



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 or the OSH Division?

Answer 1. Yes, you may file a complaint with the 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 if they are required to wear a respirator, fit testing. 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.

Additionally, on July 21, 2021, the North Carolina OSH Division adopted Federal OSHA's Emergency Temporary Standard (ETS) for Healthcare. The ETS covers requirements for PPE in healthcare settings and healthcare support settings.

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

Answer 2. There are multiple sources for COVID-19 guidance documents. These include the following websites:

- [NCDOL/OSH Division](#)
- [N.C. Department of Health and Human Services](#)
- [NC. Government](#)
- [Federal OSHA](#)
- [Centers for Disease Control \(CDC\)](#)
- [U.S. Government](#)

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 state or local mandates or orders may also require certain businesses to send home sick employees. The provisions in applicable orders can be enforced by state or local law enforcement.

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 for employers that are **not** in the healthcare or healthcare support services, 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.

On July 21, 2021, the North Carolina OSH Division adopted verbatim Federal OSHA’s Emergency Temporary Standard for Healthcare. The ETS requires that once an employer is notified that a person is COVID -19 positive and who has been in the workplace during the potential transmission period, the employer must notify, within 24 hours:

- Each employee who was not wearing a respirator and other required PPE and had been in close contact with that person in the workplace.
- All other employees who were not wearing a respirator and any other required PPE and worked in a well-defined portion of a workplace (*e.g.*, a particular floor) in which that person
- Other employers whose employees were not wearing respirators and any other required PPE and have been in close contact with that person or worked in a well-defined portion of a workplace (*e.g.*, a particular floor).

Note: *The ETS considers the potential transmission period as running from 2 days before the person felt sick (for asymptomatic people, 2 days prior to test specimen collection) until the time the person is isolated.*

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 CDC and Federal OSHA recommend the use of face coverings in public indoor settings in areas with substantial or high transmission. Voluntary use of face coverings does not require an employer to comply with the requirements of OSHA’s respiratory protection standard (29 CFR 1910.134). Also note that face coverings, facemasks, and face shields are not considered respirators.

Employers can also allow employees to voluntarily use N95 respirators in accordance with 1910.134(c)(2). If they do, they are required to provide the information located in Appendix D of the respiratory protection standard.

Employers in healthcare settings that are covered by the COVID-19 Emergency Temporary Standard must provide employees with facemasks and ensure that they wear them. The ETS defines a facemask as a surgical, medical procedure, dental, or isolation mask that is FDA-cleared, authorized by an FDA EUA, or offered or distributed as described in an FDA enforcement policy. Facemasks may also be referred to as “medical procedure masks.”

State or local municipalities may also have face covering requirements which are enforced by local law enforcement.

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 CDC and OSHA recommend the use of face coverings in public indoor settings in areas with substantial or high transmission. Additionally, state or local municipalities may also have face covering requirements, which are enforced by 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.

Additionally, state or local municipalities may have face covering requirements, which are enforced by 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 your employer might require you to wear a face covering while at work.

The CDC and Federal OSHA recommend the use of face coverings in public settings in areas with substantial or high transmission. Additionally, state or local municipalities may also have face covering requirements, which are enforced by 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 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 current guidance (i.e., gatherings, face coverings) 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 current CDC guidance (i.e., social distancing, facemasks). Does NCDOL or the OSH Division enforce these requirements?

Answer 10. No. CDC guidance is not enforceable by the NCDOL or the OSH Division. 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 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 11. For all unemployment benefits, please visit the [N.C. Department of Commerce website](#).

Question 12. Who do I contact for workers' compensation-related questions associated with COVID-19?

Answer 12. 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 13. What practices should employers/employees in different types of businesses be following to reduce potential exposures to COVID-19?

Answer 13. Employer's that provide healthcare services and/or healthcare support services may be covered under OSHA's COVID-19 Emergency Temporary Standard for Healthcare. The COVID-19 ETS was adopted verbatim by NCDOL/OSH effective July 21, 2021.

Some workplace requirements and recommendations can be found in state or local 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 14. 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 14. North Carolina is an “at will” state, which means an employer can terminate an employee for any reason or no reason at all, unless they are in violation of an employee’s rights under existing state or federal discrimination laws. Whether an employer could fire an employee in the scenario described above would likely depend on whether an employee was being or would likely be exposed to a serious safety or health workplace hazard that could cause imminent serious injury or death. The employer is required to provide each employee with a safe and healthful workplace, free from recognized, serious hazards. If the employer is failing to do so and an employee brings that to the employer’s attention and is subsequently fired or other retaliatory action is taken, the employee may have a valid retaliation complaint against their employer pursuant to the N.C. Retaliatory Employment Discrimination Act (REDA).

A REDA complaint must be filed in writing with the Retaliatory Employment Discrimination Bureau (REDB) of the NCDOL within 180 days of the alleged retaliatory action. For more information or for a complaint form, an employee may call 1- 800- 625-2267 (1-800-NC LABOR) The bureau is ready and willing to answer questions and provide additional information about employee rights under REDA. Each filed complaint is reviewed and if the complaint alleges a violation of REDA, investigated. Additional information about retaliatory employment discrimination under REDA and how to file a complaint can be found on [NCDOL’s website](#).

