



Coffee Break Series:

TOP QUESTIONS FOR REOPENING: MASKS, HEALTH CHECKS, AND CONTACT TRACING

TODAY'S SPEAKER



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MASKS, FACE COVERINGS & FACE SHIELDS



MASKS IN THE WORKPLACE

- Face masks, shields, and coverings are required in the tri-county area for all “indoor public spaces.”
- “Business”
 - Grocery stores; fitness-related organizations; pharmacies; public transit providers and agencies; personal service providers; restaurants, bars, breweries, wineries, tasting rooms; retail; ride-sharing services.
- Coverings:
 - “Face covering”: cloth, paper, or disposable covering that covers nose and mouth.
 - “Face shield”: clear, plastic shield that covers the forehead, extending below the chin and wraps around the sides of the face.

Information presented here is intended to be educational and not taken as legal advice.

REQUIREMENTS (MUST)

- All employees, contractors, volunteers, customers, and other clients of defined businesses must wear a mask, face covering, or face shield, with some exceptions.
- Businesses must provide masks, face shields, or face coverings for employees.
- Businesses must post signs.
- Businesses must allow certain accommodations.

RECOMMENDATIONS (SHOULD)

- Businesses should provide masks, face coverings, or shields to customers and visitors.
- Post signs in other common languages (i.e. languages that are commonly spoken by customers and visitors).
- Educate employees on safe use of masks and public accommodations.

EXCEPTIONS

- Federal and state disability laws
- Federal and state religious discrimination laws
- Federal and state labor laws
- Federal and state public accommodation laws (equal access)
- OHA public health guidance as applicable

COVID-19 SCREENINGS



HEALTH SCREENINGS

- [EEOC COVID-19 Guidance](#)
- Updated regularly

Must apply equally to all employees and other visitors

Narrowly tailored to COVID-19

Must be consistent with CDC and other public health authorities

**No discrimination based on age, underlying health condition,
pregnancy, gender, etc.**

HEALTH SCREENINGS

- Employers may:
 - Ask for symptoms of COVID-19 as determined by CDC and other public health authorities
 - Ask employees to self-check temperature
 - Take employees' temperature
 - Administer a COVID-19 test

HEALTH SCREENINGS

- Employers may not:
 - Ask about symptoms unrelated to COVID-19
 - Ask about other health conditions but can invite employees to request accommodations if they are at high-risk
 - Ask about genetic information (“do you have a family member at high risk?”)
 - Require an antibody test
 - Disclose medical confidential information, except as permitted by law

REASONABLE ACCOMMODATION FOR HEALTH SCREENING

Employers must provide a reasonable accommodation for employees who cannot complete the standard screening procedures because of a disability or a religious reason, unless doing so causes undue hardship.

HIGH-RISK EMPLOYEES

- May not exclude high-risk employees solely because they are high-risk, unless there is a direct threat that cannot be eliminated or reduced by reasonable accommodations.
- High-risk employees may ask for a reasonable accommodation related to a disability that places the employee at higher risk.
- Employer must grant request if reasonable and no undue hardship.
- Pregnant employees may be entitled to accommodation if (1) the pregnancy condition qualifies as disability or (2) the employer provides similar accommodation to other employees who are similar to the pregnant employee in their ability or inability to work.
- Older workers are not entitled to reasonable accommodation only because of age, but may have underlying health conditions that would entitle them to an accommodation. Employers are free to provide flexibility to these workers.

HIGH-RISK EMPLOYEES

- No magic words
- Interactive process
- Accommodations: additional PPE; physical barriers; elimination or substitution of marginal functions; schedule modification; changing location of job to increase social distancing; leave
- Undue hardship: difficult standard but effects of COVID-19 may be considered.
- Direct threat: difficult standard; must tread carefully.

CANDIDATES AND NEW EMPLOYEES

- May screen for COVID-19 symptoms after conditional job offer, so long as this is done for all entering employees in the same type of job.
- May take an applicant's temperature after a conditional job offer.
- May delay start date if a new employee has COVID-19 symptoms or has tested positive, and follow CDC guidance about timing of reinstatement.
- May not withdraw job offers because individual is 65 years or older, pregnant, or otherwise at higher risk for COVID-19.

CONFIDENTIAL HEALTH INFORMATION RELATED TO COVID-19

- Must be kept confidential
- Keep in a separate file from the personnel file
- May be disclosed to public health authorities

CONTACT TRACING

- Must be immediate.
- Identify individuals who have been in close contact with the diagnosed person and notify them.
- “Close Contact”: within six feet of an infected person for at least 15 minutes, starting 48 hours before illness onset until the time the infected person is isolated
- Allow 14 days from last date of exposure for isolation.
- Report to local health authority and cooperate with them.

CONTACT TRACING

- Have a plan ready
- Explore digital tools.
- Pre-drafted communications
- Deep cleaning vendors
- Line up/expand staffing resources
- Prepare for closure if necessary
- Transparency
- Support quarantined employees and follow up with them.