

**RESOLUTION AND ORDER OF THE TRAVIS COUNTY COMMISSIONERS COURT
MANDATING COMPLIANCE WITH LOCAL HEALTH AUTHORITY ORDERS AND
ADOPTING CRITERIA FOR DECLARING A PUBLIC HEALTH NUISANCE**

STATE OF TEXAS

§

§

COUNTY OF TRAVIS

§



12 pgs 2021184887

RECITALS AND FINDINGS

1. On March 6, 2020, a Declaration of Local Disaster was issued by the Travis County Judge to allow the County of Travis, Texas ("County" or "Travis County") to take measures to reduce the possibility of exposure to COVID-19 and promote the health and safety of Travis County residents; and
2. On March 13, 2020, a Declaration of State of Disaster was issued by Governor Greg Abbott to take additional steps to prepare for, respond to, and mitigate the spread of COVID-19 to protect the health and welfare of Texans; and
3. The virus that causes COVID-19 is contagious and spreads through person-to-person contact, especially in group settings; and
4. COVID-19 continues to menace the health of County residents and with the presence of the Delta variant, a highly transmissible and more contagious variation of COVID-19, Dr. Desmar Walkes, the Austin-Travis County Health Authority has implored individuals to wear face coverings to prevent further transmission of COVID-19; and
5. Cases and hospitalizations continue to increase in Travis County as new variants spread throughout the community and public health officials recommend that individuals take additional precautions such as wearing a face covering even if vaccinated, as set forth in the COVID-19 Risk-Based Charts for vaccinated and unvaccinated/partially vaccinated individuals attached as Exhibit 1 to the Health Authority Rules; and
6. The COVID-19 virus has mutated and developed more highly contagious strains, such as the Delta variant, that has led to increased pediatric hospital admissions throughout the Austin-Travis County area, as children younger than 12 years are not eligible to receive the COVID-19 vaccine, and requiring face coverings in schools is a necessary measure to prevent transmission of COVID-19 among the unvaccinated; and
7. Reliable medical information indicates that even individuals who have received a COVID-19 vaccine are capable of contracting and spreading the current Delta variant of the virus; and
8. The transmission of COVID-19 remains a significant threat to the health and safety of the Travis County community as indicated by the County's Local Health Authority; and
9. On August 11, 2021 and August 16, 2021, based on a finding of imminent peril to the public health and safety, Dr. Desmar Walkes, Health Authority for Austin/Travis County (the "Local

Health Authority”) and through an Interlocal Cooperation Agreement for Public Health Services executed by City and County, issued a notice adopting emergency rules for the City of Austin and Travis County, respectively and continuing through December 10, 2021, to require individuals over the age of two to wear a face covering while on school property or school buses during Stages 3, 4, and 5 as set forth in Austin Public Health’s Risk-Based Chart, for the purpose of reducing the possibility of exposure to COVID-19 and protecting the public health; and

10. Previously, in 2020 and earlier this year on March 9, 2021 and April 12, 2021, the Travis County Commissioners Court approved Resolutions and Orders mandating compliance with the Health Authority Rules and Order issued by the Health Authority and adopted criteria for declaring a public health nuisance and authorizing enforcement for the unincorporated areas of the County, consistent with the City of Austin; and

11. The County has the authority to provide for the care of indigents and other qualified recipients (Texas Local Government Code, Section 81.027, and other statutes, including Tex. Gov’t Code, Section 418.054) and the County has the authority to provide for public health education and information services (Texas Health and Safety Code, Chapters 81, 121 and 122, and other statutes); and

12. The County and the City of Austin (“City”) are authorized to cooperate with one another in making necessary improvements and providing services to promote the public health (Texas Health and Safety Code, Section 121.003 and Tex. Gov’t Code, Chapters 418 and 791); and

13. The Local Health Authority has supervisory authority and control over the administration of communicable disease control measures within their jurisdiction, unless specifically preempted by the state, and is authorized to perform each duty that is necessary to implement and enforce a law necessary to protect the public health (Texas Health and Safety Code, sections 81.082, 81.084, 81.086 and 121.024); and

