

OREGON ADMINISTRATIVE RULES
OREGON HEALTH AUTHORITY, PUBLIC HEALTH DIVISION
CHAPTER 333

DIVISION 19

INVESTIGATION AND CONTROL OF DISEASES: GENERAL POWERS AND
RESPONSIBILITIES

333-019-1025

Masking Requirements for Indoor ~~and Outdoor~~ Spaces

(1) ~~(a) It is vital to this state that individuals wear a mask or face covering when in public indoor and outdoor spaces with people from other households. COVID-19 undergoes frequent mutations as it replicates, which over time has resulted in variants that are more transmissible, cause more severe disease, or have other features of public health concern such as decreased vaccination effectiveness. As of the time this rule was adopted, Delta was the variant making up more than 98 percent of sequenced specimens in Oregon. The Delta variant is approximately two to three times more infectious than early wild-type COVID-19 variants. There is emerging evidence that people infected with the Delta variant have similar viral loads regardless of vaccination status suggesting that even vaccine breakthrough cases may transmit this variant effectively.~~

~~(b) COVID-19 infection is transmitted predominately by inhalation of respiratory droplets generated when people cough, sneeze, sing, talk, or breathe. Studies show that masks and face coverings block the release of respiratory droplets into the environment and can also reduce the wearer's exposure to droplets. COVID-19 viral particles spread between people more readily indoors and when people are closer together for longer periods of time indoors ~~and outdoors~~. Individuals infected with the Delta variant have more viral particles in their respiratory passages and can transmit the virus more easily to those around them. There are increasing examples where transmission occurred in crowded outdoor settings, even though the risk for transmission in these locations is likely lower than indoors.~~

~~(c) This rule is necessary to help control COVID-19, reduce hospitalizations and deaths, and provide general health protection to people in Oregon.~~

(2) Nothing in this rule is intended to:

(a) Prohibit an individual or person from complying with a more restrictive mask requirement.

(b) Prohibit a person, including a business or governmental entity from applying more restrictive requirements.

(3) For the purposes of this rule, the following definitions apply:

(a) "Business" includes an individual, organization or entity engaged in commercial, industrial, non-profit or professional activities.

(b) "Common or shared space" means an area where individuals may interact such as a restroom, breakroom, hallway, elevator, lobby, classroom, large room with cubicles, meeting rooms, conference rooms and any area open to the public.

(c) "Face covering" means a cloth, polypropylene, paper or other face covering that covers the nose and the mouth and that rests snugly above the nose, below the mouth, and on the sides of the face.

(d) "Face shield" means a clear plastic shield that covers the forehead, extends below the chin, and wraps around the sides of the face.

(e) "Household" means individuals who live together in a single residence.

(f) "Indoor spaces" means anywhere indoors, including but not limited to public and private workplaces, businesses, indoor areas open to the public, building lobbies, common or shared spaces, classrooms, elevators, bathrooms, transportation services and other indoor space where people may gather for any purpose. An indoor space does not include a private residence or a private automobile being used for personal use and that is not used for ride sharing services.

(g) "Mask" means a medical grade mask.

~~(h) "Organizer of an event or gathering" is a person or governmental entity that arranges, facilitates, or is responsible for an event or gathering.~~

~~(i) "Outdoor space" means anywhere outdoors where people from separate households may gather for any purpose, including but not limited to public and private workplaces, shared or common spaces, outdoor sports fields, venues, parks, and rooftop terraces. An outdoor space does not include outdoor areas that are part of a private residence or houseless encampments.~~

(jh) "Person responsible for an indoor space" means any person or governmental entity responsible for the activities within an indoor space.

~~(k) "Person responsible for an outdoor space" means any person or governmental entity responsible for activities within an outdoor space.~~

(li) "Private individual workspace" means an indoor space within a public or private workplace used for work by one individual at a time that is enclosed on all sides with walls from floor to ceiling and with a closed door.

(mj) "Public and private workplaces" means indoor ~~or outdoor~~ places where people work, including but not limited to businesses, banks, food processing plants, manufacturing facilities, construction sites, warehouses and farms.

