

Ohio COVID-19 Updates

Labor & Employment Law Update

By Michael Hughes on November 18, 2020

In response to the recent increased spread of Coronavirus in Ohio, Governor DeWine and the Ohio Department of Health have enacted several new Orders affecting all Ohio residents. Namely, in addition to existing protocols and guidelines for businesses, which remain in effect, the state has now instituted a 21-day curfew and restrictions for certain types of mass gatherings.

Statewide Curfew – Effective November 19, 2020

In order to help curb the spread of the coronavirus, the Ohio Department of Health has mandated a statewide curfew for all Ohio residents, from 10 PM to 5 AM daily, starting **November 19, 2020 and lasting for 21 days**. Notably, the curfew does not apply to those going to or from work, those who have an emergency, or those who need medical care. The curfew is not intended to stop anyone from getting groceries or going to a pharmacy. Picking up carry-out or a drive-thru meal and ordering for delivery are also permitted, but serving food and drink in person must cease at 10 PM.

Revised Order to Limit and/or Prohibit Certain Mass Gatherings – Effective November 17, 2020

Effective as of November 17, 2020, the Ohio Department of Health has instituted limitations on the following types of mass gatherings: wedding receptions, funeral repasts, and other events at banquet facilities. Those limitations are as follows:

- No socializing or activities in open congregate areas and no dancing.
- Guests must be seated at all times. However, traditional wedding reception events such as first dance, toasts, tossing the bouquet and cutting the cake are permitted.
- If serving food and beverages, guests must be served at their seats. No self-serve buffets and no self-serve bar areas permitted.
- Masks must be worn at all times unless actively consuming food or beverages.
- No more than 10 people should be seated at a table and those individuals must be from the same household.

The order does not apply to religious observances; First Amendment protected speech, including petition or referendum circulators, and any activity by media; and to governmental meetings which include meetings that are required to be

open to the public.

Existing COVID-19 Business Protocols and Guidance Remain in Effect

While the Ohio Department of Health has lifted many of the mandatory business requirements initially put into place in response to the COVID-19 pandemic, there are still several established workplace requirements. In general, all employers are required to:

- Comply with state regulations on facial coverings, including the November 13, 2020 Order for Retail and Business Compliance for Facial Coverings throughout the State of Ohio.
 1. Require all employees to wear face coverings unless they are prohibited by law or regulation; in violation of documented industry standards; not advisable for health reasons; in violation of the business's documented safety policies; or there is a functional/practical reason not to wear one. They also are not required for employees who work alone in an assigned work area.
 2. Practical reasons not to wear face coverings include, but are not limited to, high temperatures in facilities or employees separated by more than 6 feet on a manufacturing floor.
- Comply with social distancing requirements of the U.S. Centers for Disease Control and Prevention and Ohio Department of Health, including, where possible:
 1. Designating 6 foot distances with signage, tape, or other means to allow for adequate social distancing between employees; this also applies to customers in lines.
 2. Having hand sanitizer and sanitizing products readily available for employees and any customers.
 3. Establishing separate operating hours for elderly and other vulnerable populations.
 4. Posting online whether a facility is open and how best to reach the facility and continue services by phone or in another remote manner.
- Allow as many employees as possible to work from home by implementing policies in areas such as teleworking and video conferencing.
- **If employees do report to workplaces:**
 - Actively encourage sick employees to stay home until they have recovered.
 - Guidelines from the Centers for Disease Control and Prevention for people with confirmed or suspected COVID-19 are as follows:
 - Employees with symptoms (including those who have tested positive and those who have not been tested) should stay home until:

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- At least 10 days have passed since symptoms first began; AND
- At least 24 hours have passed since there has been no fever without use of fever-reducing medication; AND
- There has been improvement in other symptoms.
- **If an employee is severely immunocompromised, a health care provider may determine that a longer time frame is recommended.**
- Employees without symptoms who have lab-confirmed COVID-19 should stay home until at least 10 days have passed since the date of the positive test. However, if the employee develops symptoms in that time period, then the employee should follow the criteria for people with symptoms.
- Ensure that your sick leave policies are up to date, flexible, and non-punitive to allow sick employees to stay home to care for themselves, children, or other family members. Consider encouraging employees to do a self-assessment each day to check if they have any COVID-19 symptoms (**fever, cough, or shortness of breath**).
- Separate employees who appear to have acute respiratory illness symptoms from other employees and send them home immediately. Restrict their access to the business until they have recovered.
- Reinforce key messages — stay home when sick, use cough and sneeze etiquette, and practice hand hygiene — to all employees, and place posters in areas where they are most likely to be seen. Provide protection supplies such as soap and water, hand sanitizer, tissues, and no-touch disposal receptacles for use by employees.
- Frequently perform enhanced environmental cleaning of commonly touched surfaces, such as workstations, counter tops, railings, door handles, and doorknobs. Use the cleaning agents that are usually used in these areas and follow the directions on the label. Provide disposable disinfectant wipes so that commonly used surfaces can be wiped down by employees before each use.
- Be prepared to change business practices if needed to maintain critical operations (e.g., identify alternative suppliers, prioritize customers, or temporarily suspend some of your operations).

In addition to the general guidance, there are specific guidance for certain sectors, including offices, health care, assisted living facilities, and bars and restaurants, which are available on the Ohio Department of Health website.

Local communities and municipalities are permitted to enact guidance or requirements. For example, the City of Columbus and Franklin County issued a COVID-19 Health Advisory, which generally follows many of the state guidelines. Accordingly, Ohio employers should work with experienced labor and employment counsel to confirm that they are in compliance with all applicable

state, city/local, county and federal requirements and guidelines.

This blog will continue to monitor those developments and update as needed.

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