

IDPH Emergency Rules to Enforce Face Coverings and Gathering Restrictions Frequently Asked Questions

Businesses, Services, Facilities, and Businesses Open to the Public

- **Who has the authority to issue a written notice of non-compliance?**

All local boards of health, health authorities and officers, police officers, and sheriffs, including the Department of Public Health and certified local health departments, have the authority to enforce the rules and issue a written notice of non-compliance.

- **Can enforcing entities issue a verbal notice of non-compliance?**

Enforcing entities can always provide verbal warning to businesses that they may be out of compliance, but the enforcement provisions of the rule are not triggered unless an enforcing entity issues a written notice that identifies how the business is out of compliance and the time period they have to remedy the issue.

- **What is considered 'reasonable opportunity' for an entity to come into compliance after receiving a verbal or written notice of non-compliance?**

The reasonableness of the time period to take prompt action is determined by the facts and circumstances, including but not limited to the nature of the activity taking place, whether the activity is being conducted indoors or outdoors, the public health risk, the number of individuals at risk of exposure to COVID-19, and the size of the building and crowd occupying the building.

Enforcing entities may observe until voluntary compliance is achieved or return at a later time to ensure that compliance was achieved during the time period allow for compliance. Examples of actions that might be taken by the business to comply include but are not limited to promptly distributing face coverings to patrons and/or employees, or, in instances where a business is too crowded, reducing the number of persons on-site by placing an employee at the entrance to limit the number of people entering until the occupancy is in compliance.

Enforcing entities should take into consideration any reasonable efforts made by a business in order to comply with the requirements. For retail businesses, reasonable efforts to comply with regard to customers shall be determined based on the totality of the circumstances and include, but are not limited to: (1) posting signage requiring face coverings to be worn on the premises; (2) providing face coverings to customers; (3) giving verbal warnings to customers to wear a face covering when on the premises; and (4) requesting that customers leave the premises if not wearing a face covering.

- **If the person in charge of a business feels that the entity is being treated unfairly during the enforcement process, is there any type of appeal process?**

If a business is issued a citation, it is afforded the same due process rights to challenge the citation as with any other business misdemeanor.

- **If an entity is forced to disperse all persons on the premises of a business, when can it resume normal operations?**

The business and the enforcing entity will make a determination based on the facts and circumstances. The purpose of the enforcement is to address the risk, not to close the business. As a result, in most instances, the business will be allowed to resume operations very quickly. In some cases (such as a business that is too crowded near closing time), the business may be allowed to resume operations the next day.

- **Does the agency that issued the written order to disperse also have to approve the reopening of a business or can any entity that's permitted to enforce the rule approve the reopening of a business?**

The agency that issued the written order to disperse will discuss with the business its plan for reopening and when it will be permitted to do so.

- **If a business or entity refuses to comply with a written order to disperse, what is the next enforcement action?**

If a business or entity refuses to comply with a written order to disperse, the individual may be subject to a Class A misdemeanor citation. At that point, the normal process for a Class A misdemeanor citation would be followed, including the opportunity for a business to present evidence challenging the citation. When determining whether a business, service, facility or organization should be subject to the penalties set forth in Section 8.1 of the Act based on repeated violations, enforcing entities will take into consideration the time period between violations and the business's reasonable efforts to comply. A business can also be subject to a closure order from the local health authorities or the Department of Public Health.

- **Are the individuals in charge of an entity who refuse to comply with a written order to disperse subject to arrest?**

No, the rules state that no individual may be subject to the penalties associated with non-compliance, and no individual can be held responsible for compliance with the rule on behalf of a business, service, facility or organization, even if the individual is an owner, officer, principal, or employee of that business.

- **What are the consequences of a business receiving a Class A Misdemeanor?**

A Class A misdemeanor carries a fine of between \$75 and \$2500.

- **Are the individual owners of an LLC subject to the fine associated with a Class A Misdemeanor?**

No, the rules state that no individual may be subject to the penalties associated with non-compliance, and no individual can be held responsible for compliance with the rule on behalf of a business, service, facility or organization, even if the individual is an owner, officer, principal, or employee of that business. The fine will be levied against the business.

- **Is a business required to pay the fines associated with a Class A Misdemeanor before it can resume normal operations, or can it reopen when it comes into compliance with the rules?**

Just like a driver generally is permitted to continue driving after they are issued a speeding ticket, a business may continue to operate after it is issued the Class A misdemeanor citation, unless the local health department or Department of Public Health issues a closure order.

- **Who should I contact if I encounter a business that is out of compliance?**

Anyone who seeks to report a business that is out of compliance should contact their local health department or local law enforcement agency.

- **Can a business lose state or local business licenses for failure to comply with a written order to disperse?**

Some businesses are at risk of action being taken against their business license if they are issued a Class A misdemeanor. These may include businesses with liquor licenses, businesses with gaming licenses, and businesses licensed by the Illinois Department of Financial and Professional Regulation. But any actions related to a license would have to be taken separately; this rule does not trigger any such actions.

