

## Pennsylvania Department of Health Issues Revised Employer COVID-19 FAQs

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On May 1, 2020, Pennsylvania's Department of Health (the Pa DOH) updated its frequently asked questions (FAQs) on the commonwealth's April 15, 2020, Department of Health Order Directing Public Health Safety Measures for Businesses Permitted to Maintain In-Person Operation (the order).

The order requires authorized businesses with in-person operations (other than health care providers) to implement specific employee safety measures. The revised FAQs outline additional safety protocols regarding temperature checks, mask-wearing, social distancing, and cleaning. The revised FAQs also detail steps for businesses to take when the company learns that a COVID-19 positive individual was on the premises. Below is a summary of key order FAQs.

### Temperature Screenings

The order requires that businesses implement temperature screenings for employees for a period of 14 days upon discovery that the business was exposed to a person (including employees, customers, and vendors) who has a probable or confirmed COVID-19 diagnosis. Businesses within a large building of multiple offices only need to screen employees from the area of the building where an individual with a suspected or confirmed positive case of COVID-19 was located. For example, if the COVID-19 positive person works on a single floor of a building, only that floor would need to be screened.

The FAQs recommend, but do not require, that businesses check the temperature and/or symptoms of all employees at the beginning of each shift, particularly in those areas of the commonwealth with high positive case numbers regardless of whether a COVID-19 positive individual was on the business' premises. This can be done in several ways:

If thermometers can be procured:

- Businesses may take their employees' temperatures on site utilizing best practices.
- Employees may self-screen taking their temperature at home with business-provided thermometers or their own personal thermometer.

If thermometers cannot be procured:

- Businesses may ask their employees to conduct a questionnaire-based screening at the worksite utilizing the Pa DOH approved screening tool or equivalent.
- Employees may self-screen by conducting a questionnaire-based screening at their home utilizing the Pa DOH approved screening tool or equivalent.

If utilizing self-screening, businesses should also establish a policy for employees to report their temperature or symptoms to the employer on a daily basis. This policy should include a provision forbidding employees with symptoms to enter the worksite. Additionally, businesses should consider paid leave policies that incentivize workers to stay home when reporting symptoms, including a temperature of 100.4 F or higher to alleviate the potential of employees failing to report fevers to avoid losing pay or potentially losing jobs. The FAQs encourage employees to self-screen daily even if they are not scheduled to enter the worksite to promote and maintain public health.

The FAQs also recommend conducting the screenings as close to the door of a facility or outside, if possible. Businesses should consider taking the temperature of employees in their car as they enter parking lots/garages or inside of a building lobby. If taking temperatures inside, businesses

should clean high touch surfaces frequently. Businesses should send employees home who have an elevated temperature of 100.4 F or higher.

As the FAQs recommend, businesses should be responsible for taking the temperature of, or implementing a self-screen policy for, their employees. Building owners are not expected to screen tenants.

If a contractor is physically present in a business as if he or she were an employee and has similar physical contact with employees as if he or she were an employee, the employer should consider temperature checking that contractor. Businesses that are concerned that testing customers would create legal issues should check with their legal counsel.

## **Masks**

The FAQs indicate that if a business refuses to serve a customer on account of the customer's refusal to wear a mask, and is not able to provide a mask, the business should consider providing information on mask making, distributing "how to" flyers, or sharing locations where a mask can be purchased. Additionally, businesses should tell the customer that only those who cannot wear a mask due to a medical conditions may enter the premises without a mask; and advise the customer that almost any face covering would be acceptable. The FAQs instruct that if a customer is belligerent or aggressive, employees are not expected to force the customer to comply or put themselves in a dangerous situation.

## **Handling Exposures**

The FAQs recommend that tenants notify the building owner that one of their employees has tested positive without sharing personal details. The FAQs also recommend that owners notify other tenants that someone within the building has tested positive without sharing personal details. It is recommended that the employer notify the owner of the leased facility of the presence in the leased facility of an employee who tests positive.

Businesses must implement temperature screening for employees who had close contact to someone who is a probable or confirmed COVID-19 case. This would include a temperature screening for the employee with a confirmed case when that employee returns to work after the quarantine period.

## **Cleaning**

If the person who is sick with COVID-19 was onsite at the business or facility within seven days, then the work site should be cleaned and disinfected. If more than seven days have passed since the person who is sick with COVID-19 visited the business or facility, enhanced cleaning and disinfection is no longer necessary. However, the business should continue routine cleaning.

Businesses with a campus of multiple facilities or a building with multiple offices only need to close and clean the facility or the area of the building where an individual with a suspected or confirmed positive case of COVID-19 worked. However, businesses should be mindful of bathrooms, breakrooms, building lobbies, and other frequently visited areas. Building owners should ensure that common spaces within the building are cleaned according to guidelines. The business is responsible for cleaning costs, unless the lease or other agreement establishes this as a responsibility of the landlord.

## **Social Distancing**

The FAQs recommend that businesses take as many precautions as possible to ensure customer safety, including special shopping hours at least once a week. Businesses may consider opening checkout lanes that are next to each other if all other public health practices have been implemented, including limiting in-person shopping, limiting the number of customers to reduce crowding, installing shields or barriers, performing regular cleaning, and designating a specific shopping time for high risk individuals.

Building security desks are not required to have shields or barriers to separate guard staff; however, businesses should consider how much interaction their security staff have with customers or employees. If security staff have significant in-person interactions, the FAQs

recommends installing barriers.

Businesses with elevators should use their best judgment based on the square footage of the elevator when implementing social distancing guidelines. The FAQs suggest that businesses should allow as few people as possible per ride while also being mindful of crowds gathering while waiting for the elevator.

## Conclusion

Businesses should continue to expect further guidance from the Pa DOH in the weeks and months to come. The Pa DOH's full revised FAQs can be found [here](#). For information on the PA DOH's initial order here, see Cozen O'Connor's April 17, 2020 alert titled [Pennsylvania Requires New Employer Safety Measures to Combat COVID-19](#).

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**Employers that have questions should contact a Cozen O'Connor Labor and Employment attorney.**