



## FAQs Regarding COVID-19

**Question 1. I am in the healthcare industry and/or I am an employee of another business in North Carolina where I am in direct contact with individuals that have been confirmed as COVID-19 positive. My employer is not providing me or my co-workers with appropriate personal protective equipment (PPE) such as respirators, gloves, etc. Can I file a complaint with NCDOL/OSH?**

**Answer 1.** Yes, you may file a complaint with the NCDOL OSH Division. Employers are required to provide their employees a workplace free from recognized serious safety/health hazards. Exposure to individuals that are COVID-19 positive is a recognized serious health hazard. Employees in direct contact with such individuals must be provided appropriate PPE, training, and fit testing if they will be required to wear a respirator. Contact the OSH Complaint Desk by phone at 919-779-8560 or 1-800-625-2267 (1-800-NC LABOR) (in-state only), or through the [online form](#) on our website.

**Question 2. Where can I find information and guidance associated with COVID-19?**

**Answer 2.** There are multiple sources for COVID-19 guidance documents. For occupational safety and health guidance, information can be found on the following websites:

- [NCDOL/OSH Division](#) (enforcement guidance, hazard alerts, industry guides and other government agency resources)
- [N.C. State Government Response](#)
- [U.S. Government Guidance](#)
- [Centers for Disease Control \(CDC\) Guidance](#)

**Question 3. If one of my co-workers at the jobsite tests COVID-19 positive, does my employer need to tell me?**

**Answer 3.** If a vendor or co-worker at a jobsite tests positive and they were in direct contact with other individuals at a jobsite within the past 14 days, the employer should notify all affected employees while maintaining confidentiality. The employer should also sanitize the jobsite and contact the local health department. Potentially exposed employees should contact their medical provider for quarantine guidance or if they are exhibiting symptoms.

Some [executive orders](#) also require certain businesses to send home sick employees. For example, EO No. 138 (and subsequent related EOs) place mandatory requirements that sick employees at long



term care (LTC) facilities with skilled nursing staff and retail establishments must ensure sick employees are sent home and they stay home until no longer infectious. All other types of businesses are also encouraged to do likewise. The provisions in executive orders can be enforced by local and state law enforcement.

In addition, the CDC and other government agencies are encouraging all employers to send employees home if they are sick and/or exhibiting signs of COVID-19. Although there is not a specific OSHA standard that covers COVID-19 exposures, if an employee tests positive for COVID-19 then they have a known serious health hazard. Therefore, if an employer is aware that an employee at their worksite is COVID-19 positive, the employer has a general duty to separate the COVID-19 positive employee from other employees, preferably by having them stay home. If an employer does not do so, they could be cited under the OSH general duty clause for failure to provide a safe and healthful workplace free from recognized hazards.

**Question 4. If an employee of a business tests COVID-19 positive, are they required to notify customers?**

**Answer 4.** Businesses, such as grocery stores, are not required to notify the public or close for extra cleaning if one of their employees tests positive.

The business should inform the employee's coworkers about possible exposure but maintain confidentiality. Businesses should also contact their local health departments and the CDC for further protocols, including sanitization guidance.

**Question 5. What are the workplace requirements for face coverings used as protection against COVID-19?**

**Answer 5.** The Governor's [executive orders](#) require a face covering be worn by most people statewide when in public and in working environments. The face covering provisions of the EOs are not enforced by OSH but can be enforced by state and local law enforcement.

Voluntary use of face coverings does not require an employer to comply with the requirements of OSHA respiratory protection standards (29 CFR 1910.134).

Employers can also allow employees to voluntarily use N95 respirators, in accordance with 1910.134(c)(2), if they provide information in Appendix D of the OSHA 1910.134 respiratory standard.



**Question 6. I recently read an article on social media indicating that wearing a face mask could put you at risk of breathing air that is oxygen-deficient. OSHA requires employers to provide employees with air that is at least 19.5 % oxygen. Does this mean that I can refuse to wear a face mask while at work?**

**Answer 6.** Cloth face coverings are not considered a respirator or PPE and are not covered by any OSHA standard. Their purpose is to control the spread of infection by the SARS-CoV-2 virus, the virus that causes COVID-19. Face coverings are primarily designed to protect those around the wearer from exposure to droplets the wearer may expel from the mouth or nose when sneezing, coughing, or even talking. This is especially important because people can spread the virus when they don't feel sick.

A face covering, like a surgical mask, pulls air through the fabric into the worker's lungs when they inhale through the nose and mouth. There is no scientific evidence that a cloth face covering would restrict oxygen levels in the breathing air.

