



MDHHS ORDER OF OCTOBER 9, 2020: GATHERING PROHIBITION AND FACE COVERING ORDER

This information sheet is intended as a tool to assist in clarification and decision making for Public Library Directors and Boards. It is not intended as legal advice. Library Boards and Directors should consult with their library attorneys when determining a plan or policy for their libraries.

Libraries should be sure to consult the State of Michigan Coronavirus website and their local municipal and Health Department directives for additional guidance.

October 12, 2020

What this means for libraries (Section Numbers refer to MDHHS Emergency Order)

https://www.michigan.gov/coronavirus/0,9753,7-406-98178_98455-541962--,00.html

- MDHHS Order issued 10/5/2020 is rescinded.

MASK REQUIREMENTS:

Sections 1, 2, 4, 5, 6

ALL REGIONS:

- Section 1(c)- “Face Covering” is defined as “a covering that covers at least the nose and mouth.” For purposes of compliance, a mask must be worn to cover nose and mouth.
- Section 2(b)(3)(C)- Persons attending meetings or gatherings in meeting/ conference rooms/event space must wear face-coverings (this applies to Outdoor gatherings too under 2(b)(5), (6)).
- Section 4(a)(2), (3)- Employees must wear face coverings if 6 feet of distance cannot be maintained between them, and in shared spaces such as hallways, restrooms, and conference/meeting rooms.
- Section 5-
 - 5(a) – libraries (as government operations/offices) must require that persons not from the same household gathering indoors must wear face coverings.
 - 5(b) – Library staff may not assume that a patron, vendor, or any person entering the library who is not wearing a face covering is exempt under one of the exceptions listed in section 6 (such as a medical condition). Staff must ask the person why they are not wearing a mask. A verbal assertion that they fall within the medical exemption – or any exemption- is acceptable.
 - 5(d) – Libraries must post signage at entrances notifying patrons of their legal obligation to wear a face covering when inside the library.

BOTTOM LINE:

Libraries must require masks:

- All patrons entering building
- All employees working in public areas, and where 6ft of distance cannot be maintained in non-public areas.
- During all programing and meeting room/community room/event space use.

OCCUPANCY RESTRICTIONS:**General Building Capacity:**

Section 3 of Order:

- **Regions 1-5,7&8 = 50% of total occupancy limit** established by State Fire Marshal or local fire marshal.
- **Region 6 – No general capacity restrictions.**

Meeting Room/Community Room/ Event Room Gathering Attendance:

Section 2 of Order

Group of 10 and under permitted with appropriate social distancing and masks.

Groups of MORE THAN 10:

- Regions 1-5,7&8 =
 - **Fixed Seating** (seating is bolted or secured to the floor, such as in a theater or sports/concert venue) = **20% of seating capacity**
 - **Non-Fixed Seating** (seating that is not fastened to the floor – such as in typical restaurants and conference/meeting rooms) = **20 persons per 1,000 sq. ft. (or 1 person per 50 sq. Ft.).**
- Region 6:
 - **Fixed Seating** (Seating is bolted or secured to the floor, such as in a theater or sports/concert venue) = **25% of seating capacity.**
 - **Non-Fixed Seating** (seating that is not fastened to the floor – such as in typical restaurants and conference/meeting rooms) = **25 persons per 1,000 sq. ft. (or 1 person per 40 sq. ft.).**

WORKPLACE RESTRICTIONS:*Masks and Social Distancing:*

Sections 4,5

- Sections 5(a), (b) -Employees must wear face coverings while working in public areas of the library.
- Section 4(a)(1) -Employees must maintain 6 feet of distance between each other, unless job duties require less than 6 ft.
- Section 4(a)(2), (3) -In non-public areas of the library, employees must wear masks while in shared areas such as restrooms and hallways and in circumstances where 6 feet of distance cannot be maintained.
- Section 4(c) -Employers must not require employees to gather in the workplace unless it is required for conducting the operations/business (Unless absolutely necessary for the business to operate, Employers must not require in-person group meetings, parties, in-person trainings, etc.) This could also be interpreted as support for remote work.

