

Hawaii Public Housing Authority Emergency Rules
Relating to COVID-19 Emergency

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§1 Findings. The authority finds that:

(a) The Governor of the State of Hawaii has determined and proclaimed that [~~the~~] COVID-19 is an emergency in the State of Hawaii as contemplated by section 127A-2 and 127A-14, Hawaii Revised Statutes ("HRS"), and that this emergency continues, as evidenced by his Proclamation dated March 4, 2020, and Supplementary Proclamations dated March 16, 2020, March 21, 2020, March 23, 2020, [~~and~~] March 31, 2020, April 17, 2020, April 25, 2020, May 5, 2020, May 18, 2020, June 10, 2020, and July 17, 2020 ("Emergency Proclamations");

(b) Section 127A-2, HRS, defines "emergency" as "any occurrence, or imminent threat thereof, which results or may likely result in substantial injury or harm to the population or substantial damage to or loss of property";

(c) There is an occurrence of a severe and extraordinary event that constitutes a public health emergency which continues

to evolve and spread around the globe and is now spreading by record daily amounts to a total of 1,989 positive cases in the community as of July 30, 2020, which has caused 26 deaths, damages, losses and suffering of such character and magnitude to affect the health, welfare, and living conditions of a substantial number of persons, and is anticipated to affect the economy of the State of Hawaii as the Governor declared through his Emergency Proclamations;

(d) The authority agrees with the Governor that the ongoing COVID-19 pandemic is of such magnitude to warrant protective action by the authority to prevent the spread of COVID-19 as COVID-19 continues to endanger[~~s~~] the health, safety, and welfare of the people;

(e) On July 31, 2020, the authority staff reported:

(1) A sudden and significant increase of COVID-19 cases among the residents at the following properties:

(A) Kuhio Park Terrace Low Rise - 1 active case

(B) The Towers at Kuhio Park (KPT Towers) - 16 new active cases (this property is privately owned and managed, however, it is a contiguous property with Kuhio Park Terrace Low Rise and Kuhio Homes)

(C) Kalihi Valley Homes - 5 positive cases; 2 are recovered (not active); 3 are active; 2 new cases pending confirmation

(D) Puahala Homes - 1 recovered case

(E) Hauiki - 1 active case (hospitalized)

(F) Mayor Wright Homes - 2 active cases

(G) Kaahumanu Homes - 1 active case

(H) Punchbowl Homes - 1 positive case that has recovered (not active)

(I) Hookipa Kahaluu - 1 positive case

(J) Palolo Homes - 1 positive case that has recovered (not active) (this property is privately owned and managed, however, it is near Palolo Valley Homes Federal Public Housing)

(K) Palolo Valley Homes - 1 new case pending confirmation

(L) Puuwai Momi - 5 positive cases, under isolation/quarantine in Waikiki (all from one household); 4 people from that same

- household awaiting test results;
2. Numerous residents at the public housing properties are not physical distancing or wearing facial coverings (e.g. masks), are congregating in groups, and have allowed friends and family to perform their travel quarantine in their public housing unit.

(f) These emergency rules protect the health, safety, and welfare of the public, all participants in the authority's programs, and authority staff by setting forth ~~[social]~~ physical distancing requirements to control the spread of COVID-19, mandating the wearing of facial coverings and practicing six feet minimum physical distancing at all times in all common areas of public housing properties, restricting visitors at all public housing properties, restricting gatherings at all public housing properties, mandating the wearing of facial coverings and vacating the unit or isolating in an area at least six feet away when authority staff are conducting repairs or other official business in a tenant's unit, and establishing penalties for non-compliance with the emergency rules, waiving minimum rent for qualified families participating in the authority's state-aided elderly, state-aided family, and federally-assisted public housing programs, and providing the authority shall not terminate a public housing rental agreement for nonpayment of rent and other charges related to rent, or impose fees and charges related to nonpayment of rent pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136 (March 27, 2020);