The governor's [executive orders](#) require a face covering be worn by most people statewide when in public and in working environments. The face covering provisions of the EOs are not enforced by the state OSH Division, but can be enforced by state and local law enforcement.

**Question 7. Can my employer require me to wear a face covering while working outdoors in hot, humid conditions?**

**Answer 7.** Yes, your employer can require you to wear a face covering to control the spread of COVID-19 while working outside under conditions of high temperatures and humidity.

The requirement to wear a face covering in public for protection against COVID-19 includes working environments. This mandate, which can be found in the governor's [executive orders](#), does contain several exceptions. Please note that the requirements of executive orders are not enforced by the state OSH Division, but can be enforced by state and local law enforcement.

Employers are required by the OSH general duty clause to provide employees with working conditions that are free from recognized hazards, such as heat stress, that can cause serious physical harm or death. This means that employers would be expected to have a heat stress management program in place, which could include employee training, regular water breaks, allowing employees to take rests in shaded areas where they can social distance and remove masks to help cool down. Employees may need to take more frequent breaks to cool off and drink water than they would if face coverings were not required.

Additional information on heat stress programs can be found on the NCDOL Safety and Health Topic page on [Heat Stress](#).



**Question 8. If I am required to wear a face covering while working indoors in hot, humid conditions, does my employer have to provide air conditioning?**

**Answer 8.** No, employers are not obligated to maintain the workplace within any temperature range. Therefore, your employer is not required to provide air conditioning during summer months even though you must wear a face covering while at work.

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Employers are required by the OSH general duty clause to provide employees with working conditions that are free from recognized hazards, such as heat stress, that can cause serious physical harm or death. This means that employers would be expected to have a heat stress management program in place, which could include employee training, regular water breaks, allowing employees to take rests in cooler areas. Employees may need to take more frequent breaks to cool off and drink water than they would if face coverings were not required.

Additional information on heat stress programs can be found on the NCDOL Safety and Health Topic page on [Heat Stress](#).

**Question 9. My employer and/or a business is not following the face covering requirements, 6-foot distance recommendation for social distancing, the maximum number of individuals for a gathering and/or other guidance addressed in state and local emergency orders such as N.C. Executive Orders. Does NCDOL enforce these requirements?**

**Answer 9.** No. [Executive orders](#) and other local orders are enforced by state and local law enforcement.

**Question 10. My employer and/or a business is not complying with CDC guidelines (i.e. social distancing, facemasks, etc). Does NCDOL or OSH enforce these requirements?**

**Answer 10.** No. CDC guidelines are not enforceable by NCDOL or OSH. However, if an employee is being exposed to a safety or health hazard in the workplace that is likely to cause death or serious physical harm, the employer is required to address it. If the employer does not adequately address serious hazards, an employee or their representative can file a complaint with the NCDOL OSH Division (see Q/A No. 1 for information regarding the filing of a complaint with OSH).



**Question 11. My employer is keeping their business open against the executive order. Can I file an OSH complaint and request the NCDOL OSH Division shut the business down?**

**Answer 11.** No. Executive orders and local orders are enforced by state and local law enforcement.

**Question 12. My employer shut down the business due to the COVID-19 pandemic and executive orders and I am now out of work and not receiving a paycheck. Who do I contact about unemployment benefits?**

**Answer 12.** For all unemployment benefits, please visit the [N.C. Department of Commerce website](#).

**Question 13. Who do I contact for workers' compensation related questions associated with COVID-19?**

**Answer 13.** If it was determined that an employee's COVID-19 infection was related to work exposures, the employer/employee should contact the [N.C. Industrial Commission](#) with any workers' compensation related questions.

**Question 14. What practices should employers/employees in different types of businesses be following to reduce potential exposures to COVID-19?**

**Answer 14.** Some workplace requirements and recommendations can be found in the current [executive orders](#) or on the [N.C. Department of Health and Human Services webpage](#). The NCDOL OSH Division and Federal OSHA have created a number of COVID-19 related guidance documents and hazard alerts, for employers/employees engaged in businesses such as: healthcare, food processing, emergency response, postmortem care, laboratories, airline operations, retail establishments (including grocery stores), solid waste, travel, correctional facilities and migrant farm work. The guidance documents can be found on the following websites:

- [NCDOL/OSH Division](#)
- [OSHA](#)

As additional informational materials are created, they will be placed on existing websites.



