Department Personnel Rule 2.01.

- b. “Court facility” means the courthouse or any alternative physical location being used by the court or the Office of the State Court Administrator, but not any part of a building or location that is not under the court’s control.
- c. “Fully vaccinated” means that at least 14 days have passed since a person received the full number of doses required by the specific COVID-19 vaccine maker.
- d. “Judge” means:
 - (1) A member of the Oregon Supreme Court, the Oregon Court of Appeals, the Oregon Tax Court, or an Oregon Circuit Court;
 - (2) A senior judge serving as a judge in an Oregon state court, pursuant to ORS 1.300;
 - (3) A retired judge member serving as a Plan B judge in an Oregon state court, pursuant to ORS 238.535;
 - (4) A person acting as a judge pro tempore in any Oregon state court, pursuant ORS 1.600 to 1.675;
 - (5) A person acting as a reference judge in an Oregon circuit court, pursuant to ORS 3.300 to 3.321;
 - (6) A person serving as a referee in any Oregon circuit court, pursuant to ORS 419A.150; and
 - (7) A person serving as a special master in any Oregon state court pursuant to ORCP 65 or other provision of law or by court order.
- e. “OJD Temporary Policy” means the OJD Temporary Policy During COVID-19-Related Restrictions on Court Operations, as updated per the requirements set out in this order.
- f. “Providing proof” of either receiving a COVID-19 vaccine dose or administration of a COVID-19 test means showing or providing proof to the Administrative Authority or designee, as described or required in the OJD Temporary Policy.
- g. “Staff” means Oregon Judicial Department employees.

2. Vaccination requirement

Except as otherwise provided in paragraph 3,

- a. All judges and staff must have received one dose of a COVID-19 vaccine before October 1, 2021, and must provide proof before October 1, 2021.
- b. All judges and staff must have received a second dose of a COVID-19 vaccine that requires two doses before October 1, 2021, or within 35 days after receiving

the first dose, whichever is later, and must provide proof before October 1 or 35 days later, whichever is applicable.

3. Exception to vaccination requirement

- a. A judge or staff who is unable to be vaccinated due to a documented medical condition, disability, or sincerely held religious belief may qualify for an exception from the vaccination requirement, to the extent required by state or federal law.
- b. A judge or staff who has submitted a timely request for an exception that is pending, or who has been granted an exception, is exempt from the vaccination requirement set out in paragraph 2, but is subject to the testing requirement set out in paragraph 4.
- c. The time and process for requesting an exception are as follows:
 - (1) A request for an exception must be submitted before October 1, 2021.
 - (2) A judge seeking an exception may submit an exception request to the Executive Services Division in the Office of the State Court Administrator, for decision by the Chief Justice.
 - (3) Staff seeking an exception may submit an exception request to the Human Resource Services Division in the Office of the State Court Administrator, for decision by the Human Resource Services Division Director.

4. Testing requirement

- a. This paragraph applies to:
 - (1) A judge or staff who has submitted proof of vaccination under paragraph 2, but who has not yet reached fully vaccinated status; and
 - (2) A judge or staff who has submitted a timely request for an exception under paragraph 3 that is pending, or who has been granted an exception.
- b. Beginning October 4, 2021, any judge or staff described in subparagraph 4.a. must be tested for COVID-19 and provide proof of test administration.
- c. The following apply to the testing requirement:
 - (1) Testing shall be done twice per scheduled workweek, with the first test on the first day of the workweek and at least one day in between the two days of testing, for judges and full-time staff, with the Administrative Authority determining an appropriate alternative schedule for part-time staff;
 - (2) OJD shall provide both weekly tests, for the judge or employee to self-administer;

- (3) The Administrative Authority must permit a reasonable amount of paid time to staff to complete the required testing, as provided in the OJD Temporary Policy; and
- (4) The judge or staff must provide proof of administration of each COVID-19 test required under this paragraph, as provided in the OJD Temporary Policy.

5. Failure to comply

a. Except as provided in subparagraph 5.b.,


- (1) If a judge does not comply with either subparagraph 2.a. or 2.b., or, if applicable, paragraph 4,
 - (A) The Chief Justice will send a complaint about the judge's conduct to the Commission on Judicial Fitness and Disability; and
 - (B) The Chief Justice will request that the Oregon Supreme Court suspend the judge whose conduct is the subject of that complaint from exercising any judicial function during the pendency of any Commission investigation or proceeding.
- (2) If a staff person does not comply with either subparagraph 2.a. or 2.b., or, if applicable, paragraph 4, that staff will be issued a notice of layoff and placed on unpaid leave, and will not be permitted to work for OJD, as provided in the OJD Temporary Policy.

b. An Administrative Authority may, on request, permit additional time for a judge or staff to comply with paragraph 2 if:

- (1) The judge or staff submitted a timely request for an exception under paragraph 3, but the request was not granted; and
- (2) The additional time provided is the minimum amount of time necessary for the judge or staff to schedule and receive one dose of a COVID-19 vaccine.

6. This order is effective immediately and will remain in effect until amended, superseded, or vacated by further Chief Justice Order.

Dated this 16th day of September, 2021.



Martha L. Walters
Chief Justice