

## Requirements for Childcare Programs<sup>1</sup>

In addition to the Healthy at Work [Minimum Requirements](#), **childcare programs** must meet the requirements below in order to reopen and remain open:

### Timeline For Reopening Childcare Programs

#### **JUNE 8, 2020**

- In-home childcare programs (Type 2, Certified, and Registered Providers) may reopen subject to the requirements below; Limited Duration Childcare programs will remain open.

#### **JUNE 15, 2020**

- Center-based licensed childcare programs and day camps may reopen to all patrons subject to the requirements below.

### Regulatory Requirements for Childcare Programs

- Since childcare programs were only required to pause their services, the Division of Regulated Childcare will operate as if all programs are reopening on the dates listed above. If a program chooses to postpone opening or permanently close, the program will need to immediately contact the Division of Regulated Childcare to update their status.
- When childcare programs reopen, they will not need to redo background checks for all previously employed staff members due to the rapback feature on KARES. They will need to update the KARES background check database for any employees that have left the programs' employment during the closure.
- The childcare programs will also need to contact the ECE-TRIS database and remove employees from the database that have left the programs' employment during the closure.
- If there is a new childcare program director when the program reopens, director change paperwork will need to be filed with the Division of Regulated Childcare immediately.

---

<sup>1</sup> Childcare programs includes summer day camps for children.

## Social Distancing Requirements for Childcare Programs

- All childcare programs will need to utilize a maximum group size of ten children per group. Registered and certified providers will still need to implement their lower maximum group sizes listed in regulations.
- The square footage requirement of space per child is still required, so a center cannot place ten children in a classroom if the Division of Regulated Childcare has approved the room for a smaller number of children.
- Ratios for children under the age of twenty-four months will still be in place, so those classrooms will need to have two adults present if caring for the maximum classroom size of ten children.
- Children will remain in the same group of ten children all day without being combined with another classroom.
- Those approved to be in a childcare program are limited to:
  - Facility staff
  - Persons with legal authority to enter (first responders, Department for Community Based Services, Division of Regulated Childcare, etc.).
  - Necessary utility workers
  - Professionals providing medical/therapeutic services for children with special needs
  - Children enrolled in the facility
  - Parents or legal guardians of children enrolled in the program
  - In family childcare homes, the family members who live in the home of the approved childcare provider may also be in the childcare program.
- Childcare programs may not provide access to visitors or students conducting classroom observations.
- The same staff members should work with the same children each day in order to reduce additional exposure, including the staff members that give breaks to primary staff members.
- With families' permissions (if children are in the videos), childcare programs may use video/virtual observations for practicum students and virtual tours for perspective families.
- Childcare programs shall stagger playground time between classroom groups.
- Childcare programs will not hold center-wide family events.
- Childcare programs will not hold field trips.

# Healthy at Work



- ❑ Childcare programs will use a centralized drop-off and pick-up location to eliminate unnecessary traffic to classrooms and exposure of children. Childcare programs must, to the greatest extent practicable, conduct pick-up and drop-off each day in a manner that ensures social distancing. Childcare staff members should operate child pick-up and drop-off by class.
- ❑ Childcare programs should, if practicable, demarcate spots on the ground spread at six (6) foot intervals immediately outside the facility where parents and custodial adults may safely wait to pick-up children. Childcare programs should encourage parents and custodial adults to wear cloth face coverings during pick-up and drop-off.
- ❑ Childcare programs should, to the greatest extent practicable, encourage staff members to conduct group activities that can be performed while observing social distancing (e.g. coloring/painting) and limiting sharing of toys/items.
- ❑ Childcare programs must establish a pick-up and drop-off procedure and schedule to ensure that children are entering and leaving one at a time.
- ❑ Childcare programs are encouraged to provide outdoor instructions for children of appropriate age. Childcare programs holding outdoor fitness classes must follow the Healthy at Work Guidelines for [Groups of 10 People or Fewer](#) for those classes.
- ❑ Childcare programs must eliminate “lost and found” bins.
- ❑ Childcare programs should discontinue use of water fountains to the greatest extent practicable. Childcare programs should encourage customers to bring their own water bottles.
- ❑ Childcare programs must eliminate use of high-contact sports/team sports areas (e.g. basketball courts, football fields, and soccer fields) until such time as requirements/guidance are issued for those activities.
- ❑ Childcare programs contained within any other business that has reopened must follow the Minimum Requirements and specific requirements for that business. These are available at [Healthy at Work](#).
- ❑ Childcare programs should provide services and conduct business via phone or Internet to the greatest extent practicable. Any employees who are currently able to perform their job duties via telework (e.g., accounting staff) should continue to telework.
- ❑ Childcare programs should, to the greatest extent practicable, modify traffic flow to minimize contacts between employees and children.