**Question 15. I am afraid to go to work because of possible exposure to COVID-19. My employer is not providing facemasks, gloves, and/or enforcing social distancing. I expressed my safety concerns and my employer told me that if I did not come to work tomorrow, I will be fired. Is this legal and do I have any protections?**

**Answer 15.** North Carolina is an “at will” state, which means an employer can terminate an employee for any reason and/or no reason at all, unless they are in violation of an employee’s rights under existing state or federal discrimination laws. Therefore, whether an employer could fire an employee in the scenario described in the questions would likely depend on whether an employee was being exposed to a serious safety or health hazard or would likely be exposed to a serious safety or health hazard.

If there is a serious workplace hazard, the employer is required to provide each employee with a safe and healthful workplace, free from recognized serious hazards. If the employer is not doing so and an employee brings that to the employer’s attention and is subsequently fired or other retaliatory action is taken, the employee could file a retaliation complaint with NCDOL’s Retaliatory Employment Discrimination Bureau (REDB) of the NCDOL under the state’s Retaliatory Employment Discrimination Act (REDA).

An employee must file the complaint in writing with the REDB of NCDOL. Employees can call 1- 800-625-2267 (1-800-NC LABOR) to discuss their concerns and request an REDB complaint form. When an employee receives the complaint form, they should follow the enclosed instructions and return the form to the REDB office. All filed complaints are investigated.

If the employee has further questions, they can contact REDB by email at [ask.edb@labor.nc.gov](mailto:ask.edb@labor.nc.gov) or call 1-800-625-2267 (1-800-NC LABOR). Additional information about retaliatory employment discrimination under REDA and how to file a complaint can be found on [NCDOL’s website](#).

**Question 16. I am an employer/employee in the healthcare industry. Does the NCDOL OSH Division have any guidance available regarding selection, use and fit testing associated with N95 respirators regarding exposures/potential exposures to COVID-19?**

**Answer 16.** Yes, see current OSH Division guidance documents on [NCDOL’s COVID-19 website](#).

**Question 17. I am an employer/employee in a business other than healthcare that uses N95 respirators. Does the OSH Division have any guidance available regarding selection, use and fit testing associated with N95 respirators regarding exposures/potential exposures to COVID- 19?**

**Answer 17.** Yes, see OSH Division guidance documents on [NCDOL’s COVID-19 website](#).



**Question 18. Are employers supposed to record workplace illnesses associated with COVID-19 on their OSHA 300 logs in accordance with 29 CFR Part 1904?**

**Answer 18.** On April 10, 2020, OSHA issued an enforcement memorandum that provided interim guidance to their Compliance Safety and Health Officers (CSHOs) for enforcing the requirements of 29 CFR Part 1904 with respect to the recording of occupational illnesses, specifically cases of COVID-19. The NCDOL OSH Division adopted this memo on April 13, 2020.

On May 19, 2020, OSHA issued a revised enforcement memorandum that provided updated guidance concerning the recording of COVID-19 as an occupational illness, including guidance to assist employers in making the determination of work-relatedness of COVID-19 cases. This memorandum was adopted by the OSH Division on May 22, 2020, and the April 10, 2020 memorandum was rescinded.

Since confirmed cases of COVID-19 have been found in nearly all industries, this memorandum restores the responsibility of all NC employers to comply with all requirements of 29 CFR Part 1904, which the previous memorandum suspended. This includes recording cases of COVID-19 on injury and illness logs if the confirmed cases are determined to be work-related, and the requirement to report fatalities and some hospitalizations of employees that occur as a result of contracting COVID-19 while at work.

To assist employers with determining the work-relatedness of the cases of COVID-19, this memorandum also includes guidance that should be taken into consideration when determining the work-relatedness of the case. It is the responsibility of the employer to make a reasonable determination, using the evidence available to them and their investigation of the claim, of the work-relatedness of the confirmed case. If the employer determines that confirmed case was work-related, then it should be considered as a recordable illness.

The associated N.C. and Federal memos can be viewed on [NCDOL's COVID-19 website](#).



**Question 19.** If an employee lives with a family member that is considered high risk for serious health effects if exposed to COVID-19, is there any option for an employee to get paid leave if their employer has less than 500 employees? How long is the leave, if so?

**Answer 19.** This situation described might fall under the Family Medical Leave Act (FMLA), which is administered through the U.S. Department of Labor (USDOL), Wage and Hour Division (WHD). The USDOL WHD has offices in Raleigh and Charlotte and can be reached using the following contact information:

**Raleigh District Office**

U.S. Department of Labor  
Wage and Hour Division  
Somerset Bank Building  
4407 Bland Road, Suite 260  
Raleigh, NC 27609  
(919) 790-2741  
1-866-4-USWAGE  
(1-866-487-9243)

**Charlotte Area Office**

U.S. Department of Labor  
Wage and Hour Division  
3800 Arco Corporate Drive  
Suite 460  
Charlotte, NC 28273  
(704)-749-3360  
1-866-4-USWAGE  
1-866-487-9243

**Question 20.** My employer is requiring all employees to report back to work. I am not sure it is safe for me and others to go back. What types of PPE, face coverings, guarding and supplies is my employer required to provide to ensure returning employees are not exposed to COVID-19?

