

BOARD OF TRUSTEES

Carmen. Hulu Lindsey, *Chairperson*Leina'ala Ahu Isa, *Vice Chairperson*

Dan Ahuna, Trustee Kaua'i & Ni'ihau

Kalei Akaka, Trustee O'ahu

Keli'i Akina, Trustee At-Large

Luana Alapa, Trustee Moloka'i & Lāna'i

Brendon Kalei'āina Lee, Trustee At-Large

Keola Lindsey, Trustee Hawai'i Island

John Waihe'e IV, Trustee At-Large



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS

MEETING OF THE BOARD OF TRUSTEES**DATE:** Thursday, October 21, 2021**TIME:** 10:00 am**PLACE:** Virtual MeetingViewable at www.oha.org/livestream OR

Listen by phone: (213) 338-8477, Webinar ID: 872 4856 9039

Due to the threat of COVID-19, Governor Ige issued the most recent Emergency Proclamation Related to the COVID-19 Delta Response, dated October 1, 2021 that suspends parts of Hawai'i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location. The OHA Board of Trustees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA's website at www.oha.org/livestream or listen by phone: (213) 338-8477, Webinar ID: 872 4856 9039

AGENDA-AMENDED**I. Call to Order****II. Public Testimony** on Items Listed on the Agenda* (Please see page 2 on how to submit written testimony or provide oral testimony online. Oral testimony by phone will **not** be accepted)**III. Community Concerns and Celebrations***(Please see page 2 on how to submit written testimony or provide oral testimony online. Oral testimony by phone will **not** be accepted)**IV. New Business****A. Committee of Beneficiary Advocacy and Empowerment**

1. Action Item BAE # 21-05: Approval of OHA participation in the appeal and administrative proceedings related to the Nā Wai 'Ehā Surface Water Use Applications, Integration of Appurtenant Rights, and Amendments to the Interim Instream Flow Standards Findings of Fact, Conclusions of Law, and Decision and Order, dated June 28, 2021, of the Commission on Water Resource Management (CCH-MA 15-01)

B. Workshop: COVID-19 Vaccination and Testing Policy for the Office of Hawaiian Affairs and its Implementation by Administration**V. Executive Session‡****A. Consultation with Board Counsel Robert G. Klein re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to executive session minutes, pursuant to HRS§92-5 (a)(4)****B. Approval of Executive Session Minutes**

- | | |
|----------------|------------------|
| April 22, 2021 | 3. June 2, 2021 |
| May 20, 2021 | 4. June 17, 2021 |

C. Action Item BAE # 21-05: Approval of OHA participation in the appeal and administrative proceedings related to the Nā Wai 'Ehā Surface Water Use Applications, Integration of Appurtenant Rights, and Amendments to the Interim Instream Flow Standards Findings of Fact, Conclusions of Law, and Decision and Order, dated June 28, 2021, of the Commission on Water Resource Management (CCH-MA 15-01). Consultation with Pamela Bunn, Esq. and Everett Ohta, Esq., re: questions and issues pertaining to the boards powers, duties, privileges, immunities, and liabilities, pursuant to HRS § 92-5(a)(4).

BOARD OF TRUSTEES

Carmen. Hulu Lindsey, *Chairperson*Leina'ala Ahu Isa, *Vice Chairperson*

Dan Ahuna, Trustee Kaua'i & Ni'ihau

Kalei Akaka, Trustee O'ahu

Keli'i Akina, Trustee At-Large

Luana Alapa, Trustee Moloka'i & Lāna'i

Brendon Kalei'aina Lee, Trustee At-Large

Keola Lindsey, Trustee Hawai'i Island

John Waihe'e IV, Trustee At-Large



STATE OF HAWAII OFFICE OF HAWAIIAN AFFAIRS

- D. Consultation with Board Counsel Robert G. Klein, Esq. re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to the legal aspects of the potential future use and development of the Office of Hawaiian Affairs' commercial properties pursuant to HRS§92-5(a)(4).

VI. Announcements

VII. Adjournment

If you require an auxiliary aid or accommodation due to a disability, please contact Raina Gushiken at telephone number 594-1772 or by email rainag@oha.org no later than three (3) business days prior to the date of the meeting.

Meeting Materials will be available to the public on Monday, October 18, 2021 and posted to OHA's website at:

www.oha.org/bot In the event that the livestream public broadcast is interrupted and cannot be restored, the meeting may continue as audio-only through the phone and Webinar ID provided at the beginning of this agenda.

†Notice: The 72 Hour rule, pursuant to OHA BOT Operations Manual, Section 49, shall be waived for distribution of new committee materials.

‡ Notice: This portion of the meeting will be closed pursuant to HRS § 92-5.

* **Public Testimony on Items Listed on the Agenda must be limited to matters listed on the meeting agenda.**

Community Concerns and Celebrations is not limited to matters listed on the meeting agenda. Hawai'i Revised Statutes, Chapter 92, Public Agency Meetings and Records, prohibits Board members from discussing or taking action on matters not listed on the meeting agenda.

Testimony can be provided to the OHA Board of Trustees either as: (1) **written testimony** emailed at least 24 hours prior to the scheduled meeting, or (2) live, **oral testimony online** during the virtual meeting.

