

**GOVERNMENT OF PUERTO RICO
LA FORTALEZA
SAN JUAN, PUERTO RICO**

Administrative Bulletin Number: OE-2022-006

EXECUTIVE ORDER OF THE GOVERNOR OF PUERTO RICO, THE HON. PEDRO R. PIERLUISI, TO REQUIRE PUBLIC EMPLOYEES AND CONTRACTORS OF THE EXECUTIVE BRANCH TO RECEIVE THE COVID-19 VACCINE BOOSTER SHOT, AND AMEND ADMINISTRATIVE BULLETINS NOS. OE-2021-075 AND OE-2022-003 IN ORDER TO EXTEND THE DEADLINE FOR STUDENTS TO COMPLY WITH THE COVID-19 VACCINATION MANDATE.

WHEREAS:

Since March 12, 2020— after the first cases of the disease known as COVID-19, which is caused by the new SARS-CoV2 coronavirus, were reported on the island— we have been in a state of emergency. From said date on, countless strategies have been implemented to control the pandemic, including the face mask and social distancing mandates, and the requirement for certain important sectors of our society to be vaccinated against the virus or show a negative COVID-19 test result, subject to certain exceptions and alternatives available.

WHEREAS:

The data furnished by the Department of Health of Puerto Rico shows that the daily average of confirmed cases is 901 positive cases, and 1,390 probable cases. Moreover, the statistics show a significant number of COVID-19 hospitalizations with a total of 647 people, divided into 601 adults and 46 children. Adult cases occupy 9% of the available hospital beds. Regarding intensive care units, today, 19% of hospital beds in this ward are occupied by COVID-19 patients. As to pediatric cases, 4% of the available hospital beds in this ward are occupied by these patients, whereas the available hospital beds at the pediatric intensive care units occupied by these patients are 3%.

Moreover, the positivity rate, that is, the percentage of people who test positive to the virus out of all the people who get tested, reached 23.62%. Lastly, the daily deaths average is 14.

WHEREAS:

Section 5.10 of Act No. 20-2017, as amended, known as the “Puerto Rico Public Safety Department Act,” empowers me, as the Governor of Puerto Rico, to declare a state of emergency or disaster on our Island, and



subsequently enact any measures as are necessary for the duration of the emergency to manage it in order to protect the safety, health, and property of all the residents of Puerto Rico.

WHEREAS: Subsection (b) of Section 5.10 of Act No. 20-2017, provides that the Governor of Puerto Rico may prescribe, amend, and revoke any regulations as well as issue, amend, and rescind such orders as deemed convenient which shall be in effect for the duration of the state of emergency or disaster. Regulations prescribed or orders issued during a state of emergency shall have force of law for the duration of the state of emergency or disaster.

WHEREAS: The Government of Puerto Rico has the responsibility to continue making all efforts as necessary to prevent and stop the spread of COVID-19, as well as to safeguard the health, life, and safety of the residents of Puerto Rico and visitors alike.

WHEREAS: The power to govern a people entails a great responsibility of ensuring that the population is safe and secure. In turn, the State's police power — as delegated to the Executive Power under Act No. 20-2017— empowers the government to take measures as are necessary to protect the health and safety of its population. In other words, it is the inherent power of the State that allows it to create and promote regulations in general in order to protect the health, safety, and general welfare. In order to achieve these benefits in favor of the community, the State has the power to restrict certain personal interests, which are not absolute.

WHEREAS: As it has been reiterated in other executive orders promulgated to address the pandemic, scientific proof shows that vaccination is the most effective measure to control COVID-19. However, the Centers for Disease Control and Prevention (CDC) and the U.S. Food and Drug Administration (FDA) have stated that, even though COVID-19 vaccines continue to be effective to prevent becoming seriously ill, recent data suggests that vaccine effectiveness in preventing infection or symptoms declines over time. This decline in effectiveness is probably due to the combination between the decline in protection over time since the date of vaccination and the fact that the predominant variants are more contagious.



