

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER 21-15

FOR: **CONTINUATION OF HEALTH AND WELFARE-BASED PROVISIONS TO ADDRESS THE IMPACT AND SPREAD OF THE CORONAVIRUS DISEASE (COVID-19)**

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS:

WHEREAS, on March 6, 2020, I issued Executive Order 20-02 which declared a public health emergency exists throughout the State of Indiana as result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and a confirmed report of the disease in our State and this initial declaration has been extended by me in subsequent Executive Orders (Executive Orders 20-17, -25, -30, -34, -38, -41, -44, -47, -49, -52, 21-03, -05, -08 & -11);

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 to be a global pandemic and, on March 13, 2020, the President of the United States declared a national emergency with respect to this dangerous virus;

WHEREAS, as of the date of this Executive Order, the virus has now spread to every county in our State, with over 741,000 confirmed cases and over 13,100 deaths;

WHEREAS, as Governor, under Indiana's Emergency Management and Disaster Law, Ind. Code ch. 10-14-3 ("Emergency Disaster Law"), I have authority to take actions necessary to prepare for, respond to and address a public health disaster emergency including the following:

- making, amending and rescinding the necessary orders, rules and regulations to carry out the response to a public health disaster emergency;
- suspending the provisions of any regulatory statute prescribing the procedures for conduct of state business, including the orders, rules or regulations of any state agency if strict compliance with any of these provisions would in any way prevent, hinder, or delay necessary action in coping with the emergency;
- transferring the direction, personnel, or functions of state departments and agencies or units for performing or facilitating emergency services; and
- using any and all available resources of state government and of each political subdivision of our State as reasonably necessary to cope with the public health disaster emergency;

WHEREAS, in addition to the authority granted to me by the Indiana General Assembly, the Indiana Department of Health (IDOH) has been granted authority under Title 16 of the Indiana Code to take measures in connection with prevention and suppression of disease and epidemics;

WHEREAS, the Indiana Occupational Safety and Health Agency (IOSHA) has authority under Title 22 of the Indiana Code to inspect and take steps to ensure businesses are operating a workplace free from recognized hazards that are causing or likely to cause death or serious physical harm to employees;

WHEREAS, to reduce and slow the spread of COVID-19, the Centers for Disease Control and Prevention (CDC) and the IDOH recommended implementation of mitigation strategies to contain this virus including engaging in social distancing, wearing face coverings in public settings and when around individuals who do not live in the same household, increased handwashing and isolating when symptomatic;

WHEREAS, in order to take all necessary steps to increase containment of this virus, I have issued various Executive Orders directing Hoosiers to stay-at-home, closing of state government buildings and restricting retail establishments and in-person dining at restaurants, among other things;

WHEREAS, by consulting with experts and utilizing a data-driven approach to make decisions based on facts, science, and recommendations from experts in health care,

business, labor, and education, we began to reopen our Hoosier economy while prioritizing Hoosiers' health in the process;

WHEREAS, to continue mitigation of COVID-19 and to lower the risk of a resurgence, a measured and staggered approach to reopening businesses and entities was instituted. Five stages were outlined with each ensuing stage being subject to fewer restrictions and limitations than the previous stage. These stages were initiated on March 23, 2020, and continued through November 14, 2020, at which time the stage system was rescinded;

WHEREAS, by Executive Order 20-43, I directed the Commissioner of the IDOH to conduct county-based assessments to better understand the impact of COVID-19 throughout the Hoosier state and to allow state and local officials to make targeted adjustments to address the spread of COVID-19 within a particular county and by Executive Order 20-48, effective November 15, 2020, the State of Indiana transitioned to county-based measures and restrictions based on the impact and spread of COVID-19 in each county;

WHEREAS, on a weekly basis, the IDOH reviews each county's number of cases per 100,000 individuals and the county's seven-day positivity rate for the prior week and from that data assigns a numerical score which translates to one of four colors (blue, yellow, orange or red);

WHEREAS, our vaccination program and efforts continue with nearly 2.5 million Hoosiers fully vaccinated out of 5.7 million eligible. Critically, 99.3% of new COVID-19 cases are with unvaccinated individuals;

WHEREAS, although improvements have occurred, the spread and consequences of this disease in the Hoosier state remain as demonstrated by a 7-day average positivity rate of 4.9%; new confirmed cases daily; continued hospitalizations; and tragically, continued deaths daily from COVID-19;

WHEREAS, the data has shown us that the spread of COVID-19 in the Hoosier state and in other areas can be significantly reduced where there are robust vaccinations and adherence to mitigation efforts; and

WHEREAS, based on all of the above, efforts should continue and the State of Indiana will continue using county-based assessments to monitor and provide information on the spread or impact of COVID-19 within a particular county.

