

Indiana Employers Must Develop COVID-19 Plan to Ensure Safe Work Environment

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By May 11, 2020, all business and entities in Indiana are required to develop a COVID-19 plan implementing measures and institute safeguards to ensure a safe environment for their employees, customers, clients, and members.

This plan must be provided to employees/staff *and* posted publicly, and must address, at a minimum, the following four items:

1. Instituting an employee health screening process;
2. Employing enhanced cleaning and disinfecting protocols for the workplace, including regularly cleaning high-touch surfaces;
3. Enhancing ability of employees, customers, and clients to wash hands or take other personal hygiene measures, such as using hand sanitizer; and
4. Complying with Centers for Disease Control and Prevention (CDC) social distancing requirements, including maintaining six-foot social distancing for both employees and members of the general public when possible or employing other separation measures, such as face coverings or barriers.

All employers also must continue to comply with safety and health standards established and enforced by the Indiana Occupational Safety and Health Administration (IOSHA), including the General Duty Clause, to keep employees free from recognized workplace hazards, and specific standards to prevent the exposure or spread of disease. This latter requirement existed prior to the pandemic.

These requirements are in Governor Eric Holcomb's May 1, 2020, [Executive Order 20-26](#) and coincide with his five-stage "[Back on Track](#)" plan to reopen Indiana, with each stage relaxing the restrictions applicable to both businesses and individuals. Executive Order 20-26 applies to Stages 1 and 2 only.

Restrictions for Employers under Stages 1 and 2

Since March 23, 2020, all Hoosiers have been required to stay at home except when conducting essential travel and activities and participating in essential businesses or operations (Executive Orders 20-18 and 20-22). Under the "Back on Track" plan to reopen Indiana, the state has completed Stage 1, which covered March 23 – May 3, 2020.

Stage 2, May 4 – May 22, 2020, covers all Indiana counties, except Cass, Lake, and Marion. Stage 2 begins for Lake and Marion counties on May 11, and May 18 for Cass County.

Significantly, Stage 2 permits:

- Social gatherings of 25 people if they follow CDC social distancing guidelines;
- Essential travel and local non-essential travel;
- Continued remote work whenever possible; and
- Religious services inside places of worship, with social distancing (as of May 8).

Further, as to business operations, the following openings will occur during Stage 2:

- Manufacturers, industrial operations, and other infrastructure that have not been in operation may open following Occupational Safety and Health Administration (OSHA) and CDC guidelines. General guidance for these industries requires providing employees and customers with the business's COVID-19 policies, making provisions to maintain social distancing, screening employees daily, and utilizing face coverings according to best practices guidelines.
- About half of the state's Bureau of Motor Vehicle branches will open to provide services by appointment only; the other branches will continue to be opened through May 18, 2020.
- Public libraries may open according to their own policies and CDC guidelines.
- Retail and commercial businesses, including those that have been open for the necessities of life

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under previous executive orders, may operate at 50% of capacity (examples include apparel, furniture, jewelry, and liquor stores that have been operating as curbside or delivery only).

- Shopping malls may open at 50% capacity with indoor common areas at 25% capacity.
- Those who work in office settings are encouraged to continue to work remotely whenever possible, but may return to offices in small waves, with daily screening and provisions for social distancing.
- Personal services, such as hair salons, barber shops, nail salons, spas, and tattoo parlors, may operate by appointment only with operational limitations. Employees must wear face coverings, workstations must be spaced to meet social distancing guidelines, and other requirements must be met. Customers should wear face coverings to the extent possible.
- Restaurants and bars that serve food may open at 50% capacity with operational limitations. Bar seating will be closed with no live entertainment. Servers and kitchen staff must wear face coverings.
- State government executive branch offices will begin limited public services, and employees will begin to return to offices in small waves.
- Boating is permitted, but boaters must follow social distancing guidelines.
- Visitors to beaches and shorelines must adhere to the social gathering policy and social distancing guidelines.
- County and local governments will make decisions based on their policies and CDC guidelines.