Hence, the aforementioned official entities have stated that clinical trial data has shown that a booster shot increases immune response in persons who completed the primary series of the authorized or approved vaccines. Thus, by increasing their immune response, people should have better protection against COVID-19 infection.

WHEREAS:

Regarding infection, the official CDC statistics show the effectiveness of the booster shot. The data shows that for every 100,000 residents, 450.90 unvaccinated individuals, 133.83 vaccinated individuals, and 48.02 vaccinated individuals with a booster shot get infected. In turn, statistics show that unvaccinated individuals are 10 times more likely to test positive for COVID-19 than vaccinated individuals with a booster shot, and 20 times more likely to die. Hence, fully vaccinated individuals who received a booster shot reported a lower rate of cases compared to those who did not receive an additional dose or a booster shot. Moreover, both groups had a much lower risk to test positive to COVID-19 and to die from COVID-19 compared to unvaccinated individuals.

WHEREAS:

Regarding the effectiveness of the vaccine in preventing hospitalization, the CDC has concluded that unvaccinated people 18 years or older are 8 times more likely to be hospitalized than vaccinated people. In the specific case of people between the ages of 18 and 49 the risk is higher for they are 12 times more likely to be hospitalized. Unvaccinated minors between the ages of 12 and 17 are 10 times more likely to be hospitalized than those unvaccinated[sic].

WHEREAS:

Since late last year, the CDC informed that the predominant variant in the United States of America is Omicron. For such reason, the CDC has indicated that the new Omicron variant underscores even more the importance of the vaccine, the booster shot, and the necessary prevention efforts to be protected against COVID-19. It should be noted that, even when these variant may seem less severe it is more contagious and the consequences thereof may be more significant due to the long-term health complications it could cause –known as long COVID-19– such as respiratory failure, blood clotting, multi-organ effects, namely cardiovascular, neurologic, or neurocognitive effects, damages to the



gastrointestinal system and other organs, general wellbeing deficiencies, including discomfort, fatigue, musculoskeletal pain, and diminished quality of life, among other health effects.

WHEREAS:

Given that scientific and medical proof promotes the need for a booster shot, and that the legal framework and case law in effect –as explained in detail in Administrative Bulletin No. OE-2021-075 and which is included as reference and is made part of this Executive Order– has supported the vaccination mandates, it is necessary to incentivize the COVID-19 booster shot for the public employees and contractors of the Executive Branch given that there is a need to strengthen these entities to ensure the continuity of the services offered by the government to the people.

WHEREAS:

Administrative Bulletin No. OE-2021-075 directed all students ages 5 to 11 to be fully vaccinated against COVID-19 by January 31, 2022, in order to attend school in person at the public or private educational institutions. In turn, Administrative Bulletin No. OE-2022-003 directed students 12 years or older to receive a booster shot by February 15, 2022, if they were eligible therefor, in order to attend school in person. However, the information furnished by the Department of Health shows that a significant portion of this population has yet to comply with this mandate. In order to afford our students an opportunity to fulfill this requirement of being fully vaccinated, it is necessary to extend the deadline established therefor to February 21, 2022.

THEREFORE:

I, PEDRO R. PIERLUISI, Governor of Puerto Rico, by virtue of the powers inherent to my office and the authority vested in me by the Constitution and the laws of Puerto Rico, hereby declare and order the following:

Section 1:

VACCINE BOOSTER SHOT REQUIREMENT FOR CERTAIN PERSONNEL OF THE PRIVATE SECTOR. In order to minimize contagion, I hereby order that by February 28, 2022, public employees and contractors of the Executive Branch who work in person or frequently visit the government offices, and are already vaccinated against COVID-19 should receive a booster shot, if eligible therefor, in order to be considered fully vaccinated individuals.