NOW, THEREFORE, I, Eric J. Holcomb, by virtue of the authority vested in me as Governor by the Indiana Constitution and the laws of the State of Indiana, do hereby order:

1. Duration of this Executive Order

The directives in this Executive Order become effective June 1, 2021, at 12:01 a.m. and continue through 11:59 p.m. on June 30, 2021, and all Hoosiers, Hoosier businesses, and other individuals in the state must adhere to the directives set forth in this Executive Order unless rescinded, modified, or extended by me.

2. Other Executive Orders

- a. Executive Order 21-12 is rescinded as of 11:59 p.m. on May 31, 2021.
- b. All directives in Executive Orders which have been continued throughout the duration of this public health emergency will be rescinded and cease on June 30, 2021. These Executive Orders are found in EO's numbered 20-03 through 20-53 and 21-01 through 21-13.
- c. Should this public health emergency continue past June 30, 2021, a subsequent Executive Order will expressly set forth the directives in effect as of that date and likely will be limited to supporting the vaccination program and to provide for financial assistance in our health and welfare programs.

3. County-Based Assessments by the Indiana State Department of Health

a. *County by County Assessment:*

The State uses a color-coded system to inform Hoosiers about the status of COVID-19 in each county and across Indiana. The IDOH will continue to update each county's status under the color-coded system at least weekly.

b. Color-coded Score or Zone:

The four (4) levels of the monitoring system are as follows:

- i) *Blue Zone*: Community spread is low and a county has a point score of 0.5 or below;
- ii) *Yellow Zone*: Community spread is moderate and a county has a point score of 1.0 or 1.5;
- iii) *Orange Zone*: Community spread is approaching high levels and a county has a point score of 2.0 or 2.5; and
- iv) *Red Zone*: Community spread is high and a county has a point score of 3.0 or higher.

c. State Health Commissioner:

- i) The Commissioner of the IDOH will continue the county-based COVID-19 assessment for each county and will communicate with and provide guidance to local health and other officials.
- ii) The Commissioner of the IDOH, in making the weekly assessment for each county, will consider the seven (7) day positivity rate for all tests, new weekly cases per 100,000 residents; whether the positivity rate has changed; and whether any change is isolated to congregate living settings or is from the community at large.
- iii) The Commissioner of the IDOH will continue to monitor the number of hospitalized COVID-19 patients; the capacity for critical care beds and ventilators; the ability to test for COVID-19; and the capacity for contact tracing.

4. General Requirements for All Hoosiers and Individuals within the Hoosier State

All Hoosiers and all individuals in the State of Indiana must adhere to the following:

a. Exercise Caution at all Times:

All Hoosiers and each and every person within the Hoosier state should adhere to CDC and IDOH guidance to take responsibility for their safety and the health and safety of those around them. This includes following CDC guidelines for individuals who have been fully vaccinated and for those who are unvaccinated.

b. Vaccinations:

All Hoosiers, age 12 and above, are strongly encouraged to obtain a COVID-19 vaccination which will be provided at no cost.

There are over 800 locations where vaccinations are administered. Hoosiers can locate a vaccination site by calling 2-1-1 or visiting www.ourshot.in.gov. Walk-in appointments are accepted at most vaccination sites.

Anyone younger than 18 years of age may only receive the Pfizer vaccine.

“Fully vaccinated” Hoosiers are individuals who are two weeks past either a second dose of the Moderna or Pfizer vaccine or two weeks past receiving the single dose J&J vaccine.

“Unvaccinated” Hoosiers means any person who is not fully vaccinated.

c. COVID-19 Testing & Responsibility to Self-Quarantine and Self-Isolate When Warranted

All individuals in the Hoosier state, whether vaccinated or not, are strongly encouraged to obtain a COVID-19 test if they become symptomatic.

Additionally, all individuals who are not fully vaccinated are strongly encouraged to obtain a COVID-19 test if they have been in close contact with a person who has tested positive for COVID-19.

All individuals who are fully vaccinated and have been exposed to a person who has tested positive for COVID-19 do not need to get tested or self-quarantine, unless, as described by the CDC, the person becomes symptomatic or if the person lives or works in a correctional or detention facility, homeless shelter or other congregate living facility, then you should still get tested.

All individuals, whether fully vaccinated or unvaccinated, who test positive for COVID-19, shall self-quarantine or self-isolate for the time period set by the CDC and are strongly encouraged to cooperate with contact tracers.

Specific quarantine guidelines for K-12 educational institutions are outlined in ¶ 5(e) below.

d. *Social Distancing:*

Unvaccinated individuals within the State of Indiana should engage in social distancing with all other individuals, unless they are all members of a single household. The phrase "social distancing" means maintaining at least six (6) feet of distance from other individuals or, in the event six (6) feet of distance is not possible, use of a barrier to separate individuals or members of a single household from others.

e. *Face Coverings:*

- i) All individuals within the State of Indiana are encouraged to follow the CDC guidelines on whether and when wearing a face covering is warranted.