14. Section 121.003 of the Texas Health and Safety Code authorizes the Commissioners Court of the County to enforce any law that is reasonably necessary to protect the public health; and

15. The Travis County Commissioners Court finds that extraordinary emergency measures must be taken to mitigate the effects of this public health emergency and facilitate a response to the public health threat, and pursuant to section 121.003 of the Texas Health and Safety Code, that this Order of the Commissioners Court adopting compliance with the Local Health Authority’s emergency rules is necessary to protect the public health; and

16. Section 341.011 of the Texas Health and Safety Code defines a “public health nuisance” to include an object, place, or condition that is a possible and probable medium of disease transmission in or between humans; and

17. These measures include abating a public health nuisance as allowed by Texas Health and Safety Code, Section 341.012.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE COMMISSIONERS COURT OF TRAVIS COUNTY, TEXAS, THAT:

SECTION 1. EFFECTIVE DATE AND INCORPORATION. The Recitals and Findings set out above are true and correct, and are adopted by the Commissioners Court and incorporated into this Order for all purposes. This Order takes effect immediately upon approval by the Travis County Commissioners Court.

SECTION 2. DEFINITIONS

A. In this Order, the following definitions shall apply:

1. **COVID-19** means the pandemic that is the subject of the Local Disaster Declaration, dated March 6, 2020.
2. **FACE COVERING** means a covering that fits snugly over an individual's nose and mouth, such as a commercially made or homemade fabric mask, scarf, bandana, handkerchief, or shield.
3. **AUSTIN PUBLIC HEALTH'S RISK-BASED CHART** means the chart attached as Exhibit 1 to the Health Authority Emergency Rules.
4. **SCHOOL** means all public schools, including public charter schools and public colleges, in Travis County.
5. **LOCAL HEALTH AUTHORITY ORDER** means any rule issued by the Local Health Authority in accordance with this order.

SECTION 3. EMERGENCY HEALTH AUTHORITY RULES AND ORDER FOR PROTECTION OF PUBLIC HEALTH

A. To protect the health of individuals within the County, the Local Health Authority may adopt local rules in the form of Local Health Authority Orders reasonably necessary to protect the health of persons within the County, including mitigating and reducing the transmission of COVID-19.

B. Local Health Authority Order must be executed by the Local Health Authority.

C. The Local Health Authority for Travis County issued Emergency Rules and Orders for public schools, including public charter schools and public colleges, in Travis County **on August 16, 2021, and effective through December 10, 2021.** A copy of the Emergency Rules and Order for Travis County is attached as **Exhibit A.**

SECTION 4. DECLARATION OF NUISANCE. By this Order and pursuant to its authority under the aforementioned provisions of the Texas Health and Safety Code, the Commissioners Court declares a School that does not follow the Minimum Standards established in this Order as a public health nuisance because it is a place or condition that is a possible and probable medium of COVID-19 transmission in or between humans.

SECTION 5. PUBLIC HEALTH NUISANCE. A School that does not comply with Minimum Health Standards described in this Order maintains a public health nuisance that is subject to abatement.

SECTION 6. Community Expectations:

- A. An individual who is not fully vaccinated will continue to wear face coverings, keep at least three feet of physical distance from other individuals, and avoid crowds and poorly ventilated spaces.
- B. An individual who is fully vaccinated will continue to wear face coverings and, to the extent feasible, keep at least three feet of physical distance from other individuals when the risk of transmission to those who are not fully vaccinated is significant.
- C. A person in control of a site is encouraged to support and provide incentives for workers and patrons to obtain the vaccine to reduce the risk to those who are unable to receive the vaccine, including children under the age of 12.
- D. Nothing in these rules prevents a person in control of a site from requiring additional precautions to prevent the spread of COVID-19.

SECTION 7. MINIMUM STANDARDS.

Face Covering Applicable to School.

- A. Students, staff, and visitors over the age of two are required to wear a face covering while on school property or school buses during Stages 3, 4, and 5 as set forth in Austin Public Health's Risk-Based Chart. In this section, school means all public schools, including public charter schools in Travis County.
- B. A principal, the responsible staff member, or administrator of the students may determine when it is not appropriate to require students, staff, and visitors to wear a face covering.