~~{f}~~ (g) These emergency rules also enable the authority to delay or suspend program requirements as allowed under HUD Notice PIH 2020-05 regarding COVID-19 Statutory and Regulatory Waivers for the Public Housing, Housing Choice Voucher, Indian Housing Block Grant and Indian Community Development Block Grant Programs, Suspension of Public Housing Assessment System and Section Eight Management Assessment Program dated April 10, 2020, issued by HUD to public housing agencies ("PIH Notice 2020-05"). In PIH Notice 2020-05, HUD waived and established alternative requirements for numerous statutory and regulatory requirements for the Housing Choice Voucher program, pursuant to the authority provided to HUD under the Coronavirus Aid, Relief and Economic Security (CARES) Act, Public Law 116-136 (March 27, 2020);

~~{g}~~ (h) Based on the above, there is an imminent peril to the public's health, safety and morals, caused by the COVID-19

in the State of Hawaii requiring immediate adoption of these emergency rules upon less than thirty days' notice of hearing; and

~~[(h)]~~ (i) These findings are based on the authority's Board of Directors' personal knowledge and professional experiences.

§2 Purpose. These emergency rules are adopted based on the findings in section 1 to respond to the COVID-19 emergency declared by the Governor and enable the authority to perform its duties while protecting the health, safety, and welfare of the public, all participants in the authority's programs, and authority staff by setting forth ~~[social]~~ physical distancing requirements to control the spread of COVID-19, mandating the wearing of face coverings in all public housing common areas, restricting visitors at all public housing properties, restricting gatherings at all public housing properties, mandating the wearing of face coverings and practicing six-foot (6') minimum physical distancing when staff are conducting repairs or other official business in a tenant's unit, establishing penalties for noncompliance of the emergency rules, waiving minimum rent for qualified families participating in the authority's state-aided elderly, state-aided family, and federally-assisted public housing programs, delaying or suspending program requirements as allowed under PIH Notice PIH 2020-05 so the authority may utilize HUD's waivers of, and alternative requirements for numerous statutory and regulatory requirements to keep the authority's federal public housing program operational, and providing the authority shall not terminate a public housing rental agreement for nonpayment of rent and other charges related to rent, or impose fees and charges related to nonpayment of rent pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136 (March 27, 2020) which is attached as Exhibit A.

§3 Authority. These rules are adopted pursuant to section 91-3, HRS.

§4 Applicability. Notwithstanding Chapter 15-185 Section 8 - Housing Choice Voucher Program, Chapter 15-186 State-Aided Elderly Public Housing Projects, Chapter 15-193 State-Aided Family Public Housing Projects, Chapter 17-2000 Rules of

Practice and Procedure, Chapter 17-2020 Eviction - Practice and Procedure, Chapter 17-2021 Grievance Procedure, Chapter 17-2028 Federally-Assisted Public Housing Projects, Chapter 17-2032 Resident Advisory Board, Chapter 17-2033 Rent Supplement Program, Chapter 17-2036 Section 8 Homeownership Option Program, and Chapter 17-2038 State Eviction - Practice and Procedure, and any subsequent repeal or revisions, these rules shall apply to all aforementioned administrative rule chapters; provided that upon expiration of these emergency rules, these rules shall terminate.

§5 Definitions. (a) All definitions provided in these rules shall be the same as those provided in chapter 356D, HRS or Chapter 15-185 Section 8 - Housing Choice Voucher Program, Chapter 15-186 State-Aided Elderly Public Housing Projects, Chapter 15-193 State-Aided Family Public Housing Projects, Chapter 17-2000 Rules of Practice and Procedure, Chapter 17-2020 Eviction - Practice and Procedure, Chapter 17-2021 Grievance Procedure, Chapter 17-2028 Federally-Assisted Public Housing Projects, Chapter 17-2032 Resident Advisory Board, Chapter 17-2033 Rent Supplement Program, Chapter 17-2036 Section 8 Homeownership Option Program and Chapter 17-2038 State Eviction - Practice and Procedure.

(b) As used in these rules:

"Face covering" means a tightly woven fabric without holes that is secured to the head with either ties or straps, or simply wrapped and tied around the wear wearer's nose and mouth. It can be made of a variety of fabrics such as cotton, silk, or linen and may be factory-made, sewn by hand, or made from household items such as handkerchiefs, scarfs, or shirts.

"Physical distancing" means the practice of maintaining a minimum of six feet (6') of physical separation between two or more people and decreasing the frequency of contact to reduce the spread of illness or disease. Social distancing shall mean the same as "physical distancing".

