



Dear Adult Education Directors,

Several of you have asked about policies related to re-opening. Our Deputy Secretary, Patricia Trujillo, has shared the following information as you plan for next quarter or semester. As you know, information changes quickly in a pandemic; as new information becomes available, including new CDC guidance, we will update our guidance to you.

The Centers for Disease Control (CDC) updated their considerations for institutions of higher education (IHE). IHE administrators can help protect students, faculty, and staff and slow the spread of COVID-19, by encouraging vaccinations and using CDC's Guidance for IHEs. These are the recommendations that Adult Education programs should use, in accordance with your host IHE's recommendations. New developments present a myriad of questions for you all, and we will do our best to update information as we learn it. This letter is meant to provide you with some guidance for handling issues related to mask wearing among both your employees, as well as the with general public.

- **CAN I ASK MY EMPLOYEES FOR PROOF OF VACCINE?** Yes, you can ask for proof that your employees have been vaccinated. Under the Americans with Disabilities Act (ADA), employers are generally precluded from discussing medical issues with employees. However, according to the Equal Employment Opportunity Commission's guidance on the subject simply asking for proof of vaccine is not the equivalent of a medical inquiry, because people may not get vaccinated for a variety of reasons not involving a medical condition. Notwithstanding the above, documentation of proof of vaccine should be kept in the employee's separate medical file.
- **WHAT IF THE EMPLOYEE DOES NOT WANT TO SHARE VACCINE INFORMATION?** Try to address these situations on a case-by-case basis and have a conversation with the employee about their reluctance to share their vaccination status. This consultation should be done in coordination with your Human Resources Department in case information that might be subject to relevant inquiries under the ADA arise. Your HR staff should make sure employees know who to contact in the event they would like an accommodation under the ADA.
- **WHAT IF AN EMPLOYEE DOES NOT WANT TO GET VACCINATED?** Under this circumstance, you should work with your HR Department to determine the



nature of the request and any possible reasonable accommodations that may be indicated.

- **CAN WE MAKE OUR EMPLOYEES WEAR MASKS EVEN IF THEY ARE VACCINATED?** Yes, each of you should assess the risk attendant within your own agencies, employees and/or respective representatives (such as how much interaction they have with the public) and make your individual decisions accordingly.
- **CAN A PRIVATE BUSINESS STILL REQUIRE CUSTOMERS TO WEAR MASKS?** Yes, their businesses are private property, and they are entitled to mandate masks.
- **HOW DO WE CONFIRM MEMBERS OF THE PUBLIC IN OUR FACILITIES ARE VACCINATED?** At this time, we suggest using signage that states that unvaccinated individuals are required to wear masks. This method will prevent employees from having to engage in potential conflicts.

**Education COVID-19 Handbook:** The Department of Education released Volume 3 of the ED COVID-19 handbook, which covers strategies for safe operations and addressing the impact of COVID-19 on higher education students, faculty, and staff. The Department addresses several priority areas of interest to the higher education community with an eye towards both a response and a recovery that leaves our Nation's students and IHEs stronger than before the COVID-19 pandemic began. These priorities include: practices to aid IHEs in implementing the Centers for Disease Control and Prevention (CDC) Guidance for Institutions of Higher Education (IHEs) and resources by identifying common prevention strategies and providing examples of actions IHEs can take with HEERF grant funding; institutional responses to ongoing challenges and potentially lasting impacts on underserved populations including supporting the provision of basic needs or the sudden transition to online learning; ways in which IHEs have already been and can continue to be sources of support to their communities' ongoing response and recovery from the pandemic; and a catalog of the resources and administrative flexibilities offered to IHEs as they address rapidly changing conditions and needs on the ground, including resources that support both students and IHEs under the ARP. In addition, the Department continues to provide resources on specific strategies to address the extraordinary disruption and impacts created by COVID-19 for students, faculty, staff, and surrounding communities—especially for underserved students and communities that preliminary data suggest have been hit hardest by the COVID-19 pandemic.

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*Michelle Lujan Grisham, Governor*  
*Stephanie M. Rodriguez, Cabinet Secretary*  
*Patricia Trujillo, Deputy Secretary*

We will make additional information available on an ongoing basis. If you have any questions, please feel free to contact me at [amber.rodriguez@state.nm.us](mailto:amber.rodriguez@state.nm.us) or (505) 231-7490.

Sincerely,

*Amber Gallup Rodriguez*