



**OFFICE OF THE GOVERNOR
AMERICAN SAMOA GOVERNMENT**

**DECLARATION OF ONGOING PUBLIC HEALTH
EMERGENCY AND STATE OF EMERGENCY**

WHEREAS, the Director of Health has confirmed community spread of COVID-19 Omicron variants BA.1 and BA.2 in American Samoa; and

WHEREAS, there have been 31 COVID-related deaths in American Samoa as of May 25, 2022; and

WHEREAS, 6,080 people in American Samoa have contracted COVID-19; and

WHEREAS, 5,986 people have recovered from COVID-19 in American Samoa; and

WHEREAS, our understanding of COVID-19 has evolved as we have learned more about the disease and new variants of COVID-19 have come into existence; and

WHEREAS, we want to encourage people to get tested for COVID-19 so they can be treated if it is medically appropriate; and

WHEREAS, we want to encourage people to get vaccinated, including a booster shot, to reduce the severity of the disease if they become infected; and

WHEREAS, the President of the United States issued a Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak; and

WHEREAS, on February 18, 2022, the President extended the national emergency declared on March 13, 2020;¹ and

WHEREAS, the President of the United States has approved a Major Disaster Declaration for American Samoa.

NOW THEREFORE, I, LEMANU P. S. MAUGA, Governor of American Samoa, declare an ongoing public health emergency under A.S.C.A. § 13.0301 *et seq.* and a state of emergency under A.S.C.A. § 26.0101 *et seq.* for COVID-19. The Emergency Operations Center shall continue to be activated to coordinate response efforts.

Pursuant to A.S.C.A. § 13.0307 and § 26.0105, I further declare that:

¹ <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/02/18/notice-on-the-continuation-of-the-national-emergency-concerning-the-coronavirus-disease-2019-covid-19-pandemic-2/>

These restrictions and exceptions are in effect, but exceptions may be granted by the Governor or the Governor's Authorized Representative (GAR).

1. Mask Use

- (a) All persons, businesses, organizations, or agencies are required to mandate mask use inside of any school, any government-owned or leased building or any building that is open to the public. All persons must wear a mask that covers their mouth and nose in the following circumstances:
 - (1) In or at a location where mask use is required by the person or agency who controls that location;
 - (2) At a public gathering or inside a building that is open to the public
 - (3) When occupying a bus, taxi, or other vehicle engaged in commercial transportation; and
 - (4) When onboard aircraft, ships, and boats that carry passengers while traveling to American Samoa.
 - (5) Paragraphs (1) - (4) do not apply to:
 - (A) children under 2 years of age;
 - (B) a person who cannot wear a mask or cannot safely wear a mask, because of a disability as defined by the Americans with Disabilities Act (42 U.S.C. § 1201 *et seq.*);
 - (C) a person for whom wearing a mask would create a risk to workplace health, safety, or job duty as determined by the relevant workplace safety guidelines or regulations; and
 - (D) a person who is the sole occupant of a vehicle or office.
- (b) Mask use is not required for outdoor exercise by individuals exercising alone.
- (c) Masks that meet the N-95 or KN-95 standards are the best masks to use. If they are not available, surgical masks may be used. Cloth masks should only be used if there are no other options available.

2. Public Gatherings

- (a) Public gatherings are prohibited except as provided in this Section.
- (b) Outdoor public gatherings are allowed if:
 - (1) Mask use is required; and
 - (2) Social distancing can be maintained to keep people at least 6 feet apart.
- (c) Indoor public gatherings are allowed if:
 - (1) Mask use is required;
 - (2) Social distancing can be maintained to keep individuals or family groups at least 6 feet apart;

- (3) Occupancy is limited to 50% of the maximum capacity for the location; and
- (4) The gathering is held in a well-ventilated place.

3. Curfew

- (a) A curfew shall be in effect from 11:00 pm each night until 4:30 am. While the curfew is in effect, no person shall leave their home unless they are seeking emergency medical care or assistance from law enforcement, they are engaged in or traveling to or from an activity that is permitted by this Declaration.
- (b) Buses and taxis may operate 24 hours a day. Mask use is required in buses and taxis.
- (c) Gas stations may maintain their normal business hours.
- (d) All other businesses shall close at 10:00 pm unless they are providing medical or emergency services or an exception has been granted by pursuant to this Declaration.
- (e) Nothing in this order affects the authority of village councils to enact regulations imposing curfews or restricting public gatherings pursuant to A.S.C.A. § 5.0305.
- (f) Requests for exceptions should be made by submitting a site safety plan to the Emergency Operations Center at eoc.opschief@asdhs.as.gov or (684) 699-3800 Ext: 116.