For the purposes of this Executive Order, the booster shot, as defined by the CDC, refers to the additional dose of the vaccine administered to the person in order to boost or restore the protection of the primary vaccine which could have declined over time. Moreover, a person is considered to be eligible to receive a booster shot under the following CDC's guidelines:

1. A person vaccinated against COVID-19 upon receiving the Pfizer-BioNTech vaccine is eligible to receive a booster shot if said person is 12 years and older and at least 5 months have passed after completing the primary COVID-19 vaccination series or receiving an additional primary shot, in the case of immunocompromised persons.

2. A person vaccinated against COVID-19 upon receiving the Moderna vaccine is eligible to receive a booster shot if said person is 18 years and older and at least 5 months have passed after completing the primary COVID-19 vaccination series or receiving an additional primary shot, in the case of immunocompromised persons.

3. A person vaccinated against COVID-19 upon receiving the Johnson & Johnson's Janssen vaccine is eligible to receive a booster shot if said person is 18 years and older and at least 2 months have passed after receiving the sole dose of said vaccine.

If the person cannot receive the booster shot yet, whether because said person is ineligible or because of any other medical condition, said person may fulfill the booster shot requirement when he is able to. A 30-day period from the time said person becomes eligible or said medical condition ceases shall be granted to fulfill this requirement. For instance, in the case of a person who have received a monoclonal antibody treatment, according to medical indications, must wait 90 days in order to receive a booster shot. Hence, such person shall have 30 days after such period of 90 days concludes to receive a booster shot.

As provided in Administrative Bulletin No. OE-2021-075 and this Section, these persons must comply with any of the following conditions:

CERTIFIED TRANSLATION

1. To furnish proof of being fully vaccinated against COVID-19 with an FDA approved or authorized vaccine, or any others included in the World Health Organization (WHO) emergency use listing, including the booster shot for eligible individuals; or

2. If the person is not vaccinated or is vaccinated and is eligible to receive a booster shot and fails to do so, to get tested, at his expense, every seven (7) days through a qualified SARS-CoV-2 viral test (Nucleic Acid Amplification Test (NAAT) or antigen tests) approved by the FDA and processed by an authorized health professional, and furnish his employer with the negative result of said test at least every seven (7) days; or

3. To furnish a positive COVID-19 test result performed within the last three (3) months, together with the pertinent documents of the person's recovery, including a letter from a certified healthcare provider or a government health official certifying that said person is recovered and is ready to be at a public place.

Noncompliance with the foregoing by the public employees shall prevent them from working in person. Hence, the employer may take the applicable measures as pertinent, including allowing said employees to avail themselves of compensatory time, applicable regular leaves, or a leave of absence, as the case may be.

In the case of government contractors or their employees, these may not work in person at the government agency, and the latter may take measures as pertinent with regards to the contracts, which may include, but not be limited to, the termination of the contract.

For the purposes of this Executive Order, the term "employee" shall be interpreted broadly and includes any natural person who works in person for wages, or a salary, a compensation, emoluments, or any type of remuneration from the aforementioned businesses. For the purposes of the vaccination requirement, as established in this Executive Order, any person who renders voluntary services at these places shall also be deemed to be an employee.

Section 2:

AMENDMENT. In order to extend the deadline for students between the ages of 5 and 11 to be able to be fully vaccinated against COVID-19, Section 8 of Administrative Bulletin No. OE-2021-075, as amended, is hereby amended to read as follows:

Section 8. VACCINATION REQUIREMENT FOR THE EDUCATION SECTOR. To avoid affecting the education system and thus ensure the continuation of services, I hereby order that as of the effectiveness of this Executive Order, the following shall be complied with:

A. Students age twelve (12) or older. By virtue of the powers granted by Act No. 81 of March 12, 1912, as amended, and Act No. 25 of September 25, 1983, as amended, I hereby order that students age twelve (12) or older – including college students and students of technical education institutions – of any private or public entity shall be fully vaccinated against COVID-19 in order to attend classes in person, subject to any applicable medical or religious exception, as explained in this section. In the case of an applicable exception, the student shall have two options: 1) get tested, at their expense, every seven (7) days through a qualified SARS-CoV-2 virus test (Nucleic Acid Amplification Test or NAAT or antigen tests) approved by the FDA and processed by an authorized health professional, and furnish the negative result of said test at least every seven (7) days to the director or his delegate; or furnish a positive COVID-19 test result performed within the last three (3) months, together with the pertinent documents of the person's recovery, including a letter from a certified healthcare provider or a government health official certifying that said person is recovered and is ready to be at a public place; or 2) receive online education – if available – or other alternative education.