SECTION 8. ENFORCEMENT. This Order may be enforced as follows:

- A. Through a civil suit filed in district court for injunctive relief that:
 - (1) requires specific conduct necessary to abate the public health nuisance; and
 - (2) prohibits specific conduct that constitutes a public health nuisance.
- B. The Commissioners Court authorizes the County Attorney to file civil suits seeking the relief described in Subsection (A).

SECTION 9. NON-EXCLUSIVITY. The enforcement mechanisms provided for herein are not intended, nor shall they be construed, to limit in any way other remedies, causes of action, or rights provided for by law. Additionally, the adoption of this Order does not restrict, limit, or

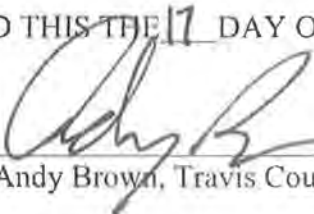
replace any other County authority for abating public nuisances.

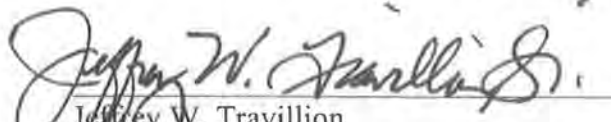
SECTION 10. SAVINGS CLAUSE. If any provision of this Order or its application to any person or circumstance is held to be invalid, then the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

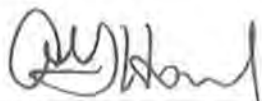
SECTION 11. This Order incorporates by reference the following:


Exhibit A: Health Authority Rules and Order dated August 16, 2021

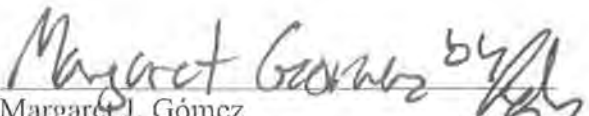
ADOPTED AND APPROVED THIS THE 17 DAY OF August, 2021.


Andy Brown, Travis County Judge


Jeffrey W. Travillion
Commissioner, Precinct One


Ann Howard
Commissioner, Precinct Three


Brigid Shea
Commissioner, Precinct Two


Margaret J. Gómez
Commissioner, Precinct Four

NOTICE OF EMERGENCY RULES ADOPTION AND ORDER

BY: Desmar Walkes, M.D., Health Authority.

ADOPTION DATE:

The Health Authority has adopted the following Emergency Rules and Order pursuant to Chapters 121 and 81 of the Texas Health and Safety Code.

EFFECTIVE DATE OF EMERGENCY RULES

The Emergency Rules and Order adopted by this notice are **effective on August 16, 2021 and expire on December 10, 2021** unless the rules are withdrawn or amended.

SUMMARY OF RULES

The Emergency Rules govern all public schools, including public charter schools and public colleges, in Travis County, and impose requirements reasonably necessary to protect public health related to the transmission of COVID-19.

TEXT OF THE RULES

See Exhibit A attached to this Notice of Emergency Rules Adoption.

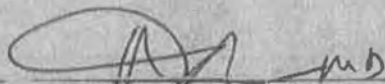
NATURE OF EMERGENCY

The Health Authority find that an imminent peril to the public health, safety, or welfare requires adoption of the rules on an emergency basis. Specifically, emergency rules are required to reduce the possibility of exposure to COVID-19 and protect public health.

AUTHORITY FOR ADOPTION OF PROPOSED RULES AND ORDER

The authority and procedure for the implementation and adoption of a rule necessary to protect the public is provided in the Texas Health and Safety Code, chapters 81 and 121, including section 121.024 (b), 81.082, 81.084 and 81.086.