- (1) Persons wishing to provide **written testimony** on items listed on the agenda should submit testimony via **email** to BOTmeetings@oha.org at least **24 hours prior** to the scheduled meeting. Any testimony received after this deadline will be late testimony and will be distributed to the Board members after the scheduled meeting. **Due to COVID- 19, please do not fax, mail, or hand-deliver written testimony**

- (2) Persons wishing to provide **oral testimony online** during the virtual meeting must first register at:

https://us06web.zoom.us/webinar/register/WN_Of_ijTKgS9auPEIxN2bVWQ

You need to register if you would like to orally testify. Once you have completed your registration, a confirmation email will be sent to you with a link to join the virtual meeting, along with further instructions on how to provide oral testimony during the virtual meeting. The registration page will close during the Public Testimony or Community Concerns agenda item. Oral testimony by telephone/landline **will not** be accepted at this time.

To provide oral testimony online, you will need:

- (1) a computer or mobile device to connect to the virtual meeting;
- (2) internet access; and
- (3) a microphone to provide oral testimony.

Oral testimony online will be limited to five (5) minutes. Once your oral testimony is completed, you will be asked to disconnect from the meeting, unless you are also signed up for oral testimony during Community Concerns and Celebrations. If you do not sign off on your own, support staff will remove you from the Zoom meeting. You can continue to view the remainder of the meeting on the livestream or by telephone, as provided at the beginning of this agenda.

PHONE (808) 594-1888

FAX (808) 594-1868

BOARD OF TRUSTEES

Carmen. Hulu Lindsey, *Chairperson*

Leina'ala Ahu Isa, *Vice Chairperson*

Dan Ahuna, Trustee Kaua'i & Ni'ihau

Kalei Akaka, Trustee O'ahu

Keli'i Akina, Trustee At-Large

Luana Alapa, Trustee Moloka'i & Lāna'i

Brendon Kalei'āina Lee, Trustee At-Large

Keola Lindsey, Trustee Hawai'i Island

John Waihe'e IV, Trustee At-Large



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS

Please visit OHA's website for more detailed information on how to submit Public Testimony OR Community Concerns at: <https://www.oha.org/how-to-submit-testimony-for-oha-bot-meetings/>

Carmen Hulu Lindsey

10/15/2021

Date

Trustee Carmen Hulu Lindsey
Chairperson, Board of Trustees

**Office of Hawaiian Affairs
Meeting of the Board of Trustees
October 21, 2021
10:00 A.M.**

IV. New Business

A. Committee of Beneficiary Advocacy and Empowerment

- 1. Action Item BAE # 21-05: Approval of OHA participation in the appeal and administrative proceedings related to the Nā Wai ‘Ehā Surface Water Use Applications, Integration of Appurtenant Rights, and Amendments to the Interim Instream Flow Standards Findings of Fact, Conclusions of Law, and Decision and Order, dated June 28, 2021, of the Commission on Water Resource Management (CCH-MA 15-01)**

OFFICE OF HAWAIIAN AFFAIRS
Committee on Beneficiary Advocacy and Empowerment (BAE)
COMMITTEE REPORT

October 13, 2021

The Honorable Carmen Hulu Lindsey, Chair
Board of Trustees
Office of Hawaiian Affairs

Chair Lindsey,

Your Committee on Beneficiary Advocacy and Empowerment, having met on October 13, 2021 and after full and free discussion, recommends approval of the following motion to the Board of Trustees:

Motion 1:

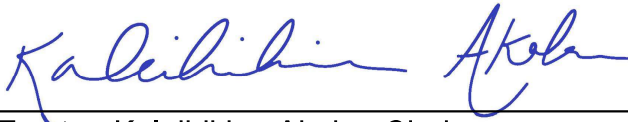
Action Item BAE # 21-05: Approval of OHA participation in the appeal and administrative proceedings related to the Nā Wai ‘Ehā Surface Water Use Applications, Integration of Appurtenant Rights, and Amendments to the Interim Instream Flow Standards Findings of Fact, Conclusions of Law, and Decision and Order, dated June 28, 2021, of the Commission on Water Resource Management (CCH-MA 15-01);

Relevant attachments are included for your information and reference.

Attachment(s):

- 1) BAE Roll Call Vote Sheet - BAE Action Item #21-05 Motion 1.

