

PPE: 10 FAQs on Workplace Use of Face Masks to Prevent COVID-19 Infection

written by vickyp | May 28, 2020



Q1. Are We Legally Required to Make Employees Use Face Masks?

Answer: Yes. The source of that duty is the OHS law requirement that employers ensure that workers use appropriate PPE, including respiratory equipment to protect them against the hazards to which they're exposed. To apply these principles to COVID-19, you need to understand how the virus spreads. The dynamic: Respiratory droplets from a person carrying the virus come into contact with another person, either as a result of direct physical contact or indirectly via droplets that land on surfaces that another person subsequently touches. Face masks keep this from happening.

Q2. Who Has to Wear Face Masks?

Answer: According to current Canadian Chief Medical Officer (CMO) guidance, all individuals should wear face masks where social distancing, i.e., 6 feet/2 meters of physical separation can't be maintained. That includes not just employees but also any and all individuals at the facility, including contractors and subcontractors, customers, clients and other visitors. The only exception is for people who work remotely, alone, in isolation or in other settings and conditions where they have no close contact with others.

Q3. What Kind of Face Masks Must Employees Use?

Answer: It depends on the jobs they perform:

“Very high” or “High” risk jobs, which include mostly healthcare workers, EMTs, ambulance personnel and medical support staff, must use N95 particulate filtering masks at a minimum and may need more extensive protection, e.g., self-contained breathing apparatus if they have an unusually high degree of frequent or close contact with patients who have or are suspected of having COVID-19.

“Medium” and “low” risk jobs require only a non-medical face mask. In fact, the CMO doesn't want these workers or the general public to use N95s because they're in short supply and need to be reserved for healthcare workers.

Q4. Must Employers Provide the Required Face Masks?

Answer: Yes. Under OHS laws, employers are responsible for paying for and furnishing the PPE employees need to do their jobs. So, you can't re-open unless and until you verify that you can secure an adequate supply of face masks.

Q5. Must Employers Provide Face Masks Employees Need to Commute to and from Work?

Answer: Technically, you're required to provide employees PPE only when they're present at the workplace. But keep in mind that OHS laws define "workplace" very broadly as including not just the employer's facility but any place where employees are routinely expected to perform their job, e.g., at customer sites, while traveling on business and even inside the employee's home in telecommuting situations. However, commuting to and from work doesn't count. As a practical matter, though, employees should be able to use the simple non-medical face masks you provide during the shift while returning home from work and traveling to the workplace for the next shift.

Q6. Can N95 Masks Be Re-Used?

Answer: Normally no, but given the current emergency and mask shortage, public health authorities have given the okay to extended or re-use of N95s if employers ensure that:

- Masks are properly sterilized and stored between uses;
- Users perform a successful seal check before each use;
- Users are instructed to inspect their mask before each use and throw it out if the functional integrity of any of its parts is compromised; and
- The user follows safe procedures to prevent contamination when putting on and taking off a re-used mask.

Q7. Can N95 Masks Be Used After They've Expired?

Answer: Normally, N95 mask NIOSH approval expires after 5 years and you're not allowed to use it after that. But during the pandemic, it's okay to use an N95 after its 5-year shelf life as long as employers ensure that:

- The straps are inspected to ensure they still work and effect a tight seal;
- The mask is visually inspected, especially the nose bridge and filter material which can degrade;
- The mask is still capable of being fit-tested and the user carries out a successful fit-test and seal check before each use; and
- The masks were stored in accordance with the manufacturer's specifications.

Q8. Can You Discipline Employees for Refusing to Wear a Face Mask?

Answer: Yes. You not only can but must treat a worker's violation of PPE, social distancing, hygiene and other COVID-19 rules and restrictions as a serious offence meriting discipline in accordance with your normal progressive discipline policies and procedures.

Q9. Is Religion a Valid Excuse Not to Wear a Face Mask?

Answer: No. The good news is that the non-medical masks that most employees will have to use don't require a tight fit to be effective. So, employees won't have to shave their beard to use them. But religious discrimination could become an issue in a healthcare setting where employees required to have beards for religious reasons are required to use tight-fitting masks. The first thing employers should do in this situation is consider accommodations allowing the employee to do the job without wearing the mask, e.g., assigning him to a position not involving close contact with others.

But the one compromise you may not make is allowing the employee to do a job requiring an N95 (or more extensive equipment) with a looser mask or no mask at all. Explanation: Human rights laws require employers to accommodate employees' religious

beliefs to the point of undue hardship. Court cases have made it clear that undue hardship includes accommodations that would put an employee or another person in direct danger. Bottom Line: The duty to prevent COVID-19 infection takes precedence over the employee's religious rights.

Q10. Do Employees Need Any Special Face Mask Use Training?

Answer: Yes. You must ensure employees understand:

- How COVID-19 infections can occur;
- How the face mask protects them from infection;
- The mask's limitations and capabilities; and
- How to properly use the mask.

Employees required to use N95 or other tight-fitting respirators also need to be trained on how to perform the necessary inspections and seal checks. And if the mask or respiratory protection is to be re-used, they must also be trained in how to properly store, clean and maintain the equipment.