4. Workplaces

- (a) Employers are encouraged to take precautions to prevent the spread of COVID-19 at their workplaces including the maximum use of flexible work schedules, staggered hours, and remote work.
- (b) Employers, public and private, shall take precautions to protect their workers and customers from COVID-19 including but not limited to:
 - (1) Encouraging employees to be tested for COVID-19 if they show symptoms of infection.
 - (2) Mandating mask use in accordance with Section 1 of this Declaration.
 - (3) Providing for social distancing by
 - (A) Limiting access to their facilities to prevent overcrowding and allow for social distancing;
 - (B) Arranging the workspace so that employees are at least 6 feet apart;
 - (C) Taking actions to keep customers from clustering near cash registers and in other locations where customers tend to gather; and
 - (D) Limiting access to in-door break areas so that people eat individually and separately.
 - (4) Maximizing the ventilation or air filtering for indoor spaces.

- (c) Schools and colleges may open for in-person classes if the following conditions are met:
 - (1) All students who are five years old or older must show evidence of full vaccination;²
 - (2) All teachers and school personnel at the school compounds during in-person learning must show evidence of full vaccination;
 - (3) Mask use is mandated at all times during in-person classes, as required in Section 1 of this Declaration; and
 - (4) Social distancing is required by:
 - (A) Limiting occupancy to 50% of the maximum capacity of indoor spaces; and
 - (B) Providing adequate spacing to keep individuals or family groups at least 6 feet apart.
 - (5) Additional requirements may be issued by the GAR depending on individual factors at each school.
- (d) The Hope House, LBJ TMC, and the Tafuna Correctional Facility will be closed for visitation.
- (e) Restaurants may provide dine-in services provided these minimum requirements are met:
 - (1) All employees of the restaurant must show evidence of full vaccination;
 - (2) Mask use is required at all times except while eating or drinking;
 - (3) Social distancing is required; and
 - (4) Seating capacity must be limited to 50% of the maximum capacity of the restaurant;
 - (5) A Restaurant may impose additional reasonable requirements to ensure the safety of its employees and customers, including temperature checks and proof of vaccinations.
- (f) Bars and Nightclubs; Childcare Facilities, Hair Salons, Barbershops, Nail Salons, and other related Services are places where close contact may occur and compliance is difficult to maintain. They may open provided that the following conditions are met:
 - (1) All customers who are five years old or older must show evidence of full vaccination;
 - (2) All employees of the business must show evidence of full vaccination;
 - (3) Mask use is required at all times except while eating or drinking;
 - (4) Social distancing is required by:

² For the purposes of this declaration, “full vaccination” means that the person has received the full course of COVID vaccination and 14 or more days elapsed after the final administration of the vaccine.

- (A) Limiting occupancy to 50% of the maximum capacity of the indoor spaces; and
 - (B) Providing adequate spacing to keep individuals or family groups at least 6 feet apart.
- (g) Minimum Requirements for Bingo, Gyms and Fitness Centers, and Movie Theaters:
 - (1) All employees must show evidence of full vaccination;
 - (2) Mask use is mandated at all times as required in Section 1 of this Declaration;
 - (3) Social distancing is required;
 - (4) Business owners may impose additional requirements including having patrons show proof of Vaccination.
- (h) Nothing in this Declaration shall limit the authority of businesses to impose additional restrictions to prevent the spread of COVID-19.
- (i) **Effective June 1, 2022**, all government offices shall resume normal operations under the following minimum requirements:
 - (1) Employees working in offices must comply with the requirements of Section 7 relating to employee vaccination.
 - (2) Mask use is required in government offices.
 - (3) Social distancing is required by:
 - (A) Limiting occupancy to 50% of the maximum capacity of the indoor spaces; and
 - (B) Providing adequate spacing to keep individuals at least 6 feet apart.