Respectfully submitted:



Trustee Kaleihikina Akaka, Chair

Keola Lindsey

Trustee Keola Lindsey, Vice-Chair

EXCUSED

Trustee Leina'ala Ahu Isa, Member

EXCUSED

Trustee Dan Ahuna, Member



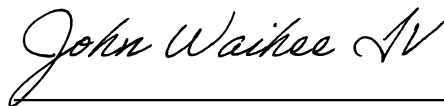
Trustee Keli'i Akina, Member

Luana Alapa

Trustee Luana Alapa, Member



Trustee Brendon Kalei'aina Lee, Member



Trustee John Waihe'e, IV, Member

Carmen Hulu Lindsey

Trustee Carmen Hulu Lindsey, Member

Attachment 1

Roll Call Vote Sheet

**COMMITTEE ON
BENEFICIARY ADVOCACY AND EMPOWERMENT
(BAE)**

DATE: October 13, 2021

**START: 1:31 p.m.
MOTION: 2:58 p.m.
VOTE: 2:58 p.m.**

AGENDA ITEM:

IV. New Business

A. Action Item BAE # 21-05: Approval of OHA participation in the appeal and administrative proceedings related to the Nā Wai 'Ehā Surface Water Use Applications, Integration of Appurtenant Rights, and Amendments to the Interim Instream Flow Standards Findings of Fact, Conclusions of Law, and Decision and Order, dated June 28, 2021, of the Commission on Water Resource Management (CCH-MA 15-01);

MOTION:

Action Item BAE # 21-05: Approval of OHA participation in the appeal and administrative proceedings related to the Nā Wai 'Ehā Surface Water Use Applications, Integration of Appurtenant Rights, and Amendments to the Interim Instream Flow Standards Findings of Fact, Conclusions of Law, and Decision and Order, dated June 28, 2021, of the Commission on Water Resource Management (CCH-MA 15-01);

AMENDMENT:

MEANS OF FINANCING:

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						X
DAN	AHUNA						X
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
VICE CHAIR KEOLA	LINDSEY			X			
JOHN	WAIHE'E		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				7	0	0	2

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Office of Hawaiian Affairs
Meeting of the Board of Trustees
October 21, 2021
10:00 A.M.

IV. New Business

**A. Workshop: COVID-19 Vaccination and Testing Policy for the
Office of Hawaiian Affairs and its Implementation by Administration**



OFFICE OF HAWAIIAN AFFAIRS
INTER-OFFICE MEMORANDUM

DATE: October 15, 2021

TO: Ke Kaupoku o Ke Ke‘ena Kuleana Hawai‘i
Robert G. Klein, Esq., Board Counsel

VIA: Sylvia M. Hussey, Ed.D., Ka Pouhana, Chief Executive Office

FROM: Raina Gushiken, Ka Paepae Puka, Senior Legal Counsel

SUBJECT: **COVID-19 Vaccination and Testing Policy**

ATTACH: COVID-19 Vaccination and Testing Policy for the Office of Hawaiian Affairs

This memorandum sets forth the purpose, components, and recommendation for the COVID-19 Vaccination and Testing Policy for the Office of Hawaiian Affairs (OHA).

I. Relevant Background

On August 5, 2021, Governor Ige issued his Emergency Proclamation Related to the COVID-19 Response, that among other provisions, requires all State Executive Branch and county employees to attest to vaccination status to their respective department, office, or agency and those who were not vaccinated would be subject to regular COVID-19 testing.¹

¹ [2108026-ATG Emergency-Proc-for-COVID-19-Response-distribution-signed.pdf \(hawaii.gov\)](#). Pursuant to Hawai‘i Revised Statutes (HRS) Chapter 127A, the Governor has executive authority to declare a state of emergency and issue emergency proclamations and orders that have the full force and effect of law. *See* HRS §§ 127A-11, -12, and 25.

The State Legislature and State Judiciary implemented their own vaccination and testing policies for their members and employees.²

On August 26, 2021, leaders from various sectors of the Native Hawaiian community, including OHA, held a press conference to encourage community members to do their part to stop the surge of COVID-19. With Native Hawaiians representing nearly 32% of all COVID-19 cases statewide (while only constituting 21% of the population), more needs to be done to empower and educate Native Hawaiians on what choices are best for their community, their ‘ohana and loved ones.

Native Hawaiian and Pacific Islander (NHPI) populations have experienced disproportionate impacts of COVID-19, and the impacts to Native Hawaiians particularly have been alarming. During this pandemic, OHA participated in and supported the work of the NHPI COVID-19 3R---Response, Recovery & Resilience Team, <https://www.nhpicovidhawaii.net/> and its advocacy for data disaggregation, testing sites, practices that mitigate transmission, vaccination and recovery. The coalition communicates and messages through a broad spectrum of mechanisms---radio, television, print and social media, statewide resourcing, multiple pacific languages, including ‘olelo Hawai‘i, as well as the use of community (e.g., faith based leaders, Native Hawaiian physicians), to advance its messages. A prominent message is that of encouraging vaccination among NHPI populations. OHA will continue to participate in and support the work of the NHPI COVID-19 3R Team, including the messages encouraging vaccination.

For the September Ka Wai Ola, a special insert “Protecting Our Lāhui From COVID-19” was included that shared a Mythbusters article addressing 10 fears and rumors circulating in our community preventing people from getting vaccinated. Kānaka Maoli leaders have increasingly expressed their fears for the safety of our lāhui. To amplify these community voices, OHA initiated the “I’m Vaccinated” campaign and invited ‘Ōiwi leaders from across the pae ‘āina and from every walk of life to participate. No one is being paid to do this. These alaka‘i have dedicated their lives to serving and uplifting our lāhui and volunteered in this dark hour to share their reasons for getting vaccinated out of aloha for our people and concern for our collective future. Their stories and more information on protecting our lāhui from COVID19 can be found on KaWaiOla.news.

