
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

In the matter of: : **PUBLIC HEALTH ORDER OF**
 : **CONSTRAINT**
COVID-19 Pandemic :
 : Order No. 2021-2
 :
 : Date: August 11, 2021
 :
 :
 :
 :
 :
 :
 :
 :
 :
 :

In Utah, local health departments are vested under Utah Code § 26A-1-114(1)(d) with authority to establish measures as may be necessary to promote and protect public health and control the spread of disease. Consistent therewith, Utah Code § 26A-1-106(2) provides that “[r]egulations or standards relating to public health or environmental health services adopted or established by a local health department may not be less restrictive than [Utah Department of Health orders].”

COVID-19 is a contagion that spreads from person to person. The Executive Director of the Salt Lake County Health Department recognizes the need for Salt Lake County and the public to continue to work cooperatively and proactively to slow the spread of COVID-19 and to address the myriad challenges COVID-19 has created.

The Executive Director finds that COVID-19 poses a continuing, increasing, and immediate threat to the public health of Salt Lake County residents and visitors. The Delta variant of the COVID-19 virus is the dominant strain actively circulating in Salt Lake County and is more contagious than the original virus and other variants. Salt Lake County is now exceeding the thresholds set in March 2021 by the Utah Legislature in House Bill 294, which terminated all public health orders related to COVID-19 upon the occurrence of three events, only two of which remain relevant. In Salt Lake County, the current 7-day case rate is 64% higher than it was this time last year, and among 5- to 11-year-olds, the case rate has increased to 261 per 100,000 versus 66 per 100,000 at this time last year.

Currently, Salt Lake County is in a High Level of Transmission under criteria separately established by the State of Utah and the Centers for Disease Control and Prevention (CDC). As of August 9, 2021, Salt Lake County has an 11.7% positivity rate, and a case rate of 327 per 100,000 population. Statewide, Utah hospitals have an 82% total ICU utilization rate, with 24% ICU COVID-19 utilization. As such, hospitals within Salt Lake County and surrounding areas are at capacity, with COVID-19 patients increasingly occupying ICU beds.

The Executive Director finds that COVID-19 presents a continuing threat to children who are not eligible for vaccinations. According to a report by the American Academy of Pediatrics, as of

August 5, 2021, “nearly 4.3 million children have tested positive for COVID-19 since the onset of the pandemic. Almost 94,000 cases were added the past week, a continuing substantial increase. After declining in early summer, child cases have steadily increased since the beginning of July.”

In a letter to the Salt Lake County Council and the Salt Lake County Mayor, dated August 9, 2021, the Salt Lake County Board of Health recommends an indoor mask requirement for all Salt Lake County students attending public schools for grades kindergarten through sixth grade. It highlighted a study in Salt Lake County elementary schools that found a secondary attack rate of only 0.7% when universal masking was in place.

In Salt Lake County, there are 235,064 children under 12 years of age who are not eligible for any vaccination. Children under 12 represent 19% of Salt Lake County’s population. To reach herd immunity with the Delta variant, experts estimate that 80% of the population in Salt Lake County would need to be fully vaccinated. Stated differently, every person aged 12 and over in Salt Lake County would need to be vaccinated to reach herd immunity.

Under House Bill 1007, the Utah Legislature prohibited a Local Education Association (LEA), an LEA governing board, the Utah Board of Education, the Utah State Superintendent of Public Instruction, or a school from requiring the wearing of masks in schools. Although Salt Lake County school superintendents support public health recommendations and orders, public schools lack the authority to require their students, faculty, or staff to wear masks. Because private schools are not subject to the prohibitions of House Bill 1007, most private schools in Salt Lake County are requiring students, faculty, and staff to wear masks in their schools.

School districts in other parts of the country that have already returned to school have seen a dramatic increase in COVID-19 cases in school settings. Specifically, in Marion County, Arkansas, 949 students and staff were quarantined during the first week of school because of a COVID-19 outbreak in which 54 students and 11 staff members tested positive. Twenty-seven children in Arkansas are currently hospitalized due to COVID-19, compared with 12 children prior to the start of school. And in Louisiana, there have been 16,541 new cases of COVID-19 reported since August 6, 2021. Of those cases, 3,106 have been reported in children. Louisiana is experiencing its highest 7-day average in the pandemic with 4,603 cases.