(nk) "Public transportation" means any form of transportation open to the public including but not limited to trains, buses, trolleys, street cars, vans, school buses, airplanes, boats, ride sharing services. Public transportation does not include private vehicles unless the private vehicle is being used for public transportation such as ride sharing services.

(ol) "Ride sharing services" means transportation services, whether public or private, where a driver transports an individual or a group of people in a vehicle and charges a fare or bills for services. Ride sharing services include, but are not limited to, taxicabs, Uber, and Lyft.

(pm) "Transportation hub" means any airport, bus terminal, marina, seaport or other port, subway station terminal (including any fixed facility at which passengers are picked-up or discharged), train station, U.S. port of entry, or any other location that provides transportation subject to the jurisdiction of the United States.

(4) Individuals, regardless of vaccination status, are required to wear a mask, face covering or face shield except as exempted in section ~~(5) or (65)~~ of this rule when ÷

~~(a) I~~in an indoor space, ÷ ~~and~~

~~(b) In an outdoor space if the individuals cannot or do not consistently maintain at least six feet of distance from individuals not in their household.~~

(5) A mask, face covering, or face shield is not required when an individual:

(a) Is under five years of age or not yet in kindergarten; unless an individual is using public transportation or in transportation hubs in which case an individual under two years of age is not required to wear a mask, face covering or face shield.

(b) Is sleeping.

(c) Is actively eating or drinking.

(d) Is engaged in an activity that makes wearing a mask, face covering or face shield not feasible, such as when actively swimming.

(e) Is in a private individual workspace.

(f) Must remove the mask, face covering or face shield briefly because the individual's identity needs to be confirmed by visual comparison, such as at a bank or if interacting with law enforcement.

(g) Is practicing or playing a competitive sport at any level.

(h) Is officiating a competitive sport that requires a high level of physical exertion by the official.

(i) Is performing, including but not limited to playing music, delivering a speech to an audience, and theater.

~~(6) The requirement to wear a mask, face covering or face shield in an outdoor space does not apply in the following circumstances, though schools and child care providers are expected to make reasonable and best efforts to encourage physical distancing in outdoor spaces:~~

~~(a) At school during regular school hours.~~

~~(b) At school when individuals are engaged in educational or child care activities outside of regular school hours.~~

~~(c) At a registered or certified child care as those are defined in ORS 329A.250, or at an exempt family child care provider as that is defined in ORS 329A.430, during the hours the child care is operating.~~

~~(d) At school age and preschool recorded programs as those are defined in ORS 329A.250.~~

(7) A person responsible for an indoor space must:

(a) Ensure that employees, contractors, and volunteers comply with this rule within the indoor space.

(b) Make reasonable efforts to ensure customers, guests, visitors and other individuals comply with this rule within the indoor space.

(c) Post signs at every entrance to the indoor space that masks, face coverings or face shields are required as described in this rule.

~~(8) A person responsible for an outdoor space must post signs at every entrance to the outdoor space that masks, face coverings or face shields are required as described in this rule.~~

~~(9) An organizer of an event or gathering in an outdoor space must:~~

~~(a) Ensure that employees, contractors, and volunteers comply with this rule during the event or gathering.~~

~~(b) Post signs at every entrance to the event or gathering that masks, face coverings or face shields are required as described in the rule, if they are not already posted.~~

(~~107~~) Nothing in this rule is intended to prohibit an employer or place of public accommodation from making reasonable accommodations in order to comply with the Americans with Disabilities Act (ADA), Title VII of the Civil Rights Act, ORS 659.850 or applicable provisions of ORS chapter 659A

(~~118~~) Penalties: Any person who violates any provision of this rule is subject to civil penalties of up to \$500 per day per violation.

Statutory/Other Authority: ORS 413.042, ORS 431A.010, ORS 431.110 & ORS 433.004

Statutes/Other Implemented: ORS 431A.010, ORS 431.110 & ORS 433.004