

CURRENT RULES FOR WORKPLACE SETTINGS

Administration Email dates 06/09/21

Masks and Social Distancing:

- Masks and social distancing are no longer required at facilities that are open to the public, regardless of the individual's vaccination status. Where the site is closed to the public, employees are required to mask in accordance with the existing rules and exceptions in Executive Order No. 192. If an employee can demonstrate proof of vaccination to the employer, then the employer can permit them to forgo masking and social distancing. Employers may craft a policy that permits visitors entering the site to forgo masking and social distancing. We are still strongly encouraging unvaccinated individuals to wear masks and social distance in spaces that are open to the public, though it is not required.
- A worksite may be comprised of spaces that are closed to the public and others that are open. For example, a City Hall may have areas where services are administered to the public, and other office spaces that can only be accessed by employees. The different rules described above would apply to each of those settings, respectively.
- The State has determined that at this time, we will maintain masking and social distancing requirements for all of our state offices and facilities, regardless of whether they are open or closed to the public.

The remainder of the protocols in Executive Order No. 192, including cleaning, hygiene, and health screening requirements, remain intact for the time being.

For your convenience, the following list includes relevant health and safety protocols from Executive Order No. 192:

- Individuals at the worksite must maintain at least six feet of distance from one another to the maximum extent possible. If six feet of distance is not feasible, employers must ensure that each employee wears a mask and physical barriers are installed between workstations wherever possible (***this now only applies to indoor worksites that are closed to the public, and there is an exception if the employee demonstrates they are vaccinated***).
- Individuals entering the worksite must wear cloth or disposable face masks while on the premises, except where the individual is under two years of age or where it is impracticable for an individual to wear a face mask (e.g., eating, drinking, or where the service provided cannot be performed by an individual wearing a mask). (this now only applies to indoor worksites that are closed to the public, and there is an exception if the employee demonstrates they are vaccinated).

- *Masking requirements specific to employees (this now only applies to indoor worksites that are closed to the public, and there is an exception if the employee demonstrates they are vaccinated).*
 - Employers may permit employees to remove face masks when the employees are situated at their workstations and are more than six feet from other individuals at the workplace, or when an individual is alone in the office.
 - Employers must make face masks available to employees (at the expense of the employer).
 - Employers may deny entry to the worksite to any employee who declines to wear a face mask, except when doing so would violate state or federal law. Employers are expressly permitted to require employees to produce medical documentation supporting claims that they are unable to wear a face mask because of a disability. Consistent with the Americans with Disabilities Act (“ADA”) and/or New Jersey Law Against Discrimination (“NJLAD”), employers may be required to engage in the interactive process to determine if a reasonable accommodation can be provided to the employee.
- *Masking requirements specific to customers and visitors (the State is voluntarily adopting these requirements, and other employers are permitted to do so; this section is no longer required. Employers can craft their own policy on visitors).*
 - Employers may deny entry to the worksite to any customer or visitor who declines to wear a face mask, except when doing so would violate state or federal law. The employer may be required to provide a customer or visitor who declines to wear a mask due to a disability a reasonable accommodation pursuant to the ADA and/or NJLAD, unless doing so would pose an undue hardship on the employer’s operations.
 - Where a customer or visitor declines to wear a face mask on the premises due to a disability, neither the employer nor its employees can require the individual to produce medical documentation verifying the stated condition, unless otherwise required by state or federal law.
- Provide sanitization materials to employees, customers, and visitors at no cost to those individuals.
- Ensure employees practice regular hand hygiene, particularly when employees are interacting with the public, and provide employees break time for repeated

handwashing throughout the workday and access to adequate hand washing facilities.

- Regularly clean and disinfect all high-touch areas.
- Prior to each shift, conduct daily health checks of employees in accordance with Centers for Disease Control and Prevention (CDC) guidance, such as temperature screenings, visual symptom checking, self-assessment checklists, and/or health questionnaires.
- Immediately separate and send home employees who appear to have symptoms, as defined by the CDC. Promptly notify all employees of any known exposure to COVID-19 in the workplace, consistent with the confidentiality requirements of the ADA and Equal Employment Opportunity Commission (EEOC).
- Clean and disinfect the worksite in accordance with CDC guidelines when an employee at the worksite has been diagnosed with COVID-19.
- Continue to follow cleaning and safety guidelines and directives issued by the New Jersey Department of Health (DOH), the CDC and the Occupational Safety and Health Administration (OSHA).

Additionally, if you are looking to allow employees to unmask indoors by collecting proof of vaccination status, the EEOC has published helpful guidance for employers regarding vaccination requirements, collecting vaccination information, and similar issues. See: <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>

For more information on suggested forms of health screenings, see the “In-person or virtual health checks” section of the following CDC guidance: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html#:~:text=CDC%20recommends%20testing%20for%20people,and%20follow%20CDC%2Drecommended%20steps.>