BOTTOM LINE:**Similar to EO requirements:**

Employees must wear masks at all times in public spaces.

Employees must wear masks in non-public spaces (workrooms, breakrooms, bathrooms, hallways, etc.) if 6 ft. of distance cannot consistently (for more than 15 minutes at a time) be maintained.

Employers may not require employees to congregate in groups (no meetings, trainings, etc. unless work requires it – two people at circulation, for example)

Health Screening

- Section 4(d)- Workplaces where there is more than one employee working in a shared space must conduct daily self-screening protocol (that includes at minimum a questionnaire covering symptoms of COVID-19 and suspected or confirmed exposure to people with possible COVID-19) for all employees and vendors/contractors. This would include libraries that have multiple employees working in the same area- such as circulation/reference desks, reading rooms, etc.
- Samples of Health Screening tools:
 - <https://misymptomapp.state.mi.us/login>
 - <https://it.ingham.org/Department/Health%20Department/SymptomChecker.html>
 - <http://www.hd.ingham.org/Portals/HD/Home/Documents/cd/coronavirus/Screening-4.pdf>
 - <http://www.hd.ingham.org/Portals/HD/Home/Documents/cd/coronavirus/Checklist-4.pdf>

BOTTOM LINE:

Similar to EO requirements.

If library has more than one employee, health self- screenings must be done via questionnaire, at least. Employer may conduct screenings as long as any retained records are maintained in accordance with EEOC guidelines (<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>), and screening is accomplished discreetly.

Quarantine

Section 4(b)

Employees who:

- Have COVID-19 symptoms as described by CDC Guidance
- Have been exposed (had close contact- 15 minutes or more w/in 6ft) to someone diagnosed with COVID-19*
- Have been diagnosed with COVID-19

May NOT RETURN TO WORK UNTIL **AT LEAST**:

- It's been 24 hours since a fever (with no fever reducing medications) **AND**
- 10 days after the onset of symptoms, OR since the administration of a positive COVID-19 test, **AND**
- Any symptoms have improved.

Section 4(b) indicates *Employees who are subject to a **recommendation to isolate or quarantine consistent with CDC guidance; have been instructed to remain home by a health or public health professional.*** Current CDC guidance indicates CDC guidance (<https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/quarantine.html>) indicates a quarantine period of 14 days for people with close contact to someone diagnosed with COVID-19 because it can take 14 days for virus to develop. Therefore since it is possible that a person who has had close contact with a person diagnosed with COVID-19 may be required to stay home for 14 days, the requirements above may be the minimum required, and are the CDC guidelines for those with symptoms or those confirmed infected. <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/isolation.html>

Libraries may implement guidelines for return that are more stringent than the above, as long as the adopted policies are consistent with CDC and EEOC guidance. <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws> , <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html> .

In addition libraries should monitor their local Health Departments for additional requirements (Health Departments are authorized under MCL 333.2453 (<http://legislature.mi.gov/doc.aspx?mcl-333-2453>) to issue emergency orders which may be more stringent than the MDHHS orders).

BOTTOM LINE:

Libraries must monitor their local county health departments for additional requirements, but:

Employees who have symptoms of COVID-19, or have been diagnosed with COVID-19 must quarantine according to the CDC guidance of 10 days since onset of symptoms or administration of positive test; have no fever for 24 hours (without fever reducing medications); and any symptoms must be improved.

Employees who have been exposed (in close contact with) someone diagnosed with COVID-19 are advised by CDC guidance to quarantine 14 days, but depending on Health Department or Dr. orders for that employee, they must AT LEAST quarantine for 10 days since onset of symptoms or administration of positive test; have no fever for 24 hours (without fever reducing medications); and any symptoms must be improved.