The following closures remain during Stage 2:

- Bars and nightclubs;
- Gyms, fitness centers, community centers, and like facilities;
- Cultural, entertainment, sports venues, and tourism (including museums, zoos, festivals, parades, concerts, fairs, sports arenas, movie theaters, bowling alleys, aquariums, theme parks, recreational sports leagues and tournaments, and so on);
- Playgrounds, tennis courts, basketball courts, amusement parks (whether indoors or outside), tourist sites, water parks, and social clubs;
- Congregate settings for seniors and adult day cares remain closed through at least May 31;
- Casino operations;
- Community swimming pools, public and private;
- Residential and day camps; and
- Campgrounds, except for those living permanently in RVs or cabins.

Individuals are not allowed to visit patients in assisted living or nursing home facilities.

As for the status of educational institution during Stage 2, the following applies:

- All buildings, facilities, and grounds for K-12 educational institutions, public or private, will remain closed through June 30, 2020, except for the purposes previously allowed in Executive Orders pertaining to the COVID-19 public health emergency.
- Educational institutions (including public and private pre-K-12 schools, colleges, and universities) may be open for purposes of facilitating distance learning, performing critical research, or performing essential functions, provided that social distancing of six feet per person is maintained to the greatest extent possible.

During Stage 2, businesses and employers are also encouraged to take the following actions:

- Allow as many employees as possible to telework and video conference;
- Update sick leave policies with flexibility and non-punitive considerations in mind to encourage sick employees to stay home for themselves, children, or other family members;
- Encourage employees to do daily self-assessments for COVID-19 symptoms;
- Actively encourage sick employees to stay home until they are fever-free and symptoms have improved for at least 72 hours (three full days), and at least seven days have passed since symptoms first began;
- Suspend the requirement for healthcare provider return-to-work notices;
- Separate sick employees, send them home immediately, and restrict access until recovery;
- Reinforce key messages on health and hygiene, including posters in areas most likely to be seen, and provide supplies including soap, water, hand sanitizer, tissues, and no-touch disposal receptacles;
- Frequently perform enhanced environmental cleanings; and
- Be prepared to change business practices to maintain critical operations.

Counties may be permitted to advance to Stage 3 (scheduled to begin on May 23, 2020) when considering the number of hospitalized COVID-19 patients, capacity for critical care beds and ventilators, ability to test for COVID-19, and capacity for contact tracing. Executive Orders on the remaining stages are expected.

Stay at Home – Indianapolis/Marion County

As the Governor notes in Executive Order 20-26, local governments may impose more restrictive guidelines than those imposed at the state level. On May 1, 2020, Indianapolis Mayor Joe Hogsett extended Marion County's [stay at home restrictions](#) (set to expire on May 1, 2020) to May 15, 2020.

Restaurants may continue to offer carry-out or delivery services. Grocery stores, pharmacies, and other essential businesses will remain open, as well as community service providers addressing the needs of vulnerable residents. When out in public, all Marion County residents are asked to wear a face mask or covering and continue to maintain good hygiene, frequent handwashing, and proper social distancing.

The Marion County Public Health Department has announced plans to issue new guidance for golf courses and farmers' markets. Beginning May 2, area golf courses were allowed to reopen, if operators ensure proper social distancing among golfers and strict sanitation practices are implemented, as outlined by the health department. Farmers' markets, which serve as a community-centric source of fresh produce, also were allowed to open beginning May 2, 2020.

Emergency Order – Cass County

On April 27, 2020, the Cass County Commissioners issued an [Executive Order](#) declaring a local disaster emergency. The Order also implements restrictions on Essential Retail Establishments, including limitation of patrons based on square footage of the establishment. Further, regardless of the establishment size, Cass County Hoosiers may send only one person per family and no one under the age of 16 to shop at an Essential Retail Establishment.

If you have questions regarding the COVID-19 pandemic, Indiana has issued resources and guidance, including an [informational website](#) maintained by the Indiana Department of Health, and the state's hotline at 1-877-826-0011 (available 24/7). Regular updates and resources, including when to seek medical attention and courses of action for those in counties with positive cases of COVID-19, are available at the website and the hotline.

The Centers for Disease Control and Prevention has information at <https://www.cdc.gov/coronavirus/2019-nCoV>, as well as [tips and guidance](#) to assist with physical and mental health during the pandemic.

Jackson Lewis has a [dedicated team](#) tracking and responding to the developing issues facing employers as a result of COVID-19. Please contact a team member or the Jackson Lewis attorney with whom you regularly work if you have questions or need assistance.

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