5. Quarantine and Isolation

- (a) Any person who tests positive for COVID-19 must register or be registered on TALOFAPASS (<https://talofapass.as.gov/>) to ensure that required services may be provided to the patient, for contact tracing, and for daily reporting that the individual is abiding by all quarantine and isolation protocols and requirements.
- (b) The Department of Health may issue quarantine or isolation directives in accordance with A.S.C.A. § 13.0215.

6. Travel and Entry Requirements

- (a) All air and sea travel to and from American Samoa is suspended unless approved by the Governor or GAR upon the assurance that the health and safety of American Samoa residents will be protected.
- (b) Until June 1, 2022, any person entering the Territory,
 - (1) Must register with TALOFAPASS (<https://talofapass.as.gov/>) the online travel program approved by the COVID-19 Task Force, the Department of Health, and the Department of Legal Affairs. That registration must take place 14 days prior to entering the Territory,

- (2) Must show proof of full vaccination if they are 5 years old or older,
 - (3) Must show proof of negative COVID test or tests prior to arrival as required by the Department of Health, and
 - (4) Must submit to COVID testing and quarantine upon arrival if required by the Department of Health.
- (c) Effective June 2, 2022, any person entering the Territory,
 - (1) Must register with TALOFAPASS (<https://talofapass.as.gov/>) the online travel program approved by the COVID-19 Task Force, the Department of Health, and the Department of Legal Affairs. That registration must take place 14 days prior to entering the Territory, and travelers
 - (2) Must show proof of full vaccination if they are 5 years old or older,
 - (3) Must show proof of negative COVID-19 test within 72 hours prior to travel via TALOFAPASS³, and
 - (4) Must submit to COVID testing upon arrival;
 - (5) Complete a health questionnaire within 24 hours of departure on TALOFAPASS.
- (d) Any person entering the Territory must wear a mask, in accordance with Section 1 of this Declaration, while onboard an aircraft, boat or ship in transit to American Samoa. Failure to wear a mask while en route to American Samoa will result in a refusal of entry and a return to the traveler's point of embarkation.
- (e) ANY PERSON WHO MAKES FALSE STATEMENTS OR PROVIDES FRAUDULENT DOCUMENTS TO TALOFAPASS OR REFUSES TO COMPLY WITH QUARANTINE AND TESTING REQUIREMENTS ISSUED BY THE DEPARTMENT OF HEALTH SHALL BE SUBJECT TO CRIMINAL AND CIVIL PENALTIES INCLUDING BUT NOT LIMITED TO A **\$1,000 FINE**.
- (f) The GAR may make exceptions and authorize the entry of persons into the Territory without using the online travel program. Any person entering under an exception by the GAR must comply with the safety requirements mandated by the GAR. Any inquiries can be made at covidtravel@go.as.gov.
- (g) All aircrew must contact the Department of Health at least 96 hours prior to travel and provide documents required by the Director of Health. They must also submit proof of a negative COVID-19 test at least 72 hours prior to arrival, evidence of having recovered from COVID-19 in the last 6 months, or proof of complete vaccination at least 14 days prior to arrival. Agents for cargo flights are responsible for providing that proof to the Department of Health.
- (h) Aircrew will not be permitted to exit their aircraft without the prior written approval of the Director of Health unless it is necessary to comply with safety requirements or regulations.

³ Testing must be completed at a Clinical CLIA certified lab anywhere within the US.

- (1) Anyone permitted to stay overnight will be subject to quarantine.
- (2) The Director of Health may establish policies or promulgate rules to govern personal protective equipment and procedures for airport operations including but not limited to, loading and unloading people, luggage, and cargo onto or off of aircraft.
- (i) Shipping agents for vessels, including but not limited to fishing and cargo vessels, entering American Samoa must provide the Department of Health documentation required by International Health Regulations and must provide the Department of Health at least 72 hours prior to arrival proof of a negative COVID-19 test, evidence of having recovered from COVID-19 in the last 6 months, or proof of complete vaccination at least 14 days prior to arrival for each person on the vessel.
 - (1) No person will be allowed to disembark from any vessel unless they are residents of American Samoa without prior written approval of the Director of Health. Residents will need to comply with the requirements of Paragraph (b) of this Section
 - (2) The Director of Health may establish policies or promulgate rules to govern the health precautions for the entry of vessels into the ports of American Samoa pursuant to his authority in Title 20, Chapter 13 of the American Samoa Code Annotated.
- (j) The requirements of A.S.C.A. §§ 41.0208(a) and 41.0501 are waived to the extent that people entering American Samoa may be transported from port facilities at Fagatogo or the Pago Pago International Airport to a designated alternate location before they will be required to prove that they are not subject to exclusion. Alternate locations will be designated by the GAR. For purposes of A.S.C.A. §§ 41.0208(a) and 41.0501, the alternate location will be considered a Port of Entry. Additionally, the alternate location shall be considered a secure area for the purposes of A.S.C.A. § 27.1003.