- a) Unvaccinated individuals can find the CDC guidance at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html>

- b) Fully vaccinated individuals can find the CDC guidance at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html>.

- ii) Every individual within the State of Indiana shall wear a face covering over the nose and mouth when:

- a) inside state government congregate facilities which are the Indiana Department of Correction prisons, the State Hospitals, the Indiana Veterans Home, and the Indiana Law Enforcement Academy;
 - b) by patients, administrators, and others present at a COVID testing or vaccination site;
 - c) at a K-12 educational facility as more specifically provided for in ¶ 5 below; and

unless an exemption outlined in ¶ 4(e)(iii) below applies.

iii) *Exemptions to Wearing Face Coverings:*

For the locations where face coverings are required, the following individuals are exempt from wearing a face covering but are strongly encouraged to do so if practicable and without undue risk, or alternatively, are strongly encouraged to wear a face shield:

- a) children under two (2) years of age should not wear a face covering because of the risk of suffocation;
- b) children who are over the age of two (2) years and under the age of eight (8) years unless otherwise required by a directive in this Executive Order;
- c) any person with a medical condition, mental health condition or disability which prevents wearing a face covering;
- d) any person who is deaf or hard of hearing, or communicating with a person who is deaf or hard of hearing, where the ability to see the mouth is essential for communication; and
- e) any person for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.

iv) *Definitions:*

- a) *Face Coverings:* A "face covering" means a cloth, preferably with two layers of material, which covers the nose and mouth and is secured to the head with ties, straps, or loops over the ears or is simply wrapped around the lower face.
- b) *Face Shields:* A "face shield" is a mask, typically made of clear plastic, which covers the nose and mouth.

5. General Requirements for K-12 Educational Institutions

a. Buildings, Facilities and Grounds:

Through June 30, 2021, which is the end of the 2020-2021 school year, all public and private K-12 educational institutions shall require all students in grades 3-12 regardless of age, all faculty, all staff, all vendors, all contractors, all volunteers, and all visitors to wear a face covering or a face shield while physically present inside any building or facility at all times who do not otherwise fall within an exemption listed in ¶ 4(e)(iii).

Face coverings are not required while outside on the grounds of the educational premises.

As of July 1, 2021, local school boards and/or the relevant governing bodies of all public and private K-12 educational institutions will be responsible for implementing whatever measures and restrictions deemed necessary and prudent to address the impact and spread of COVID-19 for their buildings, facilities and grounds, to include transportation. Educational governing bodies are encouraged to follow CDC guidance and any guidance to be issued by the Indiana Departments of Health and Education.

b. School Buses or School-Sponsored Modes of Transportation:

All students or children regardless of age or grade, all faculty, all staff, all vendors, all contractors, all volunteers, and all visitors shall wear a face covering or a face shield while on a school bus or school-sponsored mode of transportation except those who fall within an exemption listed in ¶ 4(e)(iii).

c. Additional Exemptions to Face Covering Requirement for K-12 Educational Institutions:

- i) *Food Consumption:* Face coverings or face shields are not required while eating or drinking.
- ii) *Faculty/Staff Areas:* Faculty and staff, while working—other than to prepare food or meals—along with other individuals who are in a room, office or place, where all individuals not of the same household can maintain six (6) feet of social distance from each other are not required to wear a face covering or face shield.
- iii) *Children Between Ages 2 & 8:* Except when on school buses or on another facility/program-sponsored modes of transportation children, whether or not students, who are over the age two (2) years and under the age of eight (8) years are not required to wear face coverings or face shields. Such children, however, are strongly encouraged to wear a face covering or a face shield when inside any building or facility. Children under the age of two (2) years should not wear a face covering because of the risk of suffocation.
- iv) *Classroom Settings:*
 - a) Where a classroom or place of instruction can be configured so that all students and instructors can maintain six (6) feet of social distancing from one another at all times, face coverings or face shields do not need to be worn during in-person educational instruction;
 - b) Where a classroom or place of instruction can be configured so that all students can maintain at least three (3) feet of social distancing from one another at all times, and where students are positioned to face in the same direction, face coverings or face shields do not need to be worn during in-person educational instruction by students. Instructors must wear a face covering or face shield unless the instructor(s) can maintain six (6) feet of social distancing from students; or
 - c) Where a classroom or place of instruction cannot be configured so that all students can maintain either six (6) feet of social distance or at least three (3) feet of social distancing from one another with students facing the same direction at all times, face coverings or face shields must be worn during in-person educational instruction by students. Instructors must wear a face covering or face shield unless the instructor(s) can maintain six (6) feet of social distancing from students. At the direction of the instructor, a student may be permitted to remove his or her mask on an intermittent and temporary basis.