B. Students ages five (5) to eleven (11). Given that vaccination against COVID-19 was recently approved for children ages five (5) to eleven (11), I hereby order that they shall be fully vaccinated against COVID-19 by February 21, 2022, in order to attend school in person at the public or private educational institutions. Before said date, students may attend school in person if they have received at least the first dose of the primary vaccine series. This mandate shall be subject to any applicable medical or religious exceptions, as explained in this section. If an exception is granted, children ages five (5) to eleven (11) shall not have to furnish a weekly COVID-19 test result. However, random test may be conducted to detect any potential COVID-19 infection. If not eligible for any of the exceptions, the student shall receive online education – if available – or other alternative education.

In those cases where the student turns five (5) years-old after the effectiveness of this Executive Order, such student shall have until January 31, 2022 or sixty (60) days from his birthday, whichever is longer, to complete the vaccination process.

C. Teaching and non-teaching personnel and contractors. I hereby order teaching and non-teaching personnel and contractors of public or private schools, education centers and universities, to be fully vaccinated

– with an FDA approved or authorized vaccine, or any others included in the World Health Organization (WHO) emergency use listing against COVID-19 – in order to be able to offer services to the school community. A person is considered to be eligible to receive a booster shot when he is 18 years of age and complies with the following CDC's guidelines:

1. A person vaccinated against COVID-19 upon receiving the Pfizer-BioNTech and Moderna vaccine is eligible to receive a booster shot if at least six (6) months have passed after completing the primary COVID-19 vaccination series or receiving an additional primary shot, in the case of immunocompromised persons.

2. A person vaccinated against COVID-19 upon receiving the Johnson & Johnson's Janssen vaccine is eligible to receive a booster shot if at least two (2) months have passed after receiving the sole dose of said vaccine.

If the person cannot receive the booster shot yet, whether because said person is ineligible or because of any other medical condition, said person may fulfill the booster shot requirement when he is able to. A thirty (30)- day period from the time said person becomes eligible or said medical condition ceases shall be granted to fulfill this requirement. For instance, in the case of a person who have received a monoclonal antibody treatment, according to medical indications, must wait ninety (90) days in order to receive a booster shot. Hence, such person shall have thirty (30) days after such period of ninety (90) days concludes to receive a booster shot.

The foregoing shall be subject to any applicable medical or religious exception, as explained in this section. In these cases, the employee shall get tested, at his expense, every seven (7) days through a qualified SARS-CoV-2 virus test (Nucleic Acid Amplification Test or NAAT or antigen tests) approved by the FDA and processed by an authorized health professional, and furnish the negative result of said test at least every seven (7) days; or furnish a positive COVID-19 test result performed within the last three (3) months, together with the pertinent documents of the person's recovery, including a letter from a certified healthcare provider or a government health official certifying that said person is recovered and is ready to be at a public place. It shall be understood that for teaching and nonteaching personnel as well as for contractors of schools, educational centers, and universities the virus test or the positive result option shall be available only when they furnish proof of a medical or religious exception.

D. Responsibility. Every director of the educational centers or his delegate, together with the concerned employers –whether public or private– shall be responsible for requiring students, employees, or contractors to furnish the COVID-19 Vaccination Record Card or Vacu-ID

or a document attesting to having completed or begun the COVID-19 vaccination process, as the case may be, or a negative COVID-19 test result from a qualified SARS-CoV-2 virus test (Nucleic Acid Amplification Test or NAAT or antigen tests) or a positive COVID-19 test result performed within the last three (3) months, together with the pertinent documents of the person's recovery.