² For the State House of Representatives, see House of Representatives COVID-19 Vaccination Policy at [a825ecf6-7945-4262-864d-4771ed127a31.pdf \(worldnow.com\)](#); for the State Senate see [State Senate to mandate COVID-19 vaccines - Honolulu, Hawaii news, sports & weather - KITV Channel 4](#); for the State Judiciary, see [Judiciary | Judiciary Announces COVID-19 Vaccination and Testing Program \(state.hi.us\)](#)

On September 8, 2021, Governor Ige issued Executive Order No. 21-07 that requires all contractors entering, working, or providing any service in a State facility to attest as to each employee whether they are fully vaccinated, and if not fully vaccinated, that they obtained a negative COVID-19 test result prior to entering or remaining in any State facility.³ The Governor's Executive Order further requires that all visitors to a State facility provide verification of being fully vaccinated, or if not fully vaccinated, to produce a negative COVID-19 test result prior to being allowed to enter or remain in a State facility.

On September 9, 2021, President Biden issued Executive Orders that required all federal Executive Branch employees⁴ and federal contractors⁵ to be vaccinated. During his press briefing on September 9, 2021, President Biden announced that the U.S. Department of Labor is developing an emergency rule to require all employers with 100 or more employees to ensure their workforces are fully vaccinated or show a negative test at least once a week.⁶

Pursuant to Executive Order No. 21-07, Ka Pouhana issued an operational directive on September 13, 2021, informing everyone that OHA is requiring that all contractors entering, working, or providing services in an OHA worksite to submit an attestation of their vaccination status and for those who are unvaccinated or partially vaccinated, a negative test result of a COVID-19 test, and that they wear a mask at all times while in an OHA worksite, and physically distance themselves from others. OHA Contract Administrators were required to notify contractors and vendors of these requirements and the process in which they can submit their written attestations before coming to OHA to perform work or carry out services.

On October 1, 2021, the Governor issued an Emergency Proclamation Related to the State's COVID-19 Delta Response, effective through November 30, 2021 (Emergency Proclamation).⁷ Among other things, the Emergency Proclamation extends the state-wide mask mandate indoors in public settings; allows State boards and commissions to continue meeting virtually, using interactive conference technology and providing testifiers the same option to testify audio visually; and setting forth Rules Relating to

³ [2109041-ATG_Executive-Order-No.-21-07-distribution-signed.pdf \(hawaii.gov\)](#). In Executive Order No. 21-07, "facility" is defined as any facility, building, or other property controlled and used by the State to conduct government business, or any other property that is the site of a government project.

⁴ [Executive Order on Requiring Coronavirus Disease 2019 Vaccination for Federal Employees | The White House](#)

⁵ [Executive Order on Ensuring Adequate COVID Safety Protocols for Federal Contractors | The White House](#)

⁶ [Remarks by President Biden on Fighting the COVID-19 Pandemic | The White House](#)

⁷ [2109152-ATG_Emergency-Proclamation-Related-to-the-States-COVID-19-Delta-Response-distribution-signed.pdf \(hawaii.gov\)](#)

Access to State Property, as set forth in Exhibit E thereto, superseding Executive Order No. 21-07.

II. Discussion

OHA's objective has and continues to be, maintaining safe, healthy, and productive work environments for our employees and beneficiaries while, to the extent possible, limiting disruptions in our services to the Lāhui.

OHA supports COVID-19 vaccinations and believes having a fully vaccinated workforce will help to maintain safe, healthy, and productive work environments for our employees, beneficiaries, and community partners with whom we interact. OHA recognizes the important role vaccinations play in preventing severe illness and death in those who contract COVID-19.⁸

For all the foregoing reasons, Administration recommends that all Employees and Visitors provide either verification of full vaccination or proof of a current and valid negative COVID-19 test result, subject to the provisions set forth in the COVID-19 Vaccination and Testing Policy for the Office of Hawaiian Affairs (Policy), attached hereto as Attachment A.

A. Components of the Policy

1. Definitions

Employee: For the purposes of this policy, Employee means all full time, part time, compensated or uncompensated individuals classified as executives, management, staff, temporary hires, and casual hires, employed by the OHA. It also includes staff and members of the Board of Trustees of the OHA and volunteers who work with the OHA.

Visitor: For purposes of this policy, Visitor means any person entering an OHA Worksite who is not a State employee. The term "visitor" includes volunteers (including interns on academic programs), vendors, contractors or employees of a contractor, but shall not include: persons under the age of twelve (12) or individuals making deliveries to an OHA physical worksite and who leave within ten (10) minutes of entry.

COVID-19 Test: A diagnostic or screening test for SARS Cov-2 administered or observed by a laboratory, testing site, or healthcare provider or facility or authorized agent of the laboratory, testing site, or healthcare provider or facility of a sample taken not more than seventy-two (72) hours prior to entry of any facility.