Additionally, if you are performing healthcare services or healthcare support services, your employer may be covered under OSHA’s COVID-19 Emergency Temporary Standard for Healthcare. The ETS has some PPE requirements for employees.

Question 15. 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 15. Yes, see current OSH Division guidance documents on [NCDOL’s COVID-19 website](#).



Question 16. 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 16. Yes, see OSH Division guidance documents on [NCDOL's COVID-19 website](#).

Question 17. Are employers supposed to record workplace illnesses associated with COVID-19 on their OSHA 300 logs in accordance with 29 CFR Part 1904?

Answer 17. 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 18. 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 18. 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 19. 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 19. 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.

Additionally, employers that perform healthcare services and healthcare support services may be covered under OSHA's Emergency Temporary Standard for Healthcare. The ETS does have requirements specific to PPE.

Question 20. Can my employer require me to get the COVID-19 vaccination?

Answer 20. 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 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 either



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 \(EEOC\)](#).

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. For 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 21. May a public employer require employees to be vaccinated against COVID-19?

Answer 21. 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 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. **Note:** *On August 23, 2021 the Pfizer-BioNTech COVID-19 Vaccine received FDA approval. The vaccine remains in emergency use authorization in individuals age 12-15 and for the administration of a third dose in certain immunocompromised individuals.*

Question 22. Can an employer incentivize employees to take the COVID-19 vaccine and mandate them to take the vaccine?

Answer 22. 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 employee 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](#). Further, EEOC has included [questions and answers](#) for COVID-19 as it relates to ADA, the Rehabilitation Act, and other EEO laws.

Question 23. If I require my employees to take the COVID-19 vaccine as a condition of their employment, are adverse reactions to the vaccine recordable?

Answer 23. If an employer *requires* employees to be vaccinated as a condition of employment (i.e., for work-related reasons), then any adverse reaction to the COVID-19 vaccine is work-related. The adverse reaction is recordable if it is a new case under 29 CFR 1904.6 and meets one or more of the general recording criteria in 29 CFR 1904.7.

Question 24. I do not require my employees to get the COVID-19 vaccine. However, I do recommend that they receive the vaccine and may provide it to them or make arrangements for them to receive it offsite. If an employee has an adverse reaction to the vaccine, am I required to record it?

Answer 24. No. Although adverse reactions to *recommended* COVID-19 vaccines may be *recordable* under 29 CFR 1904.4(a) if the reaction is: work-related, a new case, and meets one or more of the general recording criteria in 29 CFR 1904.7, OSHA is exercising its enforcement discretion to only require the recording of adverse effects to *required* vaccines at this time. Therefore, employers do not need to record adverse effects from COVID-19 vaccines that are *recommended*, but not required.

Note that for this discretion to apply, the vaccine must be truly voluntary. For example, an employee’s choice to accept or reject the vaccine cannot affect their performance rating or professional advancement. An employee who chooses not to receive the vaccine cannot suffer any repercussions from this choice. If employees are not free to choose whether or not to receive the vaccine without fearing adverse action, then the vaccine is not merely “recommended” and employers should consult the above FAQ regarding COVID-19 vaccines that are a condition of employment.

Note also that the exercise of this discretion is intended only to provide clarity to the public regarding OSHA’s expectations as to the recording of adverse effects during the health emergency; it does not change any of employers’ other responsibilities under OSHA’s recordkeeping regulations or any of OSHA’s interpretations of those regulations.

Finally, note that this answer applies to a variety of scenarios where employers recommend, but do not require vaccines, including where the employer makes the COVID-19 vaccine available to employees at work, where the employer makes arrangements for employees to receive the vaccine at an offsite location (e.g., pharmacy, hospital, local health department, etc.), and where the employer offers the vaccine as part of a voluntary health and wellness program at my workplace. In other words, the method by which employees might receive a recommended vaccine does not matter for the sake of this question.



Please note: *The Occupational Safety and Health Division of NCDOL will attempt to answer all questions relating to COVID-19 vaccinations. We are currently offering guidance for best-practices regarding COVID-19 vaccines because information is continuing to change. In addition, responses may vary depending on the type of enterprise in which an employee is employed, and whether the work environment is such that close contact with other people may pose a significant risk of viral transmission.*

Currently, an employer may lawfully mandate that employees receive a COVID-19 vaccine, but the employer must provide an accommodation for individual employees whose disabilities or religious beliefs would prevent them from receiving the vaccination. Any available accommodation must always be discussed with the requesting employee, as the applicable laws require the parties to engage in an interactive process regarding the possibility of accommodation. The employer is permitted to request medical documentation of the need for an alternative to vaccination as an accommodation. If no reasonable accommodation is possible and the unvaccinated employee poses a direct threat to self or others in the workplace, the employee may be barred from the workplace.

Employers may continue to mandate all employees wear masks, regardless of whether an employee is or is not vaccinated.

Be apprised that some questions may be referred to the EEOC because the inquiry may relate specifically to the Americans with Disabilities Act. There are also HIPAA considerations and constitutional considerations that fall outside the jurisdiction of the NC Department of Labor.

This document was revised on September 3, 2021 and may be subject to change.