

Face Mask Guidance and Reasonable Accommodations*

The COVID-19 pandemic puts people with chronic health conditions, some people with disabilities, and people over the age 60 at a higher risk of becoming seriously ill if they are infected. Social distancing, staying at home, and wearing face masks or cloth face coverings in public are safety measures to reduce the likelihood of becoming infected and to slow the spread of the disease. Some state and local governments have mandated the use of a face mask when in public spaces.

This guidance offers information about issues with wearing face masks for state and local governments, private businesses, and people with disabilities that prevent them from being able to wear masks and contains links to more detailed information.

To be entitled to a reasonable accommodation under the Americans with Disabilities Act (ADA) and the Missouri Human Rights Act (MHRA) concerning mask requirements in places of public accommodation, individuals must have a disability that prevents them from being able to wear a face mask in places of public accommodation. A disability is an impairment that substantially limits one or more of a person's major life activities.

Government agencies and private businesses must make reasonable accommodations to allow people with disabilities access to the goods and services they offer.

Private Business Accommodations

- Individuals with mask-related disabilities have the right to ask for reasonable accommodations from businesses.
- If an individual with a mask-related disability is refused a reasonable accommodation by a business, then the individual may file a complaint with the Missouri Commission on Human Rights.
- Example potential reasonable accommodations may include allowing:
 - Loose scarves or full face shields (in cities/jurisdictions that allow scarves to be worn instead of masks)
 - Outside service
 - Curbside pickup
 - No-contact delivery
 - Online ordering
 - Employee communicating via phone while shopping
 - Calling or texting for an appointment time when the business is less crowded.

Government Agency Services Accommodations

- Individuals with mask-related disabilities have the right to ask for reasonable accommodations in the provision of government services.

- If an individual with a mask-related disability is refused a reasonable accommodation in receiving government services, then the individual may file a complaint with the Missouri Commission on Human Rights.
- Example potential reasonable accommodations may include:
 - Allowing loose scarves or full face shields (in cities/jurisdictions that allow scarves to be worn instead of masks)
 - Calling or texting
 - Mailing or emailing
 - Using WebEx, Zoom, or other video conferencing technology.

Clear-Panel Masks

- For individuals who are Deaf or Hard of Hearing, wearing a mask is not an issue based on their hearing, but they may be unable to read the lips of others who wear cloth or disposable face masks.
- Masks that cover the wearer's mouth with a clear plastic panel, such as the ClearMask, may eliminate this barrier while maintaining compliance with both face-covering guidelines and anti-discrimination requirements.
- Agencies and businesses may wish to consider having a clear-panel mask on hand to more fully serve the members of their communities.

EEOC Resources

All EEOC Resources on COVID-19:

www.eeoc.gov/coronavirus

COVID-19 *Ask the EEOC* Webinar:

Video: www.youtube.com/watch?v=X50G7I41NKg

Transcript: www.eeoc.gov/transcript-march-27-2020-outreach-webinar

What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws:

www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws

Pandemic Preparedness in the Workplace and the Americans with Disabilities Act:

www.eeoc.gov/laws/guidance/pandemic-preparedness-workplace-and-americans-disabilities-act

Additional Resources

U.S. Department of Labor (DOL) Coronavirus Resources

www.dol.gov/coronavirus

U.S. DOL Overview of the Americans with Disabilities Act

www.dol.gov/general/topic/disability/ada

Produced by the Missouri Department of Labor and Industrial Relations, the Missouri Commission on Human Rights, and the Governor's Council on Disability

Disability Issues Brief: The ADA and Face Mask Policies

www.adasoutheast.org/ada/publications/legal/ada-and-face-mask-policies.php

FAQs: The ADA, Small Business and Face Mask Policies

www.gpadacenter.org/faqs-ada-small-business-and-face-mask-policies

Face Coverings and the ADA- Application under Title III

<https://www.accessibilityonline.org/ada-audio/archives/110851>

Job Accommodation Network (JAN)

<https://askjan.org/topics/COVID-19.cfm>

Example of Clear-Panel Mask for Deaf and Hard of Hearing:

<https://www.theclearmask.com/>

Filing Complaints

Missouri Commission on Human Rights at 573-751-3325 or mchr@labor.mo.gov.

*Note: The information provided does not constitute legal advice and should not be relied upon in any individual case. Please consult an attorney for legal advice and/or representation.