- v) *Recess:* Face coverings and face shields may be removed during recess periods held indoors provided social distancing can be maintained.

d. *Extracurricular & Co-Curricular Activities:*

- i) *Overall Attendance:* Schools, in consultation with local health departments, should consider whether attendance or capacity limits are warranted for extracurricular and co-curricular activities.
- ii) *Face Coverings:* Students, teachers, instructors, directors, coaches, trainers, volunteers, and other personnel when not engaging in strenuous physical activity, as well as all spectators, shall wear face coverings or face shields while inside a building or facility except as set forth in ¶ 4(e)(iii) above.

e. *Quarantine Guidelines for K-12 Educational Institutions:*

K-12 educational institutions, child care facilities regulated by the State and out-of-school programs regulated by the State shall follow the guidelines on isolation and quarantine as directed by the Indiana State Department of Health and/or their local health department and, at a minimum, include the following:

- i) quarantining continues to apply to exposures which occur in non-classroom settings (at lunch, athletics, and other extracurricular or co-curricular activities);
- ii) quarantining continues to apply where exposure occurs in a classroom and face coverings are not worn; and
- iii) quarantining rules and contact tracing are not required when exposure occurs in a classroom setting and where students, teachers and staff wear face coverings at all times in the classroom.

6. Childcare Facilities and Out-of-School Time Programs Regulated by the State

State-licensed or regulated childcare facilities and state-regulated out of school time programs must continue to adhere to guidance issued by the Family and Social Services Administration which can be accessed at <https://www.in.gov/fssa/carefinder/files/Updated-Child-Care-Guidance.pdf>.

7. Taxation of Unemployment Compensation

The Indiana General Assembly passed HEA 1436-2021, which became effective on April 29, 2021, and requires individuals who had unemployment compensation excluded from federal gross income under the American Rescue Plan Act of 2021 (enacted on March 11, 2021), to include those amounts in Indiana adjusted gross income pursuant to Ind. Code § 6-3-1-3.5(a)(33).

Because these changes occurred in the middle of tax filing season, over 20,000 Hoosier taxpayers have not properly accounted for the adjustment required for Indiana tax purposes and will likely owe additional taxes and if so, would be subject to a penalty for the unpaid tax as well as interest on the amount owed.

While the taxpayer must pay any additional tax due and owing:

- a. the Indiana Department of Revenue is directed to waive any penalty under Ind. Code § 6-3-4-4.1 and Ind. Code § 6-8.1-10-2.1(b) related to the inclusion of unemployment compensation earned during the 2020 taxable year that was excluded from federal gross income but required to be included in Indiana adjusted gross income; and
- b. the Indiana Department of Revenue is directed to waive any interest otherwise imposed pursuant to Ind. Code § 6-8.1-10-1 on taxes under Ind. Code arts. 6-3 and 6-3.6 related to the inclusion of unemployment compensation earned during the 2020 taxable year that was excluded from federal gross income but required to be included in Indiana adjusted gross income.
- c. These provisions apply to interest and penalties on the tax due as a result of including the federally excluded unemployment compensation in Indiana adjusted gross income, the tax due as a result of any computation of the deduction for unemployment compensation under Ind. Code § 6-3-2-10, and any other tax due under Ind. Code arts. 6-3 and 6-3.6 directly or indirectly as a result of the including the federally excluded unemployment compensation in Indiana adjusted gross income.

- d. The Indiana Department of Revenue may not grant a waiver of interest due under Ind. Code § 6-8.1-10-1 to amounts due after September 30, 2021.

8. No Limitation on Authority

Nothing in this Executive Order shall, in any way, alter or modify any existing legal authority allowing the State, any local health department, or any other proper entity from ordering: (a) any quarantine or isolation that may require an individual to remain inside a particular residential property or medical facility for a limited period of time, including the duration of this public health emergency; or (b) any closure of a specific location for a limited period of time, including the duration of this public health emergency.

9. Local Declarations of Emergency

Pursuant to the Emergency Disaster Law, no local ordinance, directive, or order of any county, political subdivision, or other local government entity pertaining to this public health emergency, may contradict or impose less restrictive requirements than those set forth in this Executive Order, or else that ordinance, directive, or order will be void and of no force or effect. However, unless prohibited by an Executive Order, local ordinances, directives, and orders may be more restrictive provided there is compliance with Ind. Code § 16-20-1-21.5 and § 16-22-8-31.3.

10. Savings Clause

If any provision of this Executive Order, or its application to any person or circumstance, is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are hereby declared to be severable.

IT IS SO ORDERED.



IN TESTIMONY WHEREOF, I, Eric J. Holcomb,
have hereunto set my hand and caused to be
affixed the Great Seal of the State of Indiana,
on this 28th day of May, 2021.

Eric J. Holcomb
Governor of Indiana

ATTEST: **Holli Sullivan**
Secretary of State