



MILLE LACS BAND OF OJIBWE

Executive Branch of Tribal Government

EXECUTIVE ORDER 2022-01

Executive Order on Ensuring Adequate COVID Safety Standards for Band Employees

Section 1. Policy

This Order promotes the safety and well-being of Mille Lacs Band members and employees of the Executive Branch of government by:

- (a) ensuring that the employees of the Executive Branch of government adhere to the Mandatory Vaccination Policy adopted by this Order;
- (b) encouraging employees to become fully vaccinated, which will reduce the likelihood of experiencing severe disease and hospitalization caused by COVID-19 and, thus, reducing the impact on the Mille Lacs Band's and the United States' health system;
- (c) requiring all employees, regardless of vaccination status, to wear a mask in government workplaces, which will reduce the risk of transmission of COVID-19 to other individuals in the workplace and to the Band members they provide government services to.; and
- (d) requiring employees who are not fully vaccinated to get tested for COVID-19 on a weekly basis.

Section 2. Sources of Authority

The Chief Executive issues this Executive Order pursuant to 4 MLBS § 6(e) and 18 MLBS § 440.

Section 3. Adoption and Implementation of Mandatory Vaccination Policy

- (a) The Chief Executive hereby adopts the "Mandatory Vaccination Policy" and makes it applicable to employees of the Executive Branch of government. For the purpose of this Order, the term "employee" means an executive officer as defined by 4 MLBS § 4, all full-time, part-time, probationary, temporary employees within the Executive Branch government, and members of boards and commissions within the Executive Branch of government, including, but not limited to the Nay Ah Shing School Board and the Housing Board.
- (b) The Commissioner of Administration and the Commissioner of Human Services will implement this Order and the Mandatory Vaccination Policy by determining the vaccination status of each employee, including whether an employee is fully vaccinated. The Commissioner of Administration and the Commissioner of Human Services will create a process to efficiently gather this data.
- (c) The Commissioner of Administration and the Commissioner of Human Services will ensure that the data collected pursuant to subsection (b) and the Mandatory Vaccination Policy is securely maintained and cannot be disclosed except as required or authorized by 29 C.F.R. § 1910.501 or other federal law.

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Section 4. Effectiveness

This Executive Order and the Mandatory Vaccination Policy adopted within will effectuate on February 1, 2022 and remain in effect until rescinded by subsequent Executive Order.

Issued on January 12, 2022:



Melanie Benjamin
Melanie Benjamin, Chief Executive

Non-Removable Mille Lacs Band of Ojibwe

Executive Branch of Government

Mandatory Vaccination Policy

Section 1. Scope and Applicability

- (a) This policy applies to all employees within the Executive Branch of government.
- (b) The requirements of this policy do not apply to employees:
 - (1) who do not report to a workplace where other individuals, such as coworkers and visitors, are present;
 - (2) while working from home; or
 - (3) who work exclusively outdoors.

Section 2. Definitions

COVID-19 (Coronavirus Disease 2019) means the disease caused by SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2).

COVID-19 test means a test for SARS-CoV-2 that is:

- (a) cleared, approved, or authorized, including in an Emergency Use Authorization, by the United States Food and Drug Administration to detect current infection with the SARS-CoV-2 virus;
- (b) administered in accordance with the authorized instructions; and
- (c) not both self-administered and self-read unless observed by a supervisor or an authorized telehealth proctor.

Employee means executive officers as defined by 4 MLBS § 4, all full-time, part-time, probationary, and temporary employees within the Executive Branch of government, and all members of boards and commissions within the executive branch of government, including the Nay Ah Shing School Board and the Housing Board.

Face covering means a covering that:

- (a) completely covers the nose and mouth;
- (b) is made with two or more layers of a breathable fabric that is tightly woven (*i.e.*, fabrics that do not let light pass through when held up to a light source);
- (c) is secured to the head with ties, ear loops, or elastic bands that go behind the head. If gaiters are worn, they should have two layers of fabric or be folded to make two layers;
- (d) Fits snugly over the nose, mouth, and chin with no large gaps on the outside of the face; and
- (e) Is a solid piece of material without slits, exhalation valves, visible holes, punctures, or other openings.