⁸ [Interim Public Health Recommendations for Fully Vaccinated People | CDC](#)

OHA Worksite: For purposes of this policy, an OHA worksite is any physical location or destination where an employee will be conducting official OHA business and may be in contact with State employees or members of the public, including but not limited to OHA's physical offices and worksites located at: (1) Na Lama Kukui; (2) Kaka'ako Makai; (3) Kukaniloko; (4) Pahua; (5) Waialua Courthouse; (6) Wahiawa; (6) Kona Office; (7) Hilo Office; (8) Kaua'i Office; (9) Ho'omana; (10) Kekaha; (11) Lana'i Office; (12) Maui Office; (13) Palauea; (14) Moloka'i Office; and (15) Washington D.C. Bureau.

2. Verification of Full Vaccination Status

Employees may email to OHA HR and visitors may show to the OHA point of contact that they are meeting on site:

- Hardcopy or digital/photocopy of state-approved COVID-19 vaccination card;
- screenshot or digital copy of vaccination status through use of a publicly available health status application

Employees and visitors may also upload an image of their state COVID-19 vaccination card to the Lumisight OHA application.

3. Verification of Negative COVID-19 Test Result

Employees may email to OHA HR and visitors may show to the OHA point of contact that they are meeting on site a hardcopy or digital/photocopy of official documentation evidencing their negative COVID-19 test result.

Employees and visitors may also upload an image of official documentation evidencing their negative COVID-19 test result to Lumisight OHA application.

B. Implementation

Privacy of information provided by employees or visitors will be kept confidential. Any documentation related to vaccination status or test results obtained for purposes of this policy shall not be disclosed to individuals other than as necessary to ensure compliance with this policy or as required by law or court order.

The Policy would be effective upon Board approval.

Administration will communicate implementation and requirements of the policy to employees and provide any training on the use of the Lumisight OHA application for upload of vaccination and testing status.

When OHA re-opens to the public, Administration will communicate the requirements of the policy through available modes of external communication.

The policy will be updated by Administration on a regular basis as medical guidance and regulatory requirements change.

III. Recommendation

COVID-19 continues to pose a serious threat to the health and safety of our community. To ensure safe, healthy and productive work environments for employees, beneficiaries, and community partners with whom we interact and to align with county, state, and federal vaccination and testing requirements, Administration recommends that the OHA Board of Trustees approve the COVID-19 Vaccination and Testing Policy for the Office of Hawaiian Affairs as set forth in **Attachment A**, requiring all employees and visitors to provide either verification of full vaccination or proof of a current and valid negative COVID-19 test result and authorize Administration to carry out its implementation, including making regular updates to the policy as medical guidance and regulatory guidelines change.

IV. Attachment

A. COVID-19 Vaccination and Testing Policy for the Office of Hawaiian Affairs

COVID-19 VACCINATION AND TESTING POLICY FOR THE OFFICE OF HAWAIIAN AFFAIRS

OHA will follow applicable industry and regulatory guidelines related to COVID-19 from, including but not limited to, the Centers for Disease Control and Prevention (CDC), the Occupational Safety & Health Administration (OSHA), the Equal Employment Opportunity Commission (EEOC), and the Hawaii Department of Health (HDOH). This COVID-19 Vaccination and Testing Policy will be updated on a regular basis as regulatory guidelines change.

I. Purpose

The Office of Hawaiian Affairs' (OHA) objective has and continues to be, maintaining safe, healthy and productive work environments for staff and beneficiaries while, to the extent possible, limiting disruptions in our services to the Lāhui.

OHA supports COVID-19 vaccinations and believes having a fully vaccinated workforce will help to maintain safe, healthy and productive work environments for our staff, beneficiaries, and community partners with whom we interact. OHA recognizes the important role vaccinations play in preventing severe illness and death in those who contract COVID-19.¹

On August 5, 2021, Governor Ige issued his Emergency Proclamation Related to the COVID-19 Response, that among other provisions, requires all State Executive Branch and county employees to attest to vaccination status to their respective department, office, or agency and those who were not vaccinated would be subject to regular COVID-19 testing.²

The State Legislature and State Judiciary implemented their own vaccination and testing policies for their members and employees.³

On August 26, 2021, leaders from various sectors of the Native Hawaiian community, including OHA, held a press conference to encourage community members to do their part to stop the surge of COVID-19. With Native Hawaiians representing nearly 32% of all COVID-19 cases

¹ [Interim Public Health Recommendations for Fully Vaccinated People | CDC](#)

² [2108026-ATG Emergency-Proc-for-COVID-19-Response-distribution-signed.pdf \(hawaii.gov\)](#). Pursuant to Hawai'i Revised Statutes (HRS) Chapter 127A, the Governor has executive authority to declare a state of emergency and issue emergency proclamations and orders that have full force and effect of law. See HRS §§ 127A-11, -12, and 25.

³ For the State House of Representatives, see House of Representatives COVID-19 Vaccination Policy at [a825ecf6-7945-4262-864d-4771ed127a31.pdf \(worldnow.com\)](#); for the State Senate see [State Senate to mandate COVID-19 vaccines - Honolulu, Hawaii news, sports & weather - KITV Channel 4](#); for the State Judiciary, see [Judiciary | Judiciary Announces COVID-19 Vaccination and Testing Program \(state.hi.us\)](#)

statewide (while only constituting 21% of the population), more needs to be done to empower and educate Native Hawaiians on what choices are best for their community, their 'ohana and loved ones.

Native Hawaiian and Pacific Islander (NHPI) populations have experienced disproportionate impacts of COVID-19, and the impacts to Native Hawaiians particularly have been alarming. During this pandemic, OHA participated in and supported the work of the NHPI COVID-19 3R--- Response, Recovery & Resilience Team, <https://www.nhpicovidhawaii.net/> and its advocacy for data disaggregation, testing sites, practices that mitigate transmission, vaccination and recovery. The coalition communicates and messages through a broad spectrum of mechanisms---radio, television, print and social media, statewide resourcing, multiple pacific languages, including 'olelo Hawai'i, as well as the use of community (e.g., faith based leaders, Native Hawaiian physicians), to advance its messages. A prominent message is that of encouraging vaccination among NHPI populations. OHA will continue to participate in and support the work of the NHPI COVID-19 3R Team, including the messages encouraging vaccination.

For the September Ka Wai Ola, a special insert "Protecting Our Lāhui From COVID-19" was included that shared a Mythbusters article addressing 10 fears and rumors circulating in our community preventing people from getting vaccinated. Kānaka Maoli leaders have increasingly expressed their fears for the safety of our lāhui. To amplify these community voices, OHA initiated the "I'm Vaccinated" campaign and invited 'Ōiwi leaders from across the pae 'āina and from every walk of life to participate. No one is being paid to do this. These alaka'i have dedicated their lives to serving and uplifting our lāhui and volunteered in this dark hour to share their reasons for getting vaccinated out of aloha for our people and concern for our collective future. Their stories and more information on protecting our lāhui from COVID19 can be found on KaWaiOla.news.

On September 8, 2021, Governor Ige issued Executive Order No. 21-07 (Executive Order) that requires all contractors entering, working, or providing any service in a State facility to attest as to each employee whether they are fully vaccinated, and if not fully vaccinated, that they obtained a negative COVID-19 test result prior to entering or remaining in any State facility.⁴ The Executive Order further requires that all visitors to a State facility provide verification of being fully vaccinated, or if not fully vaccinated, to produce a negative COVID-19 test result prior to being allowed to enter or remain in a State facility.

On September 9, 2021, President Biden issued Executive Orders that required all federal Executive Branch employees⁵ and federal contractors⁶ to be vaccinated. During his press

⁴ [2109041-ATG Executive-Order-No.-21-07-distribution-signed.pdf \(hawaii.gov\)](#). In the Executive Order, "facility" is defined as any facility, building, or other property controlled and used by the State to conduct government business, or any other property that is the site of a government project.

⁵ [Executive Order on Requiring Coronavirus Disease 2019 Vaccination for Federal Employees | The White House](#)

⁶ [Executive Order on Ensuring Adequate COVID Safety Protocols for Federal Contractors | The White House](#)

briefing on September 9, 2021, President Biden announced that the U.S. Department of Labor is developing an emergency rule to require all employers with 100 or more employees to ensure their workforces are fully vaccinated or show a negative test at least once a week.⁷

On October 1, 2021, the Governor issued an Emergency Proclamation Related to the State's COVID-19 Delta Response, effective through November 30, 2021 (Emergency Proclamation).⁸ Among other things, the Emergency Proclamation extends the state-wide mask mandate indoors in public settings; allows State boards and commissions to continue meeting virtually, using interactive conference technology and providing testifiers the same option to testify audio visually; and setting forth Rules Relating to Access to State Property, as set forth in Exhibit E thereto, superseding Executive Order No. 21-07.

For all these reasons, OHA is requiring that all employees and visitors provide either verification of full vaccination or proof of a current and valid negative COVID-19 test result, subject to the provisions set forth in this policy.

II. Definitions

- A. Fully Vaccinated:** Individuals are considered fully vaccinated for COVID-19 if it has been two weeks after they have received the second dose in a two-dose vaccine series (e.g., Pfizer-BioNTech or Moderna) or two weeks after they have received a single-dose vaccine (e.g., Johnson & Johnson/Janssen).⁹ This guidance can also be applied to COVID-19 vaccines that have been authorized for emergency use listing ("EUL") by the World Health Organization (e.g., AstraZeneca/Oxford, Serum Institute of India, Sinopharm, and Sinovac as of July 2, 2021).
- B. Employee:** For the purposes of this policy, Employee means all full time, part time, compensated or uncompensated individuals classified as executives, management, staff, temporary hires, and casual hires, employed by the OHA. It also includes staff and members of the Board of Trustees of the OHA and volunteers who work with the OHA.
- C. Visitor:** For purposes of this policy, Visitor means any person entering an OHA Worksite who is not a State employee. The term "visitor" includes volunteers (including interns on academic programs), vendors, contractors or employees of a contractor, but shall not include: persons under the age of twelve (12) or individuals making deliveries to an OHA physical worksite and who leave within ten (10) minutes of entry.

