



# SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

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## LEGAL UPDATE

March 21, 2022

**To: Superintendents/Presidents/Chancellors, Member Community  
College Districts**

**From: Jennifer Henry, Associate General Counsel** *J.H.*

**Subject: CDPH Revises its Masking Requirements**  
**Memo No. 07-2022(CC)REVISED**

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**This Legal Update contains an updated link as shown by yellow highlighting below.**

Effective March 1, 2022 the California Department of Public Health (“CDPH”) requirement that unvaccinated individuals mask in indoor public settings changed to a strong recommendation that all persons, regardless of vaccination status, continue indoor masking (CDPH Guidance for the Use of Face Masks 2/28/22; CDPH Face Coverings Q&A 3/11/22<sup>1</sup>). The following addresses some “Frequently Asked Questions” about the recent changes:

Does the CDPH Guidance Apply to Colleges and Universities?

Yes. All students, staff, and faculty, regardless of vaccine status, are strongly recommended to wear a mask in all indoor public settings. (CDPH Face Coverings Q&A 3/11/22)

College and Childcare Personnel:

In workplaces, employers are subject to the Cal/OSHA COVID-19 Emergency Temporary Standards (“ETS”), which require employers to provide any employee with a mask upon request, among other things. However, the requirement that unvaccinated workers remain masked while indoors has been changed to a strong recommendation that all workers remain masked indoors regardless of vaccination status. (Governor Executive Order N-5-22, 2/28/22; Q1 “Face Coverings” Cal/OSHA ETS FAQ 3/2/22).

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<sup>1</sup> Links are at the end



**\*\* Also check your local county's public health orders. For example, see Sonoma County Health Officer Orders here: <https://socoemergency.org/category/warnings-and-updates-english/>**

#### School Board Meetings:

Masks are strongly recommended for all persons, regardless of vaccine status, in indoor public settings including local board meetings, and state and local government offices serving the public. (CDPH Face Coverings Q&A 3/11/22)

#### Childcare Settings:

Effective March 12, 2022, the universal masking requirement for K-12 and Childcare settings changed to a strong recommendation that individuals in these settings continue to mask indoors. (CDPH Face Coverings Q&A 3/11/22)

#### Non-School Settings:

Indoor masking is still required in: public transit, healthcare settings, correctional facilities, homeless shelters, and long term care settings. (CDPH Face Coverings Q&A 3/11/22)

Non-school settings such as businesses may require all patrons or unvaccinated patrons to wear a mask by posting a sign at the entrance or point of ticket sale to notify patrons of any masking requirements such venue hosts impose. (CDPH Guidance for the Use of Face Masks 2/28/22; CDPH Face Coverings Q&A 3/11/22)

#### What Types of Masks are Recommended?

Respirators (e.g., N95s, KN95s, KF94s) or surgical masks with good fit are highly recommended. (CDPH Face Coverings Q&A 3/11/22)

#### Can CCDs Continue To Require Masking?

Yes. Public health officials, local educational agencies, and/or other authorities may issue additional masking guidance and requirements. (CDPH Guidance for the Use of Face Masks 2/28/22; CDPH Face Coverings Q&A 3/11/22)

If a CCD's local county health order does not require indoor masking, factors a CCD should look at when deciding whether to continue requiring masking indoors include: (1) community level indicators of COVID-19 and their trajectory; (2) COVID-19 vaccination coverage in the community and among students, teachers, and staff; (3) local COVID-19 outbreaks or transmission patterns; (4) indoor air quality at relevant facilities; (5) availability and accessibility of resources, including masks and tests; (6) ability to provide therapeutics in a timely and equitable manner as they become available; (7) equity considerations, including populations disproportionately impacted by and exposed to COVID-19; (8) local demographics, including serving specialized populations of individuals at high risk of severe disease and immunocompromised populations; and (9) community input, including from students, families, and staff (See CDPH COVID-19 Public Health Guidance for K-12 Schools, 3/12/22; CDPH Local Considerations for Maintaining Universal Indoor Masking in K-12 3/7/22). We also advise checking with your insurer as to whether such a change would impact coverage in any way.



### Have Masking Exemptions Changed?

No. The following masking exemptions still apply: children under two years old, persons with a medical condition that prevents wearing a mask, persons who are actively eating or drinking, persons who are working alone in a closed office. (CDPH Face Coverings Q&A 3/11/22)

### People Who Test Positive:

People who test positive should stay at home for at least five days, regardless of vaccination or symptom status, and wear a mask when indoors around others for 10 days. (CDPH Face Coverings Q&A 3/11/22)

### People Who Are Exposed To COVID-19:

People who are exposed should wear a mask when indoors around others for 10 days, regardless of vaccination status. If symptoms develop, get tested. (CDPH Face Coverings Q&A 3/11/22)

### Next Steps:

Assess any MOU with labor partners that has not expired that may still require masking. Update your COVID-19 safety plan accordingly.

### Links:

CDPH Guidance for the Use of Face Masks 2/28/22:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>

Governor Executive Order N-5-22, 2/28/22: <https://www.gov.ca.gov/wp-content/uploads/2022/02/2.28.22-ETS-EO.pdf>

Cal/OSHA ETS FAQ 3/2/22: <https://www.dir.ca.gov/dosh/coronavirus/covid19faqs.html>

CDPH Local Considerations for Maintaining Universal Indoor Masking in K-12 3/7/22: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Local-Considerations-K-12-Universal-Masking-Requirements.aspx>

3/7/22 Amendment #3 to Sonoma County Order C19-32: <https://socoemergency.org/amendment-no-3-to-order-of-the-health-officer-of-the-county-of-sonoma-c19-32/>

CDPH Face Coverings Q&A 3/11/22:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Face-Coverings-QA.aspx>

Please contact our office with questions regarding this Legal Update or any other legal matter.

*The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.*

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