



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.

Note: NCDOL repealed OSHA's COVID-19 Emergency Temporary Standard for Healthcare effective March 4, 2022.

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 tests positive at a jobsite, 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, 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.

Note: NCDOL repealed OSHA’s COVID-19 Emergency Temporary Standard for Healthcare effective March 4, 2022.

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.

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

Answer 11. 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 12. What practices should employers/employees in different types of businesses be following to reduce potential exposures to COVID-19?

Answer 12.

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 13. 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 13. 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](#).

Question 14. 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 14. Yes, see current OSH Division guidance documents on [NCDOL’s COVID-19 website](#).

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

Question 16. Are employers required to record workplace illnesses associated with COVID-19 on their OSHA 300 logs in accordance with [29 CFR Part 1904](#)?

Answer 16. Yes, the employer must follow the recordkeeping criteria for recording work-related illnesses as provided by 1904.4, 1904.5 and 1904.7.



Question 17. 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 17. 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, NC28273
(704)-749-3360
1-866-4-USWAGE
1-866-487-9243

Question 18. Can my employer require me to get the COVID-19 vaccination?

Answer 18. 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](#).

Note: On [August 23, 2021](#), the Pfizer-BioNTech COVID-19 Vaccine received FDA approval. The vaccine remains in emergency use authorization in individuals ages 12-15 and for the administration of a third dose in certain immunocompromised individuals.



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

Answer 19. 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 ages 12-15 and for the administration of a third dose in certain immunocompromised individuals.

Question 20. Can an employer incentivize employees to take the COVID-19 vaccine and mandate them to take the vaccine?

Answer 20. 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 21. 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 21. 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 22. 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 22. 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.

Question 23. What is the status of the COVID-19 Healthcare Emergency Temporary Standard?

Answer 23. NCDOL repealed OSHA’s COVID-19 Emergency Temporary Standard for Healthcare effective March 4, 2022.

This document was revised on April 8, 2022 and may be subject to change.