⁷ [Remarks by President Biden on Fighting the COVID-19 Pandemic | The White House](#)

⁸ [2109152-ATG_Emergency-Proclamation-Related-to-the-States-COVID-19-Delta-Response-distribution-signed.pdf \(hawaii.gov\)](#)

⁹ See [When You've Been Fully Vaccinated | CDC](#)

- D. COVID-19 Test:** A diagnostic or screening test for SARS Cov-2 administered or observed by a laboratory, testing site, or healthcare provider or facility or authorized agent of the laboratory, testing site, or healthcare provider or facility of a sample taken not more than seventy-two (72) hours prior to entry of any facility.
- E. OHA Worksite:** For purposes of this policy, an OHA worksite is any physical location or destination where an employee will be conducting official OHA business and may be in contact with State employees or members of the public, including but not limited to OHA's physical offices and worksites located at: (1) Na Lama Kukui; (2) Kaka'ako Makai; (3) Kukaniloko; (4) Pahua; (5) Waialua Courthouse; (6) Wahiawa; (6) Kona Office; (7) Hilo Office; (8) Kaua'i Office; (9) Ho'omana; (10) Kekaha; (11) Lana'i Office; (12) Maui Office; (13) Palaeua; (14) Moloka'i Office; and (15) Washington D.C. Bureau.

III. Policy and Program

A. Employees

All Employees must provide either verification of being Fully Vaccinated or proof of a current and valid negative test for COVID-19 prior to entering an OHA Worksite in accordance with Section III.B, Verification of Vaccination & Submission or Section III.C, Testing Requirement, as applicable.

Employees may take up to two hours of paid time off for each vaccination dose, as operations permit. Employees must coordinate with and receive authorization from their supervisor if taking leave to get vaccinated and may be required to provide proof of registration.

Any Employee who has not provided verification of being Fully Vaccinated for COVID-19 may enter an OHA Worksite provided they provide proof of a current and valid negative COVID-19 test prior to arriving at an OHA Worksite in accordance with Section III.C, Testing Requirement.

When OHA recalls its workforce back to OHA Worksites, Employees who are not on an approved accommodation for continued telework and who do not provide verification of being Fully Vaccinated for COVID-19, must provide proof of a current and valid negative COVID-19 test once a week in accordance with Section III.C, Testing Requirement.

Employees who are less than fully vaccinated and who do not comply with the Testing Requirement are prohibited from entering an OHA Worksite.

An Employee who is required or directed to report to an OHA Worksite, but who is less than Fully Vaccinated and has not been tested, must notify their supervisor that they are not able to report as required or directed. The Employee may be subject to appropriate corrective action including progressive discipline, as applicable.

An Employee who is required or directed to report to a non-OHA Worksite that requires either vaccination and/or testing, but who is less than fully vaccinated and/or refuses to be tested, must notify their supervisor that they are not able to report as required or directed. The Employee may be subject to appropriate corrective action including progressive discipline, as applicable.

B. Verification of Vaccination & Submission

Employees must provide verification of their current vaccination status to OHA Human Resources ("HR") at hr@oha.org prior to being allowed to enter an OHA Worksite. Employees may:

- email a photograph or digital copy of a state-approved vaccination card or other official documentation evidencing their vaccination status; or
- email a screenshot or digital copy of their vaccination status through the use of various publicly available health status applications provided by the State of Hawai'i Smart Health Card, CommonPass applications, CLEAR Health Pass, Azova, IBM Digital Health Pass, and other similar products available to the public; or
- upload an image of their official state COVID-19 vaccination record to the LumiSight OHA application ([LumiSight Workplace](#)).

C. Testing Requirement for Less Than Fully Vaccinated Employees

Any Employee who is less than Fully Vaccinated must provide proof of a current and valid negative COVID-19 test to HR prior to being allowed to enter an OHA Worksite.

Employees may take up to two hours of paid time off to get tested for COVID-19, as operations permit. Employees must coordinate with and receive authorization from their supervisor if taking leave to get tested and may be required to provide proof of registration.

Employees not tested at a free testing site shall be responsible for any testing costs. The location of free testing sites can be found on the COVID- 19 State of Hawai'i Portal ([Testing, Isolation & Quarantine - Hawai'i DOH: Info & Resources for Managing COVID-19 \(hawaicovid19.com\)](#)).

Employees may:

- email a photograph or digital copy of official documentation evidencing their negative COVID-19 test result to HR at hr@oha.org; or

- upload an image of official documentation evidencing their negative COVID-19 test result to their LumiSight OHA account.

D. Visitors

All Visitors entering an OHA worksite must provide proof of being Fully Vaccinated for COVID-19 or proof of a current and valid negative COVID-19 test to an OHA point of contact upon entry at an OHA Worksite.

For proof of vaccination status, a Visitor may:

- show the hard-copy, photograph, or digital copy of a state-approved vaccination card; or
- show their vaccination status through the use of various publicly available health status applications provided by the State of Hawai'i Smart Health Card, CommonPass applications, CLEAR Health Pass, Azova, IBM Digital Health Pass, and other similar products available to the public; or
- upload an image of their official state COVID-19 vaccination record through the LumiSight OHA Application ([LumiSight Workplace](#)).

For proof of testing status, a Visitor may:

- show the hard-copy, photograph, or digital copy of official documentation evidencing their negative COVID-19 test result;
- upload an image of official documentation evidencing their negative COVID-19 test result to the LumiSight OHA application.