7. Government Employee Vaccine Mandate

A full course of vaccination against COVID-19 is mandatory for all Executive Branch employees of the American Samoa Government including, but not limited to, career service employees, political appointees, and contract employees. Semi-autonomous authorities and entities which have their own personnel hiring, compensation, leave, disciplinary and termination rules and policies have adopted their own rules for their employees' COVID-19 vaccine requirements.

- (a) Employees must provide the Director of Human Resources with evidence of having completed the full course of vaccination against COVID-19 that is approved by the FDA or the World Health Organization. Departments and agencies may collect proof of vaccination from their employees on behalf of the Director of Human Resources.
- (b) Evidence of full course of vaccination must be documented in the form of a copy of the record of immunization from a health care provider or pharmacy, a copy of the COVID-19 Vaccination Record Card, a copy of medical records

- documenting the vaccination, a copy of immunization records from a public health or state/territory immunization information system, or a copy of any other official documentation containing 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(s). Employees may be required to certify under penalty of perjury that the documentation they are submitting is true and correct.
- (c) Employees who fail to provide evidence of vaccination as required by Subsection (a) or do not have an approved accommodation under Subsection (f), are not permitted to work in any position inside a government-owned or leased building, or a government-owned or leased vehicle, or any worksite or location where they will be in the presence of other ASG employees or members of the public in the course of their employment.
 - (d) Any employee who does not comply with Subsections (a) or (i) shall be placed on leave by the employee's department or agency and the Director of Human Resources until the employee provides proof of required vaccination, the employee has an approved accommodation under Subsection (f), or the ongoing public health emergency and state of emergency is over. Pursuant to A.S.A.C. §§ 4.0802(e) and 4.1005(a)(2), employees may use their accumulated annual or sick leave while they are on leave. Otherwise, the leave shall be without pay.
 - (e) Nothing in this Declaration prohibits the termination of an employee for violation of standards established administratively which govern employee conduct and deportment pursuant to A.S.C.A. § 7.0801 or abandonment of position pursuant to A.S.C.A. § 7.0804.
 - (f) Exceptions to the vaccination requirement of this Declaration of Ongoing Public Health Emergency and State of Emergency will only be permitted as required by law. A reasonable accommodation may be provided to employees who communicate in writing to the Department of Human Resources that they are not vaccinated against COVID-19 because of a disability pursuant to the Americans with Disabilities Act (42 U.S.C. § 1201 *et seq*) or a valid medical reason or because of a sincerely held religious belief, practice, or observance. Requests for exemptions and accommodation must promptly be directed to the Director of Human Resources. Determining whether an exception is legally required includes consideration of relevant factors, including the basis for the request; the nature of the employee's job responsibilities; and the reasonably foreseeable effects and any burden on government operations; and the protection of other employees and the public from COVID-19.
 - (g) The Department of Human Resources shall notify ASG department and agency directors of any employees who have failed to provide proof of a full course of vaccination without having applied for and been granted an exemption or accommodation.
 - (h) No employee hired after November 1, 2021 shall begin work until they demonstrate that they can comply with Subsection (a) or they are granted an exception and accommodation pursuant to Subsection (f).