§6 [~~Social~~] Physical Distancing. The authority shall comply with state and county proclamations, orders, and rules relating to implementing [~~social~~] physical distancing strategies to reduce the spread of COVID-19 and take every reasonable

precaution to perform the authority's in compliance with [~~social~~] physical distancing recommendations and guidelines relating to COVID-19 issued by the United States Centers for Disease Control and Prevention, the Governor of the State of Hawaii, Hawaii Emergency Management Agency, and Hawaii Department of Health throughout the COVID-19 emergency period.

§7 Communications and Interactions Utilizing Electronic Means. All face-to-face communications or interactions required by Chapter 15-185 Section 8 - Housing Choice Voucher Program, Chapter 15-186 State-Aided Elderly Public Housing Projects, Chapter 15-193 State-Aided Family Public Housing Projects, Chapter 17-2000 Rules of Practice and Procedure, Chapter 17-2020 Eviction - Practice and Procedure, Chapter 17-2021 Grievance Procedure, Chapter 17-2028 Federally-Assisted Public Housing Projects, Chapter 17-2032 Resident Advisory Board, Chapter 17-2033 Rent Supplement Program, Chapter 17-2036 Section 8 Homeownership Option Program, and Chapter 17-2038 State Eviction - Practice and Procedure, are suspended and shall be conducted through alternative electronic means, including but not limited to U.S. mail, telephone, e-mail, or video conferencing.

§8 Rental Agreement Termination. (a) A family participating in the following authority housing programs, section 15-186-48 State-Aided Elderly Public Housing Projects, section 15-193-48 State-Aided Family Public Housing Projects, or section 17-2028-59 Federally-Assisted Public Housing Projects, shall give the authority at least twenty-eight days written notice that the family will vacate the family's dwelling unit prior to the vacate date.

(b) The authority shall not terminate any rental agreement for nonpayment of rent or other fees or charges until the 120-day temporary moratorium on eviction filings has passed pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136 (March 27, 2020) which is attached as Exhibit A.

§9 Minimum Rents. (a) Notwithstanding the minimum

monthly rent required by section 15-186-61 State-Aided Elderly Public Housing Projects, section 15-193-61 State-Aided Family Public Housing Projects, and section 17-2028-61 Federally-Assisted Public Housing Projects, the minimum rent for an individual or family participating in these programs shall be \$0.00 (zero dollars) if any of the following conditions exist:

- (1) The income of the family has decreased because of changed circumstances, including loss of employment or contributions;
 - (2) A death has occurred in the family which affects income; or
 - (3) Other circumstances determined by the authority or HUD.
- (b) The authority shall reinstate minimum rents 30 calendar days after the 120-day moratorium required by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136 (March 27, 2020) which is attached as Exhibit A has passed.

§10 Other Charges. (a) The authority shall not charge the tenant fees, penalties, or other charges related to nonpayment of rent until the 120-day temporary moratorium on eviction filings has passed pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136 (March 27, 2020) which is attached as Exhibit A. This rule applies to Chapter 15-186 State-Aided Elderly Public Housing Projects, Chapter 15-193 State-Aided Family Public Housing Projects, and section 17-2028-64 Federally-Assisted Public Housing Projects.

(b) The authority may charge a family, in addition to monthly rent and applicable utility charges, maintenance costs such as costs to repair tenant-caused damages to the dwelling unit, including appliances or equipment furnished by the authority, that are in excess of ordinary wear and tear, and costs to repair to project buildings, facilities, or common areas damaged by the action of, or negligence of the family or the family's guest or visitor.

§11 Annual Reexaminations. Pursuant to PIH Notice 2020-05, annual reexaminations required at least once every twelve

months under section 17-2028-53 Federally-Assisted Public Housing Projects, section 15-185-32 Section 8 - Housing Choice Voucher Program, section 15-186-42 State-Aided Elderly Public Housing Projects, section 15-193-42 State-Aided Family Public Housing Projects may be delayed beyond the twelve-month requirement.