This definition includes clear face coverings or cloth face coverings with a clear plastic panel that, despite the non-cloth material allowing light to pass through, otherwise meet this definition and which may be used to facilitate communication with people who are deaf or hard-of-hearing or others who need to see a speaker's mouth or facial expression to understand speech or sign language respectively.

Facemask means a surgical, medical procedure, dental, or isolation mask that is approved by the U.S. Food and Drug Administration or offered and distributed as described in a FDA enforcement policy. Facemasks may also be referred to as “medical procedure masks.”

Fully vaccinated means:

- (a) A person’s status 2 weeks after completing booster vaccination with a COVID-19 vaccine with, if applicable, at least the minimum recommended interval between doses in accordance with the approval, authorization, or listing that is:
 - (1) Approved or authorized for emergency use by the U.S. Food and Drug Administration;
 - (2) Listed for emergency use by the World Health Organization; or
 - (3) Administered as part of a clinical trial at a U.S. site, if the recipient is documented to have primary vaccination with the active (not placebo) COVID-19 vaccine candidate, for which vaccine efficacy has been independently confirmed (*e.g.*, by a data and safety monitoring board) or if the clinical trial participant at the U.S. sites had received a COVID-19 vaccine that is neither approved nor authorized for use by FDA but is listed for emergency use by WHO; or
- (b) A person’s status 2 weeks after receiving a booster vaccination of a COVID-19 vaccine that is approved or authorized by the FDA, or listed as a two-dose series by the WHO. The second dose of the series must not be received earlier than 17 days (21 days with a 4-day grace period) after the first dose.

Respirator means a type of personal protective equipment that is certified by the National Institute for Occupational Safety and Health under Title 42, Part 84 of the Code of Federal Regulations or is authorized under an Emergency Use Authorization by the U.S. Food and Drug Administration. Respirators protect against airborne hazards by removing specific air contaminants from the ambient air or by supplying breathable air from a safe source. Common types of respirators include filtering facepiece respirators (*e.g.*, N95), elastomeric respirators, and powered air purifying respirators. Face coverings, facemasks, and face shields are not respirators.

Workplace means a physical location, whether fixed or mobile, where the Band’s governmental operations are performed. It does not include an employee’s residence.

Section 3. Policy on Vaccination Status

- (a) Every employee must either:
 - (1) be fully vaccinated against COVID-19; or
 - (2) provide proof of regular testing for COVID-19 and wear a face covering.

Section 4. Determination of Vaccination Status

- (a) The Commissioner of Administration and the Commissioner of Human Services will determine the vaccination status of employees. Each employee must provide the Commissioner of Administration and the Commissioner of Human Services acceptable proof of vaccination status, including whether they are fully or partially vaccinated. Acceptable proof of vaccination status is:
 - (1) the record of immunization from a health care provider or pharmacy;
 - (2) a copy of the COVID-19 Vaccination Record Card;
 - (3) a copy of medical records documenting the vaccination;

- (4) a copy of immunization records from a public health, state, or tribal immunization information system;
- (5) a copy of any other official documentation that contains the type of vaccine administered, date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine
- (b) If an employee is unable to produce acceptable proof of vaccination, the employee must sign and date the attestation form and provide the form to the Commissioner of Administration and the Commissioner of Human Services. The attestation form is attached to this policy.
- (c) Any employee who does not provide any of the acceptable forms of proof of vaccination status of this section will be treated as not fully vaccinated for the purpose of this section.

Section 5. Support for Employee Vaccination

Each employee is entitled to up to 4 hours of paid time, including travel time, at the employee's regular rate of pay for the purpose of acquiring each vaccination dosage. Each employee is also entitled to one working day of paid sick leave to recover from possible side effects experienced following any vaccination dose for each dose.

