COVID-19 FAQ

Does the new temporary OSHA COVID-19 rule apply to schools?

Yes, the new Occupational Safety and Health Administration (OSHA) rule applies to all schools. On Nov. 6, 2020, Oregon’s OSHA adopted the final version of the Temporary Oregon OSHA COVID-19 Rule, codified as OAR 437-001-0744 (Addressing COVID-19 Workplace Risks). The rule applies to all workplaces and is intended to combat the spread of COVID-19 by requiring employers to carry out a comprehensive set of risk-reducing measures. The rule goes into effect on Nov. 16, 2020 and includes many safety measures that are a continuation of those included in past guidance, including those related to physical distancing, mask and face coverings, and cleaning and sanitation. However, the rule requires several additional safety measures, some of which are required to be in place by a specific date. Those measures include:

- Building operator practices, by Nov. 23, 2020
- Ventilation, by Jan. 6, 2021
- Conducting and documenting an exposure risk assessment, by Dec. 7, 2020
- Establishing and implementing an infection control plan, by Dec. 7, 2020
- Providing employees with additional information and training, by Dec. 21, 2020

*Oregon’s OSHA COVID-19 Rule also requires employers with “workplaces at exceptional risk” to comply with additional heightened safety measures. If you believe you are subject to these additional exceptional risk workplace requirements, we encourage you to contact our office at pacelegal@osba.org for additional information.

On Nov. 6, 2020, Oregon’s OSHA, adopted the final version of the Temporary Oregon OSHA COVID-19 Rule, codified as OAR 437-001-0744 (Addressing COVID-19 Workplace Risks). The rule applies to all workplaces and is intended to combat the spread of COVID-19 by requiring employers to carry out a comprehensive set of risk-reducing measures. The rule goes into effect on Nov. 16, 2020, and will remain in effect until May 4, 2021, unless revised or repealed before that date. The following summarizes the key provisions for Oregon employers in the new Oregon OSHA COVID-19 Rule.

Pursuant to the final Temporary Oregon OSHA COVID-19 Rule, all employers must comply with the following COVID-19 Requirements for All Workplaces. Please be advised that in addition to requirements, employers with “workplaces at exceptional risk” must also comply with additional safety measures, which will also be discussed below.
COVID-19 Requirements for All Workplaces

All employers must comply with the following requirements:

1. **Physical Distancing**: Employers must ensure six-foot distancing between all people in the workplace through design of work activities and workflow, unless it can be shown it is not feasible for some activities.

2. **Mask, face covering, or face shield requirements**: Employers must ensure that all individuals, including employees, part-time workers and customers, at the workplace, or other establishment under the employer’s control, wear a mask, face covering, or face shield, in any instance where employees or other individuals cannot be reliably separated by at least 6-feet, whether indoors or outdoors. Employers must also provide masks, face coverings, or face shields for employees free of cost. If an employee chooses to wear a mask, face shield, or face covering (even when it is not required) the employer must allow them to do so. When employees are transported in a vehicle for work-related purposes, regardless of the travel distance or duration, all people inside the vehicle must wear a mask, face covering, or face shield. This requirement does not apply when all people in the vehicle are members of the same household.

3. **Cleaning and Sanitation**: Employers must regularly clean or sanitize all common areas, shared equipment, and high-touch surfaces (i.e., door handles, telephones, computers, seatbelts, etc.) that are under its control and that are used by employees or the public. This regular cleaning or sanitization must occur at least once every 24 hours if the workplace is occupied less than 12 hours a day, or at least every 8 hours while in use, if the workplace is occupied more than 12 hours a day. Employers must also provide employees with appropriate cleaning supplies (i.e., soap and water) and the reasonable time necessary to clean or sanitize their work area and to wash their hands more frequently than would otherwise be required if the worker chooses to do so. Additionally, unless the area has been occupied or otherwise unused for 7 days or more, employers must clean and disinfect any common areas, high-touch surfaces, and any shared equipment under the employer’s control than an individual known to be infected with COVID-19 has used or had direct physical contact with.

4. **Posting Requirements**: The new “COVID-19 Hazards Poster” must be posted in a conspicuous manner in a central location where workers can be expected to see it. Employees working remotely must be provided with a copy of the poster through electronic or equally effective means.

5. **Building Operator**: No later than Nov. 23, 2020, those employers who operate or otherwise control buildings must ensure that the sanitation requirements under the Oregon OSHA COVID-19 Rule are met, and post signs in areas where masks, face coverings, or face shields are required. To meet this provision, the building operator may post a copy of the “Masks Required,” sign developed by the OHA.

6. **Ventilation**: No later than Jan. 6, 2021, employers must maximize the effectiveness of existing ventilation systems, maintain and replace air filters, and clean intake ports providing fresh or outdoor air. The temporary rule does not require employers to purchase or install new ventilation systems.
7. **Exposure Risk Assessment:** No later than Dec. 7, 2020, all employers must conduct a COVID-19 exposure risk assessment, without regard to the use of personal protective equipment, masks, face coverings, or face shields. The exposure risk assessment must involve participation and feedback from employees via a safety meeting supervisor, process negotiated with the exclusive bargaining agent, or any other similarly interactive process. Every employer with more than 10 employees statewide (including temporary and part-time workers) or that is considered a “workplace at exceptional risk” must record their COVID-19 risk assessment in writing by documenting the following:
   a. Name, job title, and contact information of any person who performed the exposure risk assessment;
   b. The date the exposure risk assessment was completed;
   c. Employee job classifications that were evaluated; and
   d. Summary of the employer’s answers to each of the applicable exposure risk assessment questions that assess the potential employee exposure to COVID-19 in the workplace. See OAR 431-001-0744 (3)(g)(C).