**Answer 20.** Every employer is required to provide a workplace free from recognized hazards that are likely to cause death, serious injury or serious physical harm. The CDC, OSHA and OSH have each prepared guidance for employers and employees to limit potential COVID-19 exposures in the workplace. The types of PPE and other measures required or recommended, depends on the specific types of industries and risks level posed to employees in those industries. Guidance documents can be found on CDC, OSHA and NCDOL OSH websites.

**Question 21.** Can my employer require me to get the COVID-19 vaccination?

**Answer 21.** Yes, your employer can require you to get the COVID-19 vaccination as a condition of employment in an at-will state, unless it is contraindicated for medical or bona fide religious reasons. An employer may also require other infection-control practices to be performed by its employees. North Carolina falls into the category of states that follow at-will-employment doctrine. *Please note that neither federal OSHA nor the Occupational Safety and Health (OSH) Division of NCDOL have a current standard that prohibits employers from requiring a COVID-19 vaccine as a condition of employment. Likewise, the COVID-19 vaccine is not required as a condition of employment under the current standards enforced by federal OSHA or the OSH Division.*





For information on religious accommodations surrounding a required vaccine, see this [2012 Informal Discussion Letter from the Equal Employment Opportunity Commission \(EEOC\)](#).

Currently, both the EEOC and the CDC are in the process of drafting guidance in relation to employers requiring employees to receive the COVID-19 vaccine. We will post that guidance once it is available.

Additionally, it is important to note that under the US Food and Drug Administration (FDA) rules, the recipient has the option of refusing to take an Emergency Use Authorization (EUA) vaccine, of which all the current COVID-19 vaccines are in EUA status. More information on the FDA rules regarding vaccines that are in EUA status, refer to Section 564 of the Federal Food, Drug, and Cosmetic (FD&C) Act, [Emergency Use Authorization of Medical Products and Related Authorities](#) and to [Emergency Use Authorization for Vaccines Explained](#).

#### **Question 22. May a public employer require employees to be vaccinated against COVID-19?**

**Answer 22.** Generally yes, an employer may require employees to be vaccinated against COVID-19. No state law or rule prohibits a **North Carolina employer** (public or private) from requiring some or all of its employees to be vaccinated against particular illnesses, including COVID-19. As long as a vaccine has been authorized for use by the U.S. Food and Drug Administration (FDA) an employer may require all of its employees to be vaccinated as a condition of employment, subject only to medical exceptions required by the ADA and religious exceptions required by Title VII of the Civil Rights Act of 1964.

In relation to constitutional rights, mandatory vaccinations do not violate the U.S. Constitution.

As of December 20, 2020, the COVID-19 vaccinations available at this time are being administered under a federal Emergency Use Authorization (EUA) from the FDA. The section of the federal Food, Drug and Cosmetic Act that governs the issuance of an EUA [21 U.S.C. § 360bbb-3(e)(A)(ii)(III)] says that any person who is going to take the vaccine must be told that they have the option to accept or refuse the vaccine and the consequences, if any, of refusing. They must also be told of any alternatives to the vaccine that are available and of their benefits and risks. These requirements do not prohibit an employer from requiring an employee be vaccinated against COVID-19 as a condition of

of employment. In addition, it does not prevent discipline or even discharge by an employer as a consequence of refusing to be vaccinated against COVID-19.



**Question 23. Can an employer incentivize employees to take the COVID-19 vaccine and mandate them to take the vaccine?**

**Answer 23.** According to the EEOC, an employer currently may both incentivize employees to take the COVID-19 vaccine and mandate that employees take the vaccine; however, **every employer must provide accommodations** to every employees under the Americans with Disabilities Act (ADA), Title VII of the Civil Rights Act of 1964, and the Genetic Information Nondiscrimination Act (GINA); certain medical conditions related to pregnancy may also qualify as disabilities under the ADA.

**Note:** Per the EEOC, “the EEO laws do not interfere with or prevent employers from following CDC or other federal, state, and local public health authorities’ guidelines and suggestions.” See the [EEOC website for guidance](#).

*This document was revised on April 1, 2021 and may be subject to change.*