Section 6. COVID-19 Testing for Employees Who are Not Fully Vaccinated

Employees must follow the COVID-19 testing protocols described in this section.

- (a) Any employee who reports at least once every 7 days to a workplace where other individuals are present must:
 - (1) be tested for COVID-19 at least once every 7 days; and
 - (2) provide documentation of the most recent COVID-19 test result to their supervisor, the Commissioner of Administration, and the Commissioner of Human Services no later than the 7th day following the date on which the employee last provided a test result.
- (b) An employee who does not report during a period of 7 or more days to a workplace where other individuals are present must:
 - (1) be tested for COVID-19 within 7 days prior to returning to the workplace; and
 - (2) provide documentation of that test result to their supervisor, the Commissioner of Administration, and the Commissioner of Human Services upon return to the workplace.
- (c) An employee must receive authorization from their supervisor to work outside of a workplace, subject to the approval of the Commissioner of Administration.
- (d) An employee who does not provide documentation of a COVID-19 test result as required in this section will not be permitted to return to the workplace until the employee provides a test result.
- (e) An employee who has received a positive COVID-19 test or has been diagnosed with COVID-19 by a licensed healthcare provider will not be required to undergo COVID-19 testing as required in this section for 90 days following the date of their positive test or diagnosis.

Section 7. Employee Notification of a Positive COVID-19 Test and Removal

Regardless of vaccination status or any COVID-19 testing required by this policy, any employee who receives a positive COVID-19 test or has been diagnosed with COVID-19 by a licensed healthcare provider:

- (a) must promptly notify their supervisor; and
- (b) will not be permitted to return to their workplace until the employee:

- (1) receives a negative result on a COVID-19 nucleic acid amplification test (NAAT) following a positive result on a COVID-19 antigen test if the employee chooses to seek a NAAT test for confirmatory testing;
- (2) Completes an isolation period of 10 days; or
- (3) receives a recommendation to return to work from a licensed healthcare provider.

Section 8. Face Coverings

- (a) Regardless of vaccination status, each employee must wear a face covering when indoors and when occupying a vehicle with another person for work purposes, except:
 - (1) when an employee is alone in a room with floor to ceiling walls and a closed door;
 - (2) for a limited time while the employee is eating or drinking at the workplace or for identification purposes in compliance with safety and security requirements;
 - (3) when an employee is wearing a respirator or facemask; or
 - (4) where the employee can show that the use of face coverings is infeasible or creates a greater hazard that would excuse compliance with this paragraph.
- (b) Supervisors must ensure that any face coverings required to be worn by this section is:
 - (1) worn by the employee to fully cover the employee's nose and mouth; and
 - (2) replaced when wet, soiled, or damaged.
- (c) Supervisors must not prevent any employee from voluntarily wearing a face covering or facemask unless the supervisor can demonstrate that doing so would create a hazard of serious injury or death, such as interfering with the safe operation of equipment.
- (d) Supervisors must permit employees to wear a respirator instead of a face covering whether required or not. Supervisors may provide respirators to the employee, even if not required.
- (e) The Band will not prohibit any visitors to workplaces from wearing face coverings.

Section 9. Effective Date and Expiration of this Policy

This policy will become effective upon its adoption through an Executive Order and remain in effect until rescinded by a subsequent Executive Order.

Mandatory Vaccination Policy Attestation Form

I attest that I am fully or partially vaccinated. I further attest that I have lost or am otherwise unable to produce acceptable proof of vaccination status as required by 29 CFR § 1910.501(e)(2)(i)-(v) and Section 4(a) of the Mandatory Vaccination Policy of the Non-Removable Mille Lacs Band of Ojibwe.

I declare that this statement about my vaccination status is true and accurate. I understand that knowingly providing false information regarding my vaccination status on this form may subject me to criminal penalties.

Printed Name

Signature

Date