



CLIENT ALERT
November 18, 2020

**NEW ORDERS FROM SECRETARY OF
PENNSYLVANIA DEPARTMENT OF HEALTH**

On Tuesday, November 17, 2020, two significant safety measures were issued. The first pertains to mitigation measures relating to travel. The second measure relates to an Updated Order surrounding universal face coverings.

Mitigation Relating to Travel:

Dr. Levine has ordered anyone who enters Pennsylvania from another state or country to provide evidence of a negative COVID-19 test result within 72 hours prior to arriving in Pennsylvania and, if they cannot or do not get a negative test, they must quarantine for 14 days upon arrival. This Order is effective Friday, November 20, 2020 but **will not apply** to people who commute to neighboring states for work or healthcare as outlined in Section 4 of that Order.

Dr. Levine said she has also ordered all colleges and universities to implement and enforce testing and quarantine procedures especially as students come and go from holiday and semester breaks.

It should be noted that the Order does, in fact, distinguish between work-related travel and personal travel. Travel between work and home and medical appointments in other states is permitted and the Frequently Asked Questions (FAQs) issued by the Pennsylvania Department of Health has specific travel exemptions. Everyone is encouraged to read the FAQs.

<https://www.health.pa.gov/topics/disease/coronavirus/Pages/Travelers.aspx>

The FAQs are very detailed and even go so far as to get into the weeds on certain questions such as:

If I am going to a remote area and, after arrival, I do not leave the property, do I still have to have a negative test or quarantine upon my return to Pennsylvania?

Yes, because of the increased level of transmission nationwide, the risk involved in any travel is increasing, and individuals should have a negative test result or quarantine.

According to the FAQs, the Order is enforceable as a disease control measure.

As this is a legal Order under the Disease Prevention and Control Law, persons who fail to comply with the Order may be fined between \$25 and \$300 dollars.

As you will see with other FAQs, a lot of questions still remain unanswered. Specifically, in the FAQ it posits a question as it relates to an individual who wants to follow the travel quarantine instead of getting a test; however, the employer is requiring that individual to return to work. When the question is specifically asked whether the individual has any recourse to stay home, the only thing the Department of Health could offer up was that **“The Commonwealth does not dictate how businesses should implement the requirements in the Order.”**

Another question raised in the FAQ is a situation wherein an employer requires the employee to quarantine but the employee is unable to work from home. The Department of Health specifically dodges the question as to whether an employee would be entitled to sick leave while in travel quarantine.

PRACTICE NOTE: Once again, public school entities/employers should consult with their Solicitor and/or Special Counsel when faced with these types of issues, including the application of FFCRA leave to quarantine or isolations orders.

WWW.BEARDLEGALGROUP.COM

3366 LYNNWOOD DRIVE • PO BOX 1311 • ALTOONA, PENNSYLVANIA 16603-1311 • PHONE 814-943-3304 • FAX 814-943-3430
OFFICES ALSO LOCATED IN JOHNSTOWN, PA

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Universal Face Coverings

Dr. Levine also strengthened Pennsylvania's universal masking order to require mask-wearing where people are indoors close to others who are not members of their households. Dr. Levine said, law enforcement and business owners will be responsible for enforcing the Order. The Updated Mask Order can be accessed at the following link:

<https://www.health.pa.gov/topics/Documents/Diseases%20and%20Conditions/Updated%20Order%20of%20the%20Secretary%20Requiring%20Universal%20Face%20Coverings.pdf>

PRACTICE NOTE: All School Superintendents and other building administrators are encouraged to read the Updated Order to see what has been updated and is now required and to update Health and Safety Plans as necessary.

Section 4 of the Order addresses Business and School Entity Obligations. Please note that this Order is effective and enforcement will begin on November 18, 2020 at 12:01 am.

A. A business or a school entity must:

1. Require that all people, including their employees, customers, teachers, students and visitors, wear a face covering and take reasonable steps to enforce the requirement.
2. Mitigate or eliminate employee, teacher, student, visitor, and customer exposure to people who cannot wear or refuse to wear a face covering.
3. Post prominent signs that are visible to all people—including employees, teachers, students, customers, and visitors—stating that face coverings are required by the Order of the Secretary of Health.
4. Provide reasonable accommodations to people, including their employees, teachers, students, customers, and visitors, who state they have a medical condition, mental health condition, or disability that makes it unreasonable for the person to maintain a face covering.

Once again, the Frequently Asked Questions (FAQs) were updated by the Department of Health to address the new updated Order. <https://www.health.pa.gov/topics/disease/coronavirus/Pages/Guidance/Universal-Masking-FAQ.aspx>. All Superintendents and building administrators are encouraged to review the FAQs.

Outlined below are a few of the key FAQs and related answers referenced therein:

If I'm inside a public place and can maintain physical distancing, do I need to wear a mask?

Yes. When indoors, individuals must wear a face covering, irrespective of physical distance. If a person is working alone and does not expect to have any interaction with another person, they may remove their face covering.

Do I have to wear a mask if alone in my workplace or office?

Everyone must wear a face covering when indoors, irrespective of physical distance, however, if a person is working alone, and has no expectation of being around other persons, they do not need to do so.

What does "working alone" mean?

"Working alone" means when a person is separated from interaction with other people with little or no expectation of in-person interruption. Examples include:

- A lone worker inside an office with four walls and a door.
- A lone worker inside a cubicle with 3 walls and a door or entryway, where walls are high enough to block the breathing zone of all people walking by, and the worker's activity will not require anyone to come inside that person's workspace.

Does the Order apply to athletes and sports activities?

Yes. Everyone who participates in sport activities including coaches, athletes (including cheerleaders), and spectators must wear a face covering, such as a mask, unless they fall under an exception in Section 3 of the Order.

Indoors: Coaches, athletes (including cheerleaders), and spectators must wear face coverings, when indoors and where another person or persons who are not members of the individual's household are present in the same space, irrespective of physical distance. This includes while actively engaged in workouts, competition, and on the sidelines, etc.

Outdoors: Coaches, athletes (including cheerleaders), and spectators must wear face coverings if they cannot maintain sustained physical distance from persons outside of their household. This includes while actively engaged in workouts, competition, and on the sidelines, in the dugout, etc. If sustained six-foot distancing can be maintained, face coverings may be removed when outdoors.

As with all other Client Alerts, these guidelines/protocols/recommendations are subject to change on a daily or weekly basis depending on Orders from Governor Wolf, Secretary Rivera and Secretary Dr. Levine.

While the Beard Legal Group Client Alert is designed to provide information on topics of concern to Pennsylvania Public Schools, it is not legal advice and School Districts should contact their Solicitor, Labor of Special Counsel for advice related to their specific circumstances