Moreover, the parents of underage students, students who are of legal age, employees, or contractors shall be responsible for furnishing the COVID-19 Vaccination Record Card or Vacu-ID or document attesting to having completed or begun the COVID-19 vaccination process, as the case may be, or a negative COVID-19 test result from a qualified SARS-CoV-2 virus test (Nucleic Acid Amplification Test or NAAT or antigen tests) or a positive COVID-19 test result performed within the last three (3) months, together with the pertinent documents of the person's recovery. The vaccination record may be furnished in another authorized physical or digital format to certify vaccination.

E. Applicable exceptions. For a medical exception to apply, the parents of underage students, students who are of legal age, employees, or contractors shall prove that his immune system is compromised, he is allergic to the vaccines, or has any other medical contraindication that prevents him from getting vaccinated. This shall be certified by a physician authorized to practice in Puerto Rico. The physician shall also certify the duration of the medical contraindication and whether it is temporary or permanent. In the event that it is temporary, once the contraindication ceases, the person shall fulfill the vaccination or booster shot mandate established in this Order.

Moreover, in the event of an exception on the basis of religious beliefs, the parents of underage students, students who are of legal age, employees, or contractors must furnish an affidavit of religious objection whereby such person – together with his minister or spiritual leader, or by himself– states that on the basis of his sincerely-held religious beliefs, he cannot receive a COVID-19 vaccine. It shall state specifically the nature of his refusal, an explanation as to how fulfilling the vaccination requirement imposes a substantial burden or is in conflict with his sincerely-held religious beliefs, practice, or observance; the time during which said person has observed or practiced said religious beliefs; the type of vaccine refused and if such person has been vaccinated recently. This religious exception does not protect a person based on social, political, economic, or personal preferences. The employer or the school shall assume that the religious exception is based on sincerely-held religious beliefs. However, said employer or school is empowered to require more information to ensure that said beliefs are sincerely-held. The employer or the school, however, may not question the reasonableness of said religious belief.

F. Noncompliance. Failure to comply with the foregoing by the aforementioned persons shall entail the following measures:

a. The student may not attend school in person. The student shall receive online education – if available – or other alternative education.

b. The teaching and non-teaching personnel may not work in person. Hence, the employer shall take the applicable measures as pertinent, including allowing them to avail themselves of compensatory time, applicable regular leaves, or a leave of absence, as applicable.

a[sic]. In the case of contractors, they may not work in person. In the case of a government contractor, the contracting agency may take measures as pertinent regarding the contract executed therewith, which may include, but not be limited to the termination of said contract.

Section 3:

AMENDMENT. In order to extend the deadline for students age 12 and older to comply with the COVID-19 booster shot requirement, Section 2 of Administrative Bulletin No. OE-2022-003, as amended, is hereby amended to read as follows:

SECTION 2. BOOSTER SHOT REQUIREMENT FOR STUDENTS. In order to reduce infections and allow the continuation of in-person classes at schools and universities, I hereby order that, by February 21, 2022, students ages 12 years and older— including university and technical college students— of any public or private institution, who are already vaccinated against COVID-19, should have received a booster shot, if they are eligible therefor, in order to be considered fully vaccinated and be able to attend class in person.

For the purposes of this Executive Order, a booster shot, as defined by the CDC, means an additional dose of a vaccine administered to a person for the purpose of improving protection or restoring waning protection of primary vaccine. Furthermore, a person is eligible to receive a booster shot in accordance with the following CDC guidelines:

1. Individuals ages 12 years and older who received the Pfizer-BioNTech vaccine shall be eligible for a booster shot at least five (5) months after completing the primary vaccine series or an additional principal dose in the case of immunocompromised people.
2. Individuals ages 18 years and older who received the Moderna COVID-19 vaccine shall be eligible to receive a booster shot at least five (5) months after completing the primary vaccine series or an additional principal dose in the case of immunocompromised people.
3. Individuals ages 18 years and older who received the Johnson & Johnson's Janssen COVID-19 vaccine shall be eligible to receive a booster shot at least 2 months after receiving the single dose for such purpose.

