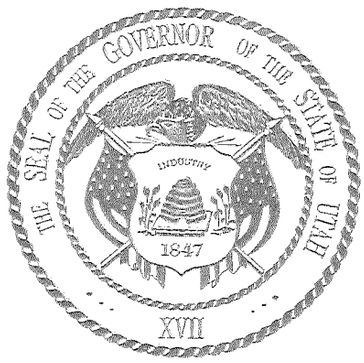

Gary Richard Herbert

Governor

EXECUTIVE ORDER
2020-59

Extending the State Facilities Face Covering Requirement

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency to facilitate the State's response to novel coronavirus disease 2019 (COVID-19);

WHEREAS, on March 13, 2020, Donald J. Trump, President of the United States, issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak;

WHEREAS, on, August 20, 2020, Executive Order 2020-1 expired and I issued Executive Order 2020-51, declaring a state of emergency due to the ongoing COVID-19 pandemic;

WHEREAS, on August 20, 2020, I issued Executive Order 2020-56, requiring the use of face coverings by any individual while in a state facility to mitigate the spread of COVID-19;

WHEREAS, the facts and conditions necessitating the use of face coverings in state facilities persist;

WHEREAS, COVID-19 has been characterized by the World Health Organization as a worldwide pandemic caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), a virus that spreads easily from person to person and can cause serious illness or death;

WHEREAS, COVID-19 can spread between individuals in close proximity through respiratory droplets produced when an infected individual speaks, coughs, or sneezes;

WHEREAS, an infected individual can transmit COVID-19 even if the individual does not present symptoms or know that the individual is infected;

WHEREAS, the United States Centers for Disease Control and Prevention and the Utah Department of Health have recommended the use of face masks or other face coverings to mitigate the transmission of COVID-19;

WHEREAS, the Utah Department of Health and I have determined that it is appropriate to continue to require individuals, including employees and members of the public, to wear face coverings while in state facilities to protect public health;

WHEREAS, Utah Code § 53-2a-209(1) provides that orders issued by the governor under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, have the "full force and effect of law";

WHEREAS, Utah Code § 53-2a-204(1)(a) authorizes the governor to utilize all available resources of state government as reasonably necessary to cope with a state of emergency; and

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with orders made pursuant to the Disaster Response and Recovery Act;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the following:

1. As used in this Order:
    a. "Face covering" means a face mask or a face shield.
    b. "Face mask" means a mask that:
        i. covers the nose and mouth without openings that can be seen through;
        ii. is made of synthetic or natural fabrics;
        iii. secures under the chin;
        iv. fits snugly against the nose and sides of the face; and
        v. does not have an exhalation valve or vent.
    c. "Face shield" means a shield that:
        i. covers the entire face;
        ii. protects the eyes of the wearer;
        iii. is made of clear plastic or similar nonpermeable transparent material;
        iv. secures around the top of the head;
        v. does not secure under the chin;
        vi. does not fit snugly against the nose or sides of the face; and
        vii. can be used in conjunction with a mask for enhanced protection.
    d. "State facility" means a building or structure, or part thereof, that is owned, leased, occupied, or controlled by the state or a state governmental entity.
    e. "State facility" does not mean:
        i. a state prison or state community correctional center;
        ii. a detention facility or secure facility operated by the Division of Juvenile Justice Services; or
        iii. a building or structure, or part thereof, that is owned, leased, occupied, or controlled exclusively by:
            A. the legislative branch of the state;
            B. the judicial branch of the state;
            C. the Attorney General's Office;
            D. the State Auditor's Office;
            E. the State Treasurer's Office; or
            F. an independent entity as defined in Utah Code § 63E-1-102.
    f. "State governmental entity" means any department, board, commission, institution, agency, or institution of higher education of the state.
2. Each individual in a state facility shall wear a face mask, except as provided in Section (3).
3. Section (2) does not apply to:
    a. a child who:
        i. is in a childcare setting;
        ii. is younger than three years old; or
        iii. is three years old or older if the parent, guardian, or individual responsible for caring for the child cannot place the face mask safely on the child's face;
    b. an individual with a medical condition, mental health condition, or disability that prevents wearing a face mask, including an individual with a medical condition for whom wearing a face mask could cause harm or obstruct breathing, or who is unconscious, incapacitated, or otherwise unable to remove a face mask without assistance;
    c. an individual engaged in an activity where the ability to see the mouth is essential for communication, including an individual who is deaf or hard of hearing while communicating with others or an individual communicating with an individual who is deaf or hard of hearing, in which case a the individual shall wear a face shield without a mask or use alternative protection such as a plexiglass barrier;
    d. an individual who is receiving or providing a service involving the nose or face for which temporary removal of the face mask is necessary to perform the service;
    e. an individual who is outdoors;

f. an individual in a vehicle;
g. an individual who is actively engaged in any of the following activities while maintaining a physical distance of at least six feet from any other individual who is not from the same household or residence:
   i. using an indoor recreational facility; or
   ii. eating or drinking; or
h. a state employee who is not speaking in person with any other individual and who:
   i. is the sole occupant of a fully enclosed room or office;
   ii. is the sole occupant of a partially enclosed room, office, or similar space, including a cubicle, that is enclosed on at least three sides by walls or other physical barriers or dividers of a height that reaches no lower than the top of the employee's head when the employee is seated; or
   iii. is seated or stationary, and maintains a physical distance of at least six feet from any other individual.

4.
   a. Except as provided in Subsections (4)(b) and (4)(c), a state governmental entity may not require an individual to provide medical documentation verifying the basis for an exemption under Subsection (3)(b).
   b. A state governmental entity may require an individual employed by the state governmental entity to provide medical documentation verifying the basis for an exemption under Subsection (3)(b).
   c. A state institution of higher education may require an individual who is enrolled as a student of the state institution of higher education to provide medical documentation verifying the basis for an exemption under Subsection (3)(b).
5. A state governmental entity may refuse to provide in-person service to any individual who does not wear a mask in a state facility of the state governmental entity if:
   a. an alternative means of service is available;
   b. the state governmental entity specifies to the individual how to access the alternative means of service; and
   c. the state governmental entity determines that the individual has reasonable access to the alternative means of service.
6. The Utah Department of Corrections shall implement requirements regarding the wearing of face coverings in a state prison or state community correctional center.
7. The Division of Juvenile Justice Services shall implement requirements regarding the wearing of face coverings in a detention facility or secure facility operated by the Division of Juvenile Justice Services.
8. This Order rescinds and replaces EO 2020-56.

This Order shall take effect immediately shall remain in effect until the state of emergency declared in EO 2020-51 terminates, or until otherwise lawfully modified, amended, rescinded, or superseded.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 4th day of September, 2020.

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor