

**STATE OF SOUTH DAKOTA
OFFICE OF THE GOVERNOR
EXECUTIVE ORDER 2021-14**

Whereas, An outbreak of the severe respiratory disease COVID-19, which is caused and transmitted by the person-to-person spread of the novel coronavirus, started in late 2019 in China and has currently been detected throughout the world, including South Dakota and the United States; and,

Whereas, The World Health Organization has designated COVID-19 a pandemic, and the U.S. Centers for Disease Control and Prevention has declared a public health emergency; and,

Whereas, The vaccines that guard against the COVID-19 virus are now widely available throughout the country, and in South Dakota, the vaccines are available to all people over the age of 12 if they so choose; and,

Whereas, On September 9, 2021, using the pandemic as an excuse to engage in a heretofore unheard of federal abuse of power, in a manner that President Joseph Biden himself had previously said was improper, President Biden announced an unprecedented abuse of his presidential authority, declaring that he would set in motion a federal mandate, enforced by a byzantine set of federal agencies and their army of bureaucrats, designed to force the vaccination of employees of large private employers, employees of federal contractors, and healthcare workers at Medicare and Medicaid participating hospitals and other health care settings; and,

Whereas, This overreaching federal mandate cannot subsume and overwhelm the Constitutional protections of the people to exercise their unalienable rights and Constitutional protections to be free from discrimination; and

Whereas, This overreaching federal mandate cannot properly rely upon any delegated authority to the federal government within the Constitution, including but not limited to the Commerce Clause, or the Necessary and Proper Clause, or any other provision of the Constitution that the President claims allows for this federal intrusion into the day-to-day life of the average American citizen, in that the Founding Fathers never intended and never anticipated that any provision in the Constitution would allow such an extreme federal government intrusion into a private citizen's life; and,

Whereas, Any federal mandate must provide accommodations in light of those Constitutional rights and protections, and this particular federal mandate to require the COVID-19 vaccination of certain employees should not be treated differently; and,

Whereas, The Constitution, the Tenth Amendment to the Constitution, and cases interpreting the Constitution since the beginning of the nation's history properly recognize the police power to regulate health, safety, and welfare, especially the power to compel vaccinations subject to proper exemptions, properly resides in the states, not in the federal government; and,

Whereas, It is even more improper to adopt a mandatory federal COVID-19 vaccination program in contravention of the Constitution or without due respect to medical, religious, or moral objections to this vaccination, which even President Biden acknowledges is beyond the pale, as provided for by his

“Safer Federal Workforce Task Force” in its guidance titled “COVID-19 Workplace Safety; Guidance for Federal Workers and Subcontractors,” issued on September 24, 2021 (“Biden Guidance”); and,

Whereas, This Biden Guidance expressly provides for an exemption from this overreaching federal contractor COVID-19 vaccination mandate for religious beliefs as well as practices and observances consistent with an individual’s religious beliefs in opposition to such a mandate; and,

Whereas, An individual’s religious beliefs, as well as practices and observances consistent with an individual’s personal religious beliefs as set out in that Biden Guidance, are informed by and amount to a manifestation of an individual’s conscience, which springs from the moral, philosophical, and ethical beliefs or principles held by the individual; and

Whereas, South Dakota state employees, like all Americans, should be able to rely fully upon the Biden Guidance’s express religious exemption from the unlawful COVID-19 vaccination mandate:

NOW, THEREFORE, I, KRISTI NOEM, Governor of the State of South Dakota, by the authority vested in me by the Constitution and the Laws of the State, do hereby Order and Direct the following:

1. This Executive Order applies to any person who:

- (a) works for any state agency, department, bureau, division, board, commission, or other executive branch entity or official of the executive branch under the direct control of the Governor;
- (b) works for any authority authorized by state law pursuant to chapters 11-11, 5-12, 1-16A, 1-16H, and 1-16J; or
- (c) works for the Board of Regents and Board of Technical Education.

2. No person to whom this Executive Order applies may be required to receive a COVID-19 vaccination if the person submits an accommodation notification to the state Bureau of Human Resources or the person’s respective human resources department providing either:

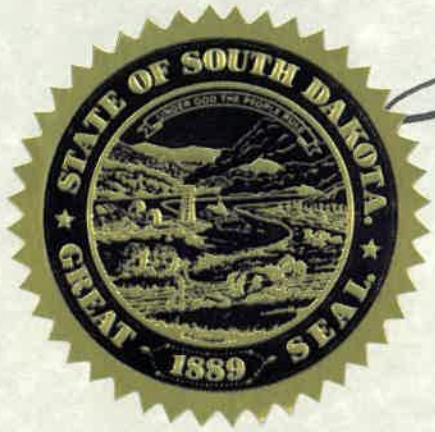
- a) a written statement from a physician stating that the COVID-19 vaccination is contraindicated for medical reasons, or
- b) a signed statement from the person on a form prescribed by the commissioner of the Bureau of Human Resources that shall read in full, “I, [insert person’s full name], dissent and object to receiving a COVID-19 vaccine on religious grounds, which includes moral, ethical, and philosophical beliefs or principles.”

3. This Executive Order does not apply to service members of the South Dakota National Guard, who are subject to federal activation pursuant to Title 10 of the United States Code. Let me be clear: as Commander-in-Chief of the South Dakota National Guard, I would not have chosen this approach, opting rather to preserve individual choice for South Dakota’s Soldiers and Airmen. Nevertheless, according to court precedent, the President has the authority to mandate such vaccine for the overall health of our Nation’s fighting forces. While serving as South

Dakota Governor I will not be accused of ever interfering with a President's ability to prepare our National Guard for service in protection of our nation.

4. Nothing in this Executive Order should be construed or interpreted to infringe upon or otherwise usurp the ability of private businesses in South Dakota to make decisions regarding their own employees or individuals entering their places of business or private property.
5. During the 2022 legislative session, it is expected that the Legislative Branch and Executive Branch will cooperate on legislation that will make permanent these protections of state employees and extend similar, if not the same, health and religious liberty protections for employees of private businesses, as well.

Dated in Pierre, South Dakota this 27th day of October, 2021.



A handwritten signature in black ink, appearing to read "Kristi Noem", written over a horizontal line.

Kristi Noem
Governor of South Dakota

ATTEST:

A handwritten signature in black ink, appearing to read "Steve Barnett", written over a horizontal line.

Steve Barnett
Secretary of State