§12 Income verification. Pursuant to PIH Notice 2020-05, [HPHA] authority may forgo third party income verification requirement for interim reexaminations, annual reexaminations, or special reexaminations, including the use of the Enterprise Income Verification System. Self- certification by a family may be considered as the highest form of income verification to process a reexamination. Families will be held responsible for any material discrepancies discovered and the [HPHA] authority shall take enforcement action consistent with its policies.

§13 Enterprise. Income Verification Monitoring. Pursuant to PIH Notice 2020-05, monitoring of the EIV reports are required on a monthly basis. The authority may elect not to perform monthly monitoring during the period of availability under PIH Notice 2020-05.

§14 Community Service and Self-Sufficiency Requirement. Pursuant to PIH Notice 2020-05, the community service and self-sufficiency requirement which mandates that each adult resident of public housing, except for exempt family member and required to be annually reexamined under section 17-2025-53, Federally-Assisted Public Housing Projects, is suspended for the period of availability under PIH Notice 2020-05.

§15 Over Income Families. Pursuant to PIH Notice 2020-05, families whose income exceeds the program maximum income level for two consecutive years may be allowed to remain in their units and continue to pay the same rental amount until the next annual income recertification.

§16 Utility Allowances. Pursuant to PIH Notice 2020-05, the review of utility allowances required under section 17-2028-7, Federally-Assisted Public Housing Projects, may be suspended so long as it is completed by the deadline allowed under PIH Notice 2020-05.

§17 Mandatory Facial Coverings. (a) All individuals when in common areas within an authority property shall wear face coverings as described and recommended by the CDC (see Exhibit B) while maintaining a physical distance of a minimum of six (6) feet from persons who are not members of the same residence.

(b) Face coverings shall not be required only under the following circumstances:

- (1) By an individual with a medical condition or disability where the wearing of a face covering may pose a health or safety risk to the individual and the individual provides written verification from a licensed medical professional to the authority that verifies the existence of a medical condition or disability and risk;
- (2) By children under the age of 5; and
- (3) By first responders and law enforcement officers (Hawaii State Sheriff Division, Honolulu Police Department, Honolulu Fire Department, Honolulu Emergency Services Department) to the extent that wearing non-medical grade face coverings may impair or impede the safety of the first responder or law enforcement officer in the performance of his/her duty.

§18 Visitor Restrictions. (a) No guest passes will be issued except as follows:

- (1) Delivery of food or other supplies; whereby the person delivering the food or supplies must leave immediately after the delivery has been completed.
- (2) Personal care or medical care for elderly or disabled individuals;

- (3) Home health aides;
- (4) Chore service providers; and
- (5) To care for a family member or pet in another household.

(b) No tenant shall allow any person, who is not a household member, to use their unit or unit address to quarantine, such as a travel quarantine lodging or residence for a person who has traveled from another state or country to Hawaii.

§19 Gatherings Restricted. There shall be no gatherings of individuals while in common areas within an authority property or in a tenant's dwelling unit, unless they are all from the same household unit.

§20 Entering a Tenant's Unit. (a) Prior to entering a tenant's unit to perform maintenance, repairs or to conduct other business (e.g, inspections), residents will be asked questions regarding their current health condition. When asked, residents are required to disclose whether they are exhibiting flu like symptoms, whether they have been exposed to someone who has tested positive for COVID-19 or whether they are under a mandatory travel or health quarantine.

(b) All individuals must wear face coverings in their housing units when authority's employees are conducting repairs or official business in their units. Residents are required to maintain a minimum of six feet physical distance from the authority's employee and their work area. If residents are unable to maintain a minimum of six feet physical distance while the authority's employee is performing repairs or other business (e.g., inspections) in the unit, the residents shall be required to wait outside the unit until all work is completed.

(c) Residents who do not have face coverings may request them from the authority.

(d) Residents who fail to comply with requests to wear face coverings masks and maintain a minimum of six feet physical distance from the authority's employees shall be subject to applicable penalties. After repeated attempts to request that residents comply with requirements to wear face

coverings and maintain a minimum of six feet physical distance, any maintenance, repairs, or other business will be terminated immediately until the tenants comply with the authority's employee's requests.

(e) Upon completing work in a tenant's unit, the authority will sanitize the area before leaving.