Employers may require a DR. or health care practitioner's note/release before permitting an employee to return.

CONTACT TRACING:

Section 9:

Libraries should **IGNORE THIS SECTION**

- Libraries are NOT included in the list of businesses required to maintain Contact Tracing information.
- Libraries MAY NOT maintain contact tracing information under the Library Privacy Act, 1982 PA 455, (MCL 397.601 et seq.).

RESOURCES:**Health Screening and Recordkeeping:**

<http://www.hd.ingham.org/Portals/HD/Home/Documents/cd/coronavirus/Screening-4.pdf>

<http://www.hd.ingham.org/Portals/HD/Home/Documents/cd/coronavirus/Checklist-4.pdf>

<https://www.cdc.gov/coronavirus/2019-ncov/community/general-business-faq.html>

<https://www.cdc.gov/coronavirus/2019-ncov/index.html#>

<https://www.shrm.org/resourcesandtools/tools-and-samples/hr-forms/pages/memo-covid-19-employee-screening-procedures.aspx>

<https://www.sparrow.org/Employerscreeningtoolkit>

<http://blogs.mml.org/wp/coronavirus/files/2020/04/Daily-Screening-Policy-detroit.pdf>

https://www.fredlaw.com/news_media/employment-question-of-the-day-april-14-2020/ (OSHA recordkeeping requirements re covid-19 exposure)

- <https://www.law.cornell.edu/cfr/text/29/1910.1020> (OSHA employee med info recordkeeping)

<https://www.wnj.com/Special-Pages/COVID-19-Previous-Questions> (see Q5 “labor and employment” dated 5/30/20) This is a document from law firm Warner, Norcross & Judd.

<https://www.natlawreview.com/article/part-five-covid-19-roadmap-series-ensuring-safe-workplace-covid-19-screening-and>

https://dtmb.state.mi.us/ARS_Public/AdminCode/DeptBureauAdminCode?Department=Labor%20and%20Economic%20Opportunity%20&Bureau=MIOsha See Rule 325.3451

<https://www.osha.gov/memos/2020-05-19/revised-enforcement-guidance-recording-cases-coronavirus-disease-2019-covid-19>

Personnel & HR issues

<https://www.michigan.gov/coronavirus/0,9753,7-406-98810---,00.html?page=1&limit=10&filterCategories=&searchQuery=>

<https://www.shrm.org/ResourcesAndTools/tools-and-samples/exreq/Pages/Details.aspx?Erid=1560>

<https://www.thinkhr.com/covid19/>

<https://www.employerlawreport.com/2020/05/articles/covid-19/eoc-updates-guidance-on-addressing-health-risks-of-covid-19-vulnerable-employees-who-do-not-ask-for-accommodation/>

<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>

<https://www.dol.gov/agencies/whd/pandemic>

<https://www.dol.gov/agencies/whd/flsa/pandemic#q3>

<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions#19>

Workplace Safety:

MiOSHA, as a state plan participant of OSHA (<https://www.osha.gov/stateplans>) must maintain workplace safety standards as stringent as OSHA's. In addition, both agencies are required to adhere to the “General Duty Clause” which refers to Federal and State laws requiring these agencies to ensure safe workplaces. As such, workplace requirements of MiOSHA did not end with the EOs, and workplaces can still be fined for non-compliance with COVID-19 safety requirements.

Libraries are encouraged to maintain their existing facility and workplace COVID-19 safety protocols.

MiOSHA information: <https://www.michigan.gov/leo/0,5863,7-336-100207---,00.html>; Employer fact sheet: https://www.michigan.gov/documents/leo/Workplace_Guidelines_Factsheet-Employers_REV_692368_7.pdf

OSHA Standards and information: <https://www.osha.gov/SLTC/covid-19/>

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The research and resources above are for informational purposes only and not for the purpose of providing legal advice. You should contact your attorney to obtain advice with respect to any particular issue or problem.