REVIEWED AND APPROVED



Date: August 16, 2021

Desmar Walkes, MD

Health Authority City of Austin/Travis
County

NOTICE OF EMERGENCY
RULES ADOPTION

HEALTH AUTHORITY
RULES AND ORDER

EXHIBIT A,

August 16, 2021



August 16, 2021

1. Expectations and Definitions.

1.1. Community Expectations

- 1.1.1. An individual who is not fully vaccinated will continue to wear face coverings, keep at least three feet of physical distance from other individuals, and avoid crowds and poorly ventilated spaces.
- 1.1.2. An individual who is fully vaccinated will continue to wear face coverings and, to the extent feasible, keep at least three feet of physical distance from other individuals when the risk of transmission to those who are not fully vaccinated is significant.
- 1.1.3. A person in control of a site is encouraged to support and provide incentives for workers and patrons to obtain the vaccine to reduce the risk to those who are unable to receive the vaccine, including children under the age of 12.
- 1.1.4. Nothing in these rules prevents a person in control of a site from requiring additional precautions to prevent the spread of COVID-19.

1.2. Definitions.

- A. AUSTIN PUBLIC HEALTH'S RISK-BASED CHART means the chart attached as Exhibit 1 to this rule.
- B. FACE COVERING means a form of covering that fits snugly over their nose and mouth, such as a commercially made or homemade fabric mask, scarf, bandana.
- C. SCHOOL means all public schools, including public charter schools and public colleges, in Travis County































2. Face Covering Applicable to School.

- 2.1. Students, staff, and visitors over the age of two are required to wear a face covering while on school property or school buses during Stages 3, 4, and 5 as set forth in Austin Public Health's Risk-Based Chart. In this section, school means all public schools, including public charter schools in Travis County.
- 2.2. A principal, the responsible staff member, or administrator of the students may determine when it is not appropriate to require students, staff, and visitors to wear a face covering.
- 2.3. Compliance with this Order is reliant on self-regulation and a community commitment to public health and safety under the threat of COVID-19.

COVID-19 Risk-Based Chart — Vaccinated

• Exhibit 1 – Risk Based Charts

* Please continue following additional requirements of local businesses, venues and schools regardless of vaccination status or stage. Schools, hospitals, and long term living centers follow CDC and APH guidelines—or—the regulatory agency's policy.

	Private Gatherings* With People Outside Your Household				Travel*		Dining*		Shopping*	
	Indoor		Outdoor							
	Low-Risk	High-Risk	Low-Risk	High-Risk	Low-Risk	High-Risk	Low-Risk	High-Risk	Low-Risk	High-Risk
Stage 1										
Stage 2										
Stage 3										
Stage 4										
Stage 5						Only if essential	 Indoors + 	 Outdoors		Outdoors/ Takeaway/ Curbside



Mask optional, continue washing hands and other hygiene precautions



Not recommended at all, with or without masks



Take prevention measures: wear a mask, wash your hands and social distance following CDC guidelines























Places that require vaccines and masks may pose a lower risk.



COVID-19 Risk-Based Chart — Partly Vaccinated or Unvaccinated

* Please continue following additional requirements of local businesses, venues and schools regardless of vaccination status or stage. Schools, hospitals, and long term living centers follow CDC and APH guidelines—or—the regulatory agency's policy.

	Private Gatherings* With People Outside Your Household		Travel*	Dining*	Shopping*
	Indoor	Outdoor			
Stage 1					
Stage 2					
Stage 3	 If high risk: avoid unless essential	 If high risk: avoid unless essential	 If high risk: avoid unless essential	 If high risk: avoid unless essential	 If high risk: avoid unless essential
Stage 4			Only if essential	Takeaway/ Curbside	Only if essential
Stage 5				Takeaway/ Curbside	Takeaway/ Curbside



Mask optional, continue washing hands and other hygiene precautions



Not recommended at all, with or without masks



Take prevention measures:
wear a mask, wash your hands and
social distance following CDC guidelines



STAYS IN FILE



2021184887

**FILED AND RECORDED
OFFICIAL PUBLIC RECORDS**

Dana DeBeauvoir

**Dana DeBeauvoir, County Clerk
Travis County, Texas**

Aug 18, 2021 03:32 PM

Fee: \$0.00

HERRERAR