§21 Penalties. (a) All tenants, any member of the tenant's household, or any guest or other person under the tenant's control who violates these emergency rules may be subject to the following penalty schedule:

- (1) Verbal warning and a notice of violation;
- (2) Verbal warning and a notice of violation; and
- (3) Notice of eviction.

(b) All tenants, any member of the tenant's household, or any guest or other person under the tenant's control who is under mandatory quarantine orders and who fails to comply with such order shall be reported to the proper authorities.

Hawaii Public Housing Authority Emergency Rules
Relating to COVID-19 Emergency

Amendments to and compilation of the Hawaii Public Housing Authority Emergency Rules Relating to COVID-19 Emergency, Hawaii Administrative Rules, were adopted on August 4, 2020, by the Hawaii Public Housing Authority Board of Directors at an emergency board meeting held pursuant to section 92-8, Hawaii Revised Statutes, without prior notice or hearing pursuant to section 91-3(b), Hawaii Revised Statutes.

These rules shall take effect upon filing with the Office of the Lieutenant Governor and continue through September 9, 2020, unless extended in compliance with section 91-3(b), Hawaii Revised Statutes.



ROBERT J. HALL, Chairperson
Board of Directors
Hawaii Public Housing Authority

Pursuant to my Proclamation dated March 4, 2020, and Supplementary Proclamations dated March 16, 2020, March 21, 2020, March 23, 2020, March 31, 2020, April 17, 2020, April 25, 2020, May 5, 2020, May 18, 2020, June 10, 2020, and July 17, 2020, relating to COVID-19, I approve these rules.

APPROVED:



DAVID Y. IGE
Governor
State of Hawaii
Dated: 8/19/2020

APPROVED AS TO FORM:



Deputy Attorney General

Filed

20 AUG 20 A7 22

LIEUTENANT GOVERNOR'S
OFFICE

3368

1 SEC. 4024. TEMPORARY MORATORIUM ON EVICTION FIL-
2 INGS.

3 (a) DEFINITIONS.—In this section:

4 (1) COVERED DWELLING.—The term “covered
5 dwelling” means a dwelling that—

6 (A) is occupied by a tenant—

7 (i) pursuant to a residential lease; or

8 (ii) without a lease or with a lease ter-
9 minable under State law; and

10 (B) is on or in a covered property.

11 (2) COVERED PROPERTY.—The term “covered
12 property” means any property that—

13 (A) participates in—

14 (i) a covered housing program (as de-
15 fined in section 11411(a) of the Violence
16 Against Women Act of 1994 (34 U.S.C.
17 12491(a)); or

18 (ii) the rural housing voucher program
19 under section 542 of the Housing Act of
20 1949 (42 U.S.C. 1490r); or

21 (B) has a—

22 (i) Federally backed mortgage loan; or

23 (ii) Federally backed multifamily
24 mortgage loan.

25 (3) DWELLING.—The term “dwelling”—

1 (A) has the meaning given the term in sec-
2 tion 802 of the Fair Housing Act (42 U.S.C.
3 3602); and

4 (B) includes houses and dwellings described
5 in section 803(b) of such Act (42 U.S.C.
6 3603(b)).

7 (4) *FEDERALLY BACKED MORTGAGE LOAN.*—The
8 term “Federally backed mortgage loan” includes any
9 loan (other than temporary financing such as a con-
10 struction loan) that—

11 (A) is secured by a first or subordinate lien
12 on residential real property (including indi-
13 vidual units of condominiums and cooperatives)
14 designed principally for the occupancy of from 1
15 to 4 families, including any such secured loan,
16 the proceeds of which are used to prepay or pay
17 off an existing loan secured by the same prop-
18 erty; and

19 (B) is made in whole or in part, or insured,
20 guaranteed, supplemented, or assisted in any
21 way, by any officer or agency of the Federal
22 Government or under or in connection with a
23 housing or urban development program adminis-
24 tered by the Secretary of Housing and Urban
25 Development or a housing or related program

1 *administered by any other such officer or agency,*
2 *or is purchased or securitized by the Federal*
3 *Home Loan Mortgage Corporation or the Federal*
4 *National Mortgage Association.*

