



## Understanding COVID-19 Mask Mandates & Disability Rights

Due to a rising number of COVID-19 cases in Mississippi, Gov. Tate Reeves issued Executive Orders [1516](#) and [1517](#), which mandate face coverings in businesses, schools, classrooms, or other spaces open to the public, as well as in outdoor public spaces whenever it is not possible to maintain a minimum of six feet of social distancing. This order will remain in effect from Wednesday, Aug. 5, 2020 to Monday, Aug. 17, 2020 at 8 a.m. unless otherwise modified.

Disability Rights Mississippi (DRMS) recognizes the importance of wearing face masks or coverings to slow the spread of COVID-19, and urges all who are able to comply with CDC and MSDH recommendations, as well as any recommendations, orders, or mandates from local and state governments. However, **wearing face masks may not be possible for some people with a disability.** Those persons with a disability, as well as private businesses, may have questions or concerns about these orders and their enforcement in regard to those who are unable to wear a mask due to a disability.

We wish to provide guidance for both persons with a disability and businesses on understanding the legal rights a person has under the Americans with Disabilities Act (ADA) and compliance with mask policies. COVID-19 has presented our communities with a myriad of new challenges. As scientific knowledge of the virus increases and legal mandates regarding COVID-19 mask policies continue to evolve, DRMS encourages government agencies and businesses to keep the safety, well-being, and civil and human rights of all, including people with disabilities, at the forefront of policy development. Additionally, we urge people with disabilities and their advocates to continue to do their part, as they are able, to protect the health of themselves and others and limit the spread of COVID-19.



## Understanding COVID-19 Mask Mandates & Disability Rights

### **WHY MIGHT A PERSON BE UNABLE TO WEAR A MASK?**

A variety of physical and/or behavioral conditions may limit a person's ability to wear a certain kind of mask or any face covering. For example, persons with post-traumatic stress disorder (PTSD), traumatic brain injury (TBI), speech or hearing impairments, limited mobility impairments that limit dexterity or create sensory sensitivities, or respiratory conditions may be unable to wear a face covering. Those using certain types of assistive technology (AT) or alternative communication methods due to a disability also may be unable to wear a mask.

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### **WHERE ARE MASKS REQUIRED IN MISSISSIPPI?**

Based on the Governor's Executive Order 1516, every person in Mississippi must wear a face covering/mask (covering the nose and mouth) while inside a business, school or other building or space open to the public, or when in an outdoor public space whenever it is not possible to maintain a minimum of six feet of social distancing from another person not in the same household. Based on Executive Order 1517, every person in Mississippi must wear a face covering/mask (covering the nose and mouth) while inside a school building or classroom, or when outdoors on a school campus when it is not possible to maintain a minimum of six feet of social distancing from another person not in the same household.

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### **ARE THERE EXCEPTIONS TO THE MASK MANDATE?**

Yes. In addition to exemptions for various activities like exercising, broadcasts, eating, and rendering or obtaining services in which it is impractical or not feasible to wear a face covering, Executive Orders 1516 and 1517 state face coverings/masks are not required for the following:

- (1) Persons who cannot wear a face covering due to a medical or behavior condition, who have trouble breathing or are incapacitated, or whose healthcare professional has recommended that a face covering not be worn.
- (2) Persons seeking to communicate with someone who is hearing-impaired in a way that requires the mouth be visible.



## **DOES A BUSINESS DENYING ENTRY TO A PERSON WHOSE DISABILITY LIMITS THEIR ABILITY TO WEAR A FACE COVERING VIOLATE NON-DISCRIMINATION LAWS?**

In certain situations, yes. Title III of the ADA and Section 504 of the Rehabilitation Act (RA) protect persons with disabilities against discrimination. These laws require businesses to make reasonable modifications to policies, practices, or procedures to allow persons with disabilities to access its goods and services. Additionally, while not mentioning nondiscriminatory practices specifically, the aforementioned Executive Orders do exempt some individuals, such as a person with a disability, from mask mandates.

Any business policy that prohibits, specifically, persons with disabilities from entering the business without a mask and without consideration of a reasonable modification is likely illegal with regard to disability-based discrimination.

However, it is important to note that, according to the Department of Justice, "the ADA does not provide a blanket exemption to people with disabilities from complying with legitimate safety requirements necessary for safe operations." If no reasonable modifications can be made and a person poses a direct threat—based on individualized assessment with medical knowledge or objective evidence—to the health and safety of others, a business may be able to deny entry to a person who cannot wear a mask.

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## **WHAT ARE REASONABLE MODIFICATIONS A BUSINESS CAN MAKE FOR PEOPLE WITH DISABILITIES WHO CANNOT WEAR A FACE COVERING?**

Offering appropriate alternatives is an important way for a business to comply with a governmental order, the ADA, and protect their employees and customers. Examples of reasonable modifications include:

- allowing a person to wear a scarf, loose face covering or face shield instead of a mask
  - offer customers to order online or via phone with curbside pick-up or no contact delivery in a timely manner
  - allow a person to wait in a car for appointments and enter the building when called/texted
  - offer appointments by telephone or video calls.
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## **DO I HAVE TO DISCLOSE MY DISABILITY IF I CAN'T WEAR A MASK?**

No. Non-discrimination laws do not permit a business to ask a person about the nature of their disability or to require a person to show documentation of a disability. However, if a person is in need of a reasonable modification and no apparent alternative is available, they may need to advise the business that they cannot wear a mask due to a disability

## **WHAT SHOULD I DO IF I HAVE A DISABILITY THAT LIMITS MY ABILITY TO WEAR A MASK AND WISH TO VISIT A BUSINESS?**

While Executive Orders 1516 and 1517 provide exemption for those who cannot wear masks due to certain disabilities, it is prudent to contact a business in advance to ask about their specific mask policy, if applicable. If you are told that, due to COVID-19, you are unable to enter the business without a mask, you should ask for a reasonable modification. If no acceptable reasonable modification is offered, you can explain you have a disability that limits your ability to wear a face covering and that the Governor's Executive Orders provide an exemption.

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## **SCHOOLS IN MISSISSIPPI CURRENTLY REQUIRE MASKS. WHAT IF MY CHILD'S DISABILITY PROHIBITS THEM FROM WEARING A MASK AT SCHOOL?**

Under Executive Order from Gov. Reeves, teachers and students are currently required to wear a face covering/mask at school. However, there are exemptions to this order for those who cannot wear a mask due to a medical or behavioral disorder, as well as for those who seek to communicate with those who are hearing impaired.

## **WHAT IF I NEED MORE INFORMATION?**

For more information or assistance, please contact Disability Rights Mississippi at 601-968-0600. We welcome questions from businesses on how to develop reasonable modifications for persons with disabilities.

The mission of Disability Rights Mississippi is to promote, protect and advocate for the legal and human rights of all people with disabilities, and to assist them with full inclusion in home, community, education and employment.

**IMPORTANT:** This publication is for informational purposes only. It is not intended, nor should be construed, to create an attorney-client relationship between Disability Rights Mississippi and any person. Nothing in this publication should be considered legal advice.



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Protection and Advocacy for Individuals with Disabilities