If a student is still unable to receive a booster shot, because such student is still not eligible or due to any other condition, he or she shall meet the booster shot requirement as soon as possible. Such student shall have a period of thirty (30) days from the time he or she becomes eligible or the condition ceases to receive a booster shot. For instance, in the case of a person who have received a monoclonal antibody treatment, according to medical indications, must wait 90 days in order to receive a booster shot.

Hence, such person shall have 30 days after such period of 90 days concludes to receive a booster shot.

Thus, pursuant to this Executive Order and to comply with the provisions of Administrative Bulletin No. OE-2021-075 and this Section, students must be fully vaccinated against COVID-19, including the booster shot if eligible therefor, and may only be exempted under an applicable medical or religious exception, as provided in Administrative Bulletin No. OE-2021-075. Should any of these exception applies, students ages 12 years and older shall have two options:

1. Get tested, at their expense, at least every seven (7) days through a qualified SARS-CoV-2 virus test (Nucleic Acid Amplification Test or NAAT or antigen tests) approved by the FDA and processed by an authorized health professional, and present to the director or his or her delegate a negative result of said test at least every seven (7) days; or present a positive COVID-19 test result performed within the last three (3) months, together with the pertinent documentation of the person's recovery, including a letter from a certified healthcare provider or a government health official certifying that said person is recovered and is ready to be at a public place, or
2. Attend online classes— if available— or by any other alternative method.

If the student fails to comply with the foregoing, said student shall not be able to attend school in person. Said student may attend online classes— if available— or by any other alternative method.

The provisions of Section 8 of Administrative Bulletin No. OE-2021-075, as amended, shall apply to students who have not attained the age of 12.



Section 4:

GUIDELINES. The provisions contained in this Executive Order may be defined, reinforced, and supplemented in detail through guidelines issued by the Department of Health, the Human Resources Administration and Transformation Office of the Government of Puerto Rico, and the Office of the Chief of Staff.

Section 5:

NON-CREATION OF ENFORCEABLE RIGHTS. This Executive Order is not intended to create any rights, substantive or procedural, enforceable at law or equity, by any person or entity, in any matter, civil, criminal, or administrative, against the Government of Puerto Rico or its agencies, officials, employees, or any other person.

Section 6:

DEFINITION OF THE TERM AGENCY. For the purposes of this Executive Order, the term “agency” refers to any agency, instrumentality, office, or department of the Executive Branch of the Government of Puerto Rico, including public corporations, regardless of its name.

Section 7: **SEVERABILITY.** The provisions of this Executive Order are separate and independent from each other, and if any part, section, provision, or sentence of this Executive Order is held to be unconstitutional, void, or invalid by a court of competent jurisdiction, such holding shall not affect the validity of the remaining provisions, which shall remain in full force.

Section 8: **REPEALING CLAUSE.** This Executive Order renders ineffective any other executive order that is inconsistent, whether in whole or in part, with the provisions herein to the extent of such inconsistency.

Section 9: **PUBLICATION.** This Executive Order must be filed immediately with the Department of State and the broadest possible publication is hereby ordered.

Section 10: **EFFECTIVENESS.** This Executive Order shall take effect immediately and shall remain in effect until it is rendered ineffective the emergency declared in Administrative Bulletin No. OE-2020-020, or until this Order is amended or repealed by a subsequent order or by law.

IN WITNESS WHEREOF, I hereby issue this Executive Order under my signature and cause the Great Seal of the Government of Puerto Rico to be affixed, in La Fortaleza, San Juan, Puerto Rico, on this 28th day of January of 2022.



PEDRO R. PIERLUISI
GOVERNOR

Promulgated in accordance with the law on this 28th day of January of 2022.

OMAR J. MARRERO DÍAZ
SECRETARY OF STATE