- (i) COVID-19 booster shots are mandated for certain first responders and essential workers who are eligible and not exempted:
 - (1) In addition to the other requirements of this Section, the employees in the categories listed in Paragraph (4) must demonstrate proof of having received a COVID-19 booster vaccine to the Director of Human Resources or they shall be placed on leave in accordance with Subsection (d).
 - (2) Booster vaccines are not required until 2 months after receiving the Johnson & Johnson vaccine or 5 months after receiving the second shot of the Pfizer-BioNTech or Moderna vaccine.⁴
 - (3) Employees who have been granted an exception and accommodation pursuant to Subsection (f) are exempt from receiving a booster, but their accommodations should be reassessed due to the community spread that currently exists in American Samoa.
 - (4) This subsection applies to:
 - (A) Healthcare workers;
 - (B) Police officers;
 - (C) Firefighters;
 - (D) Emergency Medical Technicians; and
 - (E) Employees who work at the Tafuna Correctional Facility and the Juvenile Detention Center.
 - (5) The American Samoa Medical Center shall immediately adopt a policy mandating that all eligible employees at the Lyndon Baines Johnson Tropical Medical Center shall receive COVID-19 booster shots, unless they have been granted an exception due to a disability pursuant to the Americans with Disabilities Act (42 U.S.C. § 1201 *et seq*) or a valid medical reason or because of a sincerely held religious belief, practice, or observance.

8. Price Gouging Prohibited

Price gouging is prohibited. This Declaration established a “State of Emergency” as the term is used in Title 27, Chapter 9 of the American Samoa Code Annotated. All violations of this provision will be prosecuted vigorously to the full extent of the law. The Attorney General is authorized to request justification from any business deemed to have substantially increased its prices during this Health Emergency period.

9. Transporting Human Remains

Requests for transporting human remains to or from American Samoa must be submitted to the GAR and the Department of Health. The request will be reviewed by the Department of Health prior to final approval or disapproval by the GAR.

⁴ See <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/booster-shot.html>

10. Emergency Reciprocity for Medical Assistance from Outside the Territory

A.S.C.A. § 31.1001, relating to licensing of medical professionals, is suspended to the extent that any person who is licensed to provide medical services by a U.S. state, U.S. territory, or the District of Columbia shall be deemed as licensed in American Samoa provided that

- (a) The person is licensed as a physician, nurse practitioner, nurse, pharmacist, paramedic, emergency medical technician, or other medical provider in a U.S. state, U.S. territory, or the District of Columbia; and
- (b) The person's license to provide medical services has not been suspended in any state, territory, or the District of Columbia; and
- (c) The person is preparing for, responding to, mitigating the effects of, or recovery from COVID-19; and
- (d) The person is a federal medical responder (uniformed service, federal government employee, or federal contractor) or is under contract with the American Samoa Medical Center Authority (LBJ Tropical Medical Center) or the Department of Health.

11. Funerals

- (a) Funerals must be coordinated through the Emergency Operations Center by contacting at eoc.opschief@asdhs.as.gov or (684) 699-3800 Ext: 116.
- (b) Attendance limits, masking, and social distancing requirements as provided in Sections 1 and 2 of this Declaration must be satisfied.
- (c) No children under five years old are allowed to participate in funeral gatherings.
- (d) All funeral gatherings must be completed within four hours after the casket leaves the morgue. Regardless of the four-hour limit, all funeral activities must be completed by 4pm.
- (e) DOH will determine whether the casket will be opened or closed during the funeral.

12. Emergency Rulemaking

Departments, Agencies, and Offices of the American Samoa Government may promulgate emergency rules to respond to the COVID-19 pandemic in accordance with established law and the Administrative Procedures Act. Emergency rules will be submitted to the Governor prior to promulgation.

13. Enforcement

ANY PERSON WHO VIOLATES THE REQUIREMENTS OF THIS DECLARATION OR VIOLATES A QUARANTINE OR ISOLATION ORDER ISSUED BY THE DIRECTOR OF HEALTH OR HIS DESIGNEE MAY BE CHARGED WITH A VIOLATION OF A.S.C.A. §§ 13.0323 OR 46.4703 AND PUNISHED BY UP TO 12 MONTHS IN JAIL OR A \$1,000 FINE.

The Governor's Office may be contacted at covidtravel@go.as.gov or **633-4121**.

The Department of Health may be contacted at dohcovid19clearance@doh.as or **684-633-5871/5872**.

This Declaration will be effective May 28, 2022 and supersedes the Declaration dated April 28, 2022 and the amendments to that Declaration. It will be in effect for thirty (30) days and will expire on June 27, 2022. Exclusive authority for rendering all final decisions pertaining to the implementation of all prescribed mandates of this Emergency Declaration is vested in the Governor of the Territory of American Samoa and the GAR.

Dated: May 27, 2022



LEMANU P. S. MAUGA
GOVERNOR