5 (5) *FEDERALLY BACKED MULTIFAMILY MORT-*
6 *GAGE LOAN.—The term “Federally backed multi-*
7 *family mortgage loan” includes any loan (other than*
8 *temporary financing such as a construction loan)*
9 *that—*

10 (A) *is secured by a first or subordinate lien*
11 *on residential multifamily real property de-*
12 *signed principally for the occupancy of 5 or*
13 *more families, including any such secured loan,*
14 *the proceeds of which are used to prepay or pay*
15 *off an existing loan secured by the same prop-*
16 *erty; and*

17 (B) *is made in whole or in part, or insured,*
18 *guaranteed, supplemented, or assisted in any*
19 *way, by any officer or agency of the Federal*
20 *Government or under or in connection with a*
21 *housing or urban development program adminis-*
22 *tered by the Secretary of Housing and Urban*
23 *Development or a housing or related program*
24 *administered by any other such officer or agency,*
25 *or is purchased or securitized by the Federal*

1 *Home Loan Mortgage Corporation or the Federal*
2 *National Mortgage Association.*

3 **(b) MORATORIUM.**—*During the 120-day period begin-*
4 *ning on the date of enactment of this Act, the lessor of a*
5 *covered dwelling may not—*

6 *(1) make, or cause to be made, any filing with*
7 *the court of jurisdiction to initiate a legal action to*
8 *recover possession of the covered dwelling from the*
9 *tenant for nonpayment of rent or other fees or*
10 *charges; or*

11 *(2) charge fees, penalties, or other charges to the*
12 *tenant related to such nonpayment of rent.*

13 **(c) NOTICE.**—*The lessor of a covered dwelling unit—*

14 *(1) may not require the tenant to vacate the cov-*
15 *ered dwelling unit before the date that is 30 days*
16 *after the date on which the lessor provides the tenant*
17 *with a notice to vacate; and*

18 *(2) may not issue a notice to vacate under para-*
19 *graph (1) until after the expiration of the period de-*
20 *scribed in subsection (b).*

21 **SEC. 4025. PROTECTION OF COLLECTIVE BARGAINING**
22 **AGREEMENT.**

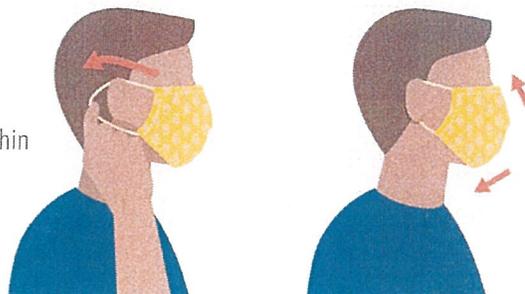
23 **(a) IN GENERAL.**—*Neither the Secretary, nor any*
24 *other actor, department, or agency of the Federal Govern-*
25 *ment, shall condition the issuance of a loan or loan guar-*

How to Safely Wear and Take Off a Cloth Face Covering

Accessible: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>

WEAR YOUR FACE COVERING CORRECTLY

- Wash your hands before putting on your face covering
- Put it over your nose and mouth and secure it under your chin
- Try to fit it snugly against the sides of your face
- Make sure you can breathe easily
- Do not place a mask on a child younger than 2



USE THE FACE COVERING TO HELP PROTECT OTHERS

- Wear cloth face coverings in public settings and when around people who don't live in your household, especially when other social distancing measures are difficult to maintain
- Don't put the covering around your neck or up on your forehead
- Don't touch the face covering, and, if you do, clean your hands

FOLLOW EVERYDAY HEALTH HABITS

- Stay at least 6 feet away from others
- Avoid contact with people who are sick
- Wash your hands often, with soap and water, for at least 20 seconds each time
- Use hand sanitizer if soap and water are not available



TAKE OFF YOUR CLOTH FACE COVERING CAREFULLY, WHEN YOU'RE HOME

- Untie the strings behind your head or stretch the ear loops
- Handle only by the ear loops or ties
- Fold outside corners together
- Place covering in the washing machine
- Wash your hands with soap and water



Cloth face coverings are not surgical masks or N-95 respirators, both of which should be saved for health care workers and other medical first responders.

For instructions on making a cloth face covering, see:

[cdc.gov/coronavirus](https://www.cdc.gov/coronavirus)