* Oregon OSHA has developed a Risk Assessment template, as well as sample Risk Assessments available to assist employers in completing this task. Documents and additional resources can be found at [COVID-19 and Oregon OSHA](https://www.osha.covid19.org).

8. **Infection Control Plan:** No later than Dec. 7, 2020, all employers must establish and implement an infection control plan to address any risks identified by the exposure risk assessment. Each employer with 10 or more employees or is considered to have a “workplace at exceptional risk” must document their infection control plan in writing and ensure that a copy is accessible to employees at their workplace. The infection control plan must, at a minimum, address six requirement elements, including: listing job titles and tasks, mask procedures, hazard control procedures, and how to communicate the infection control plan to employees.

* Oregon OSHA plans to make sample Infection Control Plans available to assist employers in completing this task.

9. **Employee Information and Training:** No later than Dec. 21, 2020, all employers must provide workers with information and training regarding COVID-19 and ensure that employees are provided an opportunity to provide feedback about the topics covered in the training. At a minimum, the training must include: physical distancing and mask, face covering, or face shield requirements, COVID-19 sanitation requirements, COVID-19 signs and symptoms reporting procedure, COVID-19 infection notification process, medical removal, characteristics and methods of transmission of SARS-CoV-2 virus*, the symptoms of the COVID-19 disease, the ability of pre-symptomatic and asymptomatic COVID-19 persons to transmit the SARS-CoV-2 virus*, and safe and healthy work practices and control measures*.

* Oregon OSHA will provide training materials that can be used to complete this portion of the training.
10. **COVID-19 Infection Notification Process**: Excluding settings where patients are hospitalized, employers must establish a process to notify exposed employees that they had a work-related contact with an individual who has tested positive for COVID-19, as well as to notify affected employees that an individual who was present in the facility has confirmed COVID-19. The notification process must include notifying exposed and affected employees within 24 hours after becoming aware that an individual with COVID-19 was present in the workplace while infectious or otherwise may have had work-related contact with its employee(s) while infectious. The notification process must be established in accordance with all medical confidentiality and privacy rules.

11. **COVID-19 Testing for Workers**: Employers must cooperate with OHA or other public officials if testing within the workplace is necessary. In such cases, employers must make employees and space available for testing at no cost to employees.

12. **Medical Removal**: Whenever the OHA, local public health agency, or medical provider recommends an employee be restricted from work due to quarantine or isolation for COVID-19, the employer must direct the affected employee(s) to isolate at home and away from other non-quarantined individuals until a medical provider or health authority determines the employee may return to work. Other than to provide such direction and remove such employees from the workplace, the employer has **no obligation** to enforce the employee's quarantine or isolation. If possible, employers must permit affected employees to work from home if suitable work is available and the employee's condition does not prevent it.

13. **Mandatory Appendices**: Employers covered by one of or more of the mandatory workplace guidance for specific industries/workplace activities in Appendix A (which includes K-12 education and early education, colleges and universities) must also comply with the specific mandates of the applicable appendices. See OAR 437-001-0744 for Appendix A-13 “Mandatory Workplace Guidance for K-12 Educational Institutions (Public or Private)”, Appendix A-14 “Mandatory Workplace Guidance for Employers Operating Child Care and Early Education Programs”, and Appendix A-15 “Mandatory Workplace Guidance for Institutions of Higher Education (Public or Private)”.

**Additional COVID-19 Requirements for Workplaces at Exceptional Risk**

*For the purposes of the Oregon OSHA COVID-19 Rule, “workplaces at exceptional risk,” include any setting (whether a healthcare setting or not) where an employee (including temporary and part-time employees) perform one or any combination of the following job duties: direct patient care, environmental decontamination services in a healthcare setting, aerosol-generating healthcare or post-mortem procedures, direct client service in residential care or assisted living facilities, emergency first responder activities, personal care activities that involve very close contact with an individual, such as toileting or bathing, or handling packaging, cleaning, processing, or transporting human remains or human tissues specimens or laboratory cultures collected from an individual known or suspected to be infected with COVID-19.*
In addition to complying with the general COVID-19 Requirements for All Workplaces (as discussed above), exceptional risk employers must also adhere to the following additional requirements:
1. Infection Control Training;
2. Additional Infection Control Plan Requirements;
3. Additional Sanitation Requirements;
4. Exceptional Risk Personal Protective Equipment;
5. Heighted Risk Ventilation Requirements;
6. Barriers, partitions, and airborne infection isolation rooms in health care settings;
7. Screenings in healthcare settings; and

*If you believe you are subject to these additional exceptional risk workplace requirements, we encourage you to contact our office at 503-484-4800, for additional information.

We encourage all employers to carefully review the recently finalized Oregon OSHA COVID-19 Rule, and determine which timelines and requirements may apply to your workplace. Please also download the Exposure Risk Assessment Form and the OSHA COVID-19 Hazards Poster.

If you have any additional questions, please feel free to contact our office at 503-485-4800, or email us at preloss@osba.org.