Multisystem Inflammatory Syndrome in Children (MIS-C) is a condition where different body parts can become inflamed, including the heart, lungs, kidneys, brain, skin, eyes, or gastrointestinal organs. While the causes of MIS-C are unknown, many children with MIS-C were diagnosed with COVID-19 or had been around someone with COVID-19. MIS-C can be serious, even deadly, and children diagnosed with it may suffer long-term effects. As of August 9, 2021, 27 children in Salt Lake County have been diagnosed with MIS-C.

Although the Salt Lake County Health Department continues its extensive efforts to vaccinate all eligible Salt Lake County residents, no COVID-19 vaccine is yet approved for children under the age of 12. With the spread of the COVID-19 Delta variant and case rates rapidly increasing, Salt Lake County is at a critical juncture in this pandemic. Accordingly, and based on the foregoing, the Executive Director concludes that requiring students to wear masks in the school setting will help mitigate further widespread transmission of COVID-19 and keep the youngest students and their families safe.

Furthermore, the Executive Director has met her obligation under Utah Code § 26A-1-114(7) by providing 24-hour notice to the Salt Lake County Mayor of her intent to issue this Public Health Order of Constraint. Consistent with Utah Code § 26A-1-114(9), Salt Lake County Mayor Jennifer Wilson has approved issuance of this Order as evidenced by her signature below.

THEREFORE, PURSUANT TO UTAH CODE § 26A-1-114, BE IT HEREBY ORDERED BY DR. ANGELA C. DUNN, EXECUTIVE DIRECTOR OF THE SALT LAKE COUNTY HEALTH DEPARTMENT, AS FOLLOWS:

Section 1. The intent of this Public Health Order of Constraint is to ensure a coordinated implementation of practices to slow the transmission of COVID-19 amongst children not yet eligible for a COVID-19 vaccine by providing Salt Lake County residents and schools with access to information needed to implement those practices.

Section 2. Face Coverings Mandatory in Schools. All students attending kindergarten through grade 6 at a public, charter, or private school in Salt Lake County, shall be required to wear a face covering that completely covers the nose and mouth when in any indoor area of the premises, on school-provided transportation, or attending an indoor school-sponsored activity, subject to the exceptions below.

Section 3. General Face Covering Exceptions.

A. Notwithstanding any other provision of this Order, an individual required to wear a face covering may remove the face covering in the following situations:

1. while outdoors;
2. while actively eating or drinking, provided the individual remains in place while eating or drinking;
3. while alone or only with other members of the same household in a room, cubicle, school-provided transportation, or similar enclosure;
4. when communicating with an individual who is deaf or hard of hearing if:
 - a. communication cannot be achieved through other means; and
 - b. the speaker wears a face shield or uses alternative protection such as a plexiglass barrier;
5. while obtaining or providing a service that requires the temporary removal of the face covering, such as speech therapy services;
6. while actively performing as an athlete at a school-organized or -sponsored athletic event;
7. while giving an educational, artistic, cultural, musical, or theatrical presentation or performance at a school for an audience;
8. while exercising or engaging in athletic training while indoors and maintaining at least six feet of physical distance from any other individual;

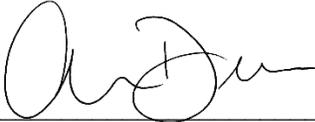
9. while swimming or on duty as a lifeguard.

B. Notwithstanding any other provision of this Order, the following individuals are exempt from the face covering requirements:

1. an individual who is unconscious, incapacitated, or otherwise unable to remove the face covering without assistance;
2. an individual with a medical condition, mental health condition, or intellectual or developmental disability, that prevents the individual from wearing a face covering; and
3. an individual who has an Individualized Education Program (IEP) under the Individuals with Disabilities Education Act, 20 U.S.C. § 1414, or an accommodation under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, that would necessitate exempting the individual from wearing a face covering.

Section 4. This Public Health Order takes immediate effect and will be reevaluated when a COVID-19 vaccine is available to children between 5 and 11 years of age unless extended, rescinded, superseded, or amended in writing, or otherwise as warranted.

BY ORDER OF THE SALT LAKE COUNTY EXECUTIVE DIRECTOR OF THE SALT LAKE COUNTY DEPARTMENT OF HEALTH.



Angela C. Dunn, MD MPH
Executive Director Salt Lake County Health Department

THIS PUBLIC HEALTH ORDER OF CONSTRAINT IS HEREBY APPROVED BY THE SALT LAKE COUNTY MAYOR.



Jennifer Wilson
Salt Lake County Mayor

APPROVED AS TO FORM:



Stacia R. Sidlow
Deputy District Attorney
Salt Lake County District Attorney's Office
Date: August 11, 2021