Any Visitor who refuses to show verification of being Fully Vaccinated or proof of a valid and current negative COVID-19 test result will be prohibited from entering an OHA Worksite and asked to immediately leave the premises.

E. Rejection of Proof of Vaccination or Testing Status

Proof of vaccination or testing status may be rejected if: (1) the information on the records provided are not acceptable; (2) the records provided have insufficient/missing information; (3) the information on the records provided cannot be verified; or (4) if the image is blurry or the resolution is too low to be readable.

F. Privacy

Consistent with law, any documentation related to vaccination status or test results obtained for purposes of this policy shall not be disclosed to individuals other than as necessary to ensure compliance with this policy, or as required by law or court order.

Please direct any questions regarding this policy to the Human Resources Department.

DRAFT



COVID-19 Vaccination and Testing Policy

Office of Hawaiian Affairs

Purpose

Ensure and maintain safe, healthy, and productive work environments for staff, beneficiaries, visitors

Vaccinations play an important role in preventing severe illness and death in those who contract COVID-19

Align with federal, state, and county vaccination and testing requirements for government employees

Align with federal and state vaccination and testing requirements for government contractors

Align with state vaccination and testing requirements for visitors to state facilities

To enter an OHA Worksite, all Employees and Visitors are required to provide proof of:

Fully Vaccinated

Negative COVID-19 Test
Result issued within the
last 72 hours

Policy Recommendation

Definitions

- **Employee:** full time, part time, compensated and uncompensated individuals classified as executives, management, staff, temporary hires, casual hires, who are hired by OHA.
- **Employee:** includes staff and members of the Board of Trustees and volunteers who work with the OHA.
- **Visitor:** any person entering an OHA Worksite who is not a State employee. Volunteers, vendors, contractors or employees of a contractor. Does not include persons under age of 12. Does not include individuals making deliveries to an OHA physical worksite and who leave within 10 minutes of entry.
- **OHA Worksite:** any physical location or destination where an employee will be conducting official OHA business and may be in contact with State employees or members of the public, including but not limited to OHA's physical offices and worksites located at: (1) Na Lama Kukui; (2) Kaka'ako Makai; (3) Kukaniloko; (4) Pahua; (5) Waialua Courthouse; (6) Wahiawa; (6) Kona Office; (7) Hilo Office; (8) Kaua'i Office; (9) Ho'omana; (10) Kekaha; (11) Lana'i Office; (12) Maui Office; (13) Palauea; (14) Moloka'i Office; and (15) Washington D.C. Bureau.

Employees/
Visitors
Proof of Full
Vaccination

Email /
Show

Hardcopy or digital/photocopy of state-approved COVID-19 vaccination card

Email /
Show

screenshot or digital copy of vaccination status through use of a publicly available health status application

Upload

image of state COVID-19 vaccination card to the Lumisight OHA application

Employees/ Visitors

Proof of Negative COVID-19 Test Result



Email/Show a hardcopy or digital/photocopy of official documentation evidencing negative COVID-19 test result



Upload image of official documentation evidencing negative COVID-19 test result to Lumisight OHA application

Implementation

Any documentation related to vaccination status or test results obtained for purposes of this policy shall not be disclosed to individuals other than as necessary to ensure compliance with this policy or as required by law or court order

Policy will be effective upon Board approval

Administration will communicate implementation date and requirements of the policy to employees

When OHA re-opens to the public, Administration will communicate the requirements of the policy through available modes of external communication

The policy will be updated by Administration on a regular basis as medical guidance and regulatory requirements change



- Questions?

Office of Hawaiian Affairs
Meeting of the Board of Trustees
October 21, 2021
10:00 A.M.

V. Executive Session

A. Consultation with Board Counsel Robert G. Klein re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to executive session minutes, pursuant to HRS§92-5 (a)(4)

B. Approval of Executive Session Minutes

- 1. April 22, 2021**
- 2. May 20, 2021**
- 3. June 2, 2021**
- 4. June 17, 2021**

Office of Hawaiian Affairs
Meeting of the Board of Trustees
October 21, 2021
10:00 A.M.

V. Executive Session

C. Action Item BAE # 21-05: Approval of OHA participation in the appeal and administrative proceedings related to the Nā Wai ‘Ehā Surface Water Use Applications, Integration of Appurtenant Rights, and Amendments to the Interim Instream Flow Standards Findings of Fact, Conclusions of Law, and Decision and Order, dated June 28, 2021, of the Commission on Water Resource Management (CCH-MA 15-01). Consultation with Pamela Bunn, Esq. and Everett Ohta, Esq., re: questions and issues pertaining to the boards powers, duties, privileges, immunities, and liabilities, pursuant to HRS § 92-5(a)(4).

Office of Hawaiian Affairs
Meeting of the Board of Trustees
October 21, 2021
10:00 A.M.

V. Executive Session

D. Consultation with Board Counsel Robert G. Klein, Esq. re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to the legal aspects of the potential future use and development of the Office of Hawaiian Affairs' commercial properties pursuant to HRS§92-5(a)(4).