- **If an entity is ordered to close because of an outbreak, when can it resume normal operations?**

The duration of any closure is determined by the State or local public health department and the legal proceedings surrounding the closure.

- **For chain business establishments, will the single location that was issued a written notice of noncompliance suffer the consequences or will the entire chain also face some form of accountability?**

Only individual entities at a specific location that receive a written notice of noncompliance are subject to the enforcement provisions in the rules.

- **If a business is following the Phase 4 Guidelines established by the Department of Commerce and Economic Opportunity (DCEO), does that mean it is complying with the Rule?**

Yes. The rule is designed so that only businesses that choose not to follow the Phase 4 guidelines would be non-compliant. Businesses following the Phase 4 guidelines are also following the rule.

Schools and Day Care Establishments

- **Who has the authority to issue a written notice of non-compliance?**

All local boards of health, health authorities and officers, police officers, and sheriffs, and other officers and employees of the State or any locality, including the Department of Public Health or certified local health departments have the authority to enforce the rules and issue a written notice of non-compliance.

- **If a school or day care establishment is issued a written notice of non-compliance, how long does it have to come into compliance?**

The school or day care will have no less than until the next day to come into compliance with the rules.

- **If a school or day care establishment receives a written notice of compliance, does it have to immediately send students home?**

No, the school or day care establishment will not have to immediately send students home. However, upon receipt of the notice of non-compliance it must notify parents in writing that it received a notice of non-compliance and disclose its plan to comply. The enforcing entity will notify the certified local health department, the local board of health or health authorities (if enforcing entity is other than the local board of health or health authorities), the local school

district or parent institution, and either the Illinois State Board of Education, Illinois Board of Higher Education, or the Illinois Community College Board, whichever is appropriate.

- **What happens if a school or day care fails to comply after receiving a notice of non-compliance and having a reasonable time to come into compliance?**

The local health authority may take measures to ensure that the school or day care establishment comes into compliance, such as requiring sick students not to attend or requiring testing of all students or staff.

- **What happens if local authorities refuse to promptly compel a school or day care establishment come into compliance?**

The Illinois Department of Public Health is authorized to take necessary measures to ensure the entity comes into compliance with the rules.

- **What are the range of consequences that a school could face for being issued a notice of non-compliance?**

The local public health department and the Department of Public Health may order the school to be closed if an outbreak is identified pursuant to the Communicable Disease Code. In such cases, schools should switch to remote instruction, rather than in-person instruction.

- **What are the range of measures the Illinois Department of Public Health can take to compel a school or day care establishment to come into compliance with the rules?**

The Illinois Department of Public Health will work with schools and daycares to inform them of the rules and provide assistance with complying. Those schools and daycares that do not comply will have to inform parents of their non-compliance and can be closed by a local health department or the Department of Public Health pursuant to the Communicable Disease Code.

- **If a school or day care establishment must temporarily close in order to respond to a written notice of non-compliance, how long with the school have to comply?**

The rule provides that a school or day care must be given until at least the next business day to comply with a notice of non-compliance, although schools may be able to fix some non-compliance much quicker. That allows the school or day care to work to get students/children home safely as soon as possible, if needed, but the process may take until the end of the day.

- **If a school or day care establishment is ordered to close because of an outbreak, when can it resume normal operations?**

The duration of the closure is determined by the State or local health department.

- **If a school is closed because of an outbreak, is it required to immediately pivot to remote learning?**

Yes, schools should work with the appropriate governing body to pivot towards the approved remote learning plan in place.

- **If a day care establishment is required to close because of an outbreak, will there be any state financial support?**

CCAP provides an attendance exemption for days that a day care program might need to close because of a COVID outbreak. DHS will consider those days to be days of attendance and will pay for care. A day care program that serves private pay families will need to rely on their normal tuition policies for payment during sick days or temporary closure.

- **Will schools and day care establishments be subject to the same penalties as business establishments?**

No, the rules do not subject schools and day care establishments to the penalties set forth in Section 8.1 of the Act.

- **Who should I contact if I encounter a school that is out of compliance?**

Anyone who seeks to report a school or business that is out of compliance should first contact their local health department and then contact the local law enforcement agency. They may also consider contacting the local schools district and ISBE.

- **What resources are available to parents if the school their children attend is closed due to an outbreak?**

If a school is closed due to an outbreak the school must transition to its Remote and Blended Remote Learning Plan (105 ILCS 5/10-30) to provide remote instruction to students. Parents can also review free learning resources posted at <http://www.isbe.net/keeplearning>.

- **What resources are available to parents if the day care establishment their children attend is closed due to an outbreak?**

Parents could find an alternate arrangement for the temporary closure or stay home with their child until the establishment reopens. If the parent opts to change providers, the state can help them locate a new arrangement. If the parent is CCAP eligible, the state will pay for the new care arrangement.

- **Do teachers' unions support these rules?**

Yes, both the IEA and the IFT support these rules.

Face covering requirements

- **Are face coverings required at state parks and outdoor trails?**

Face coverings are required whenever someone is in a public place and the person is unable to maintain at least a six-foot social distance.