- ❑ Childcare programs should ensure employees use digital files rather than paper formats (e.g., documentation, invoices, inspections, forms, agendas) to the greatest extent practicable.
- ❑ Childcare programs should communicate with parents and custodial adults and receive payments through contactless payment options (e.g., phone or Internet), to the greatest extent practicable. For those programs that cannot use contactless payments, the program should demark safe waiting distances of six (6) feet minimums in cashier queuing areas.
- ❑ Childcare programs must discourage employees from sharing phones, desks, workstations, handhelds/wearables, or other work tools and equipment to the greatest extent practicable.
- ❑ Childcare programs must ensure that controls are established to ensure social distancing in locker rooms, including disabling lockers to enforce six (6) feet of social distancing. Childcare programs should discourage use of locker rooms.
- ❑ Childcare programs must ensure limited use of restroom programs at any one time based on the facility size and current social distancing guidelines.

## **Cleaning and Disinfecting Requirements for Childcare Programs**

- ❑ Each childcare program will create and post a cleaning and sanitizing plan specific to the individual childcare program and describe how additional cleaning and sanitizing will be implemented in the childcare program. Toys that cannot be cleaned and sanitized should not be used.
- ❑ Toys that children have placed in their mouths or that are otherwise contaminated by bodily secretions should be set aside until they are cleaned by hand by a person wearing gloves.
- ❑ Machine washable cloth toys should not be used at this time.
- ❑ Group of infants or toddlers cannot use shared toys unless they are washed and sanitized before being moved from one group to the other.
- ❑ Childcare programs must set aside toys that need to be cleaned by putting them separate container marked for soiled toys until they can be cleaned.
- ❑ Children's books, like other paper-based materials, are not considered a high risk for transmission and do not need additional cleaning or disinfection procedures. Plastic infant and toddler books may be cleaned and sanitized as the material allows.
- ❑ Use bedding (sheets, pillows, blankets, sleeping bags) that can be washed. Keep each child's bedding separate, and consider storing in individually labeled bins, cubbies, or

# Healthy at Work



bags. Bedding that touches a child's skin should be cleaned weekly or before any use by another child.

- Classrooms will not utilize family style dining. Staff will prepare plates and pass them out to the individual children.
- No transportation will be offered at childcare programs while the public school system is closed. When the public school system resumes classes, childcare programs will model the transportation policies of the Kentucky Department of Education.
- Childcare programs must ensure that their programs, including locker rooms, common areas, breakrooms and restrooms are properly cleaned and ventilated.
- Childcare programs must ensure that staff members/employees and children practice hand hygiene frequently. For example, staff members and children should wash or sanitize their hands in the following circumstances: upon arrival for the day, after breaks, upon returning from outside, after toileting or assisting a child with toileting, after each diaper change or pull-up change, after contact with bodily fluids or cleaning up spills or objects contaminated with bodily fluids, after cleaning or sanitizing or using any chemical products, after handling pets, pet cages or other pet objects that have come in contact with the pet, before eating, serving or preparing food or bottles or feeding a child, before and after completing a medical procedure or administering medication, when visibly soiled (must use soap and water), and prior to departure. This may require facility staff to assist children with hand hygiene.
- Childcare programs must encourage staff members/employees and children to limit touching their mouth, nose, and face.
- Childcare programs must provide hand sanitizer (as appropriate), handwashing programs, tissues and waste baskets in convenient locations to the greatest extent practicable.
- Childcare programs making restrooms or locker rooms available must ensure frequently touched surfaces are regularly disinfected (e.g., door knobs and handles).
- Childcare programs must ensure cleaning and sanitation of frequently touched surfaces with appropriate disinfectants, in accordance with appropriate Kentucky childcare standards.
- Childcare programs must establish a cleaning and disinfecting process that follows CDC guidelines to address when any individual is identified, suspected, or confirmed as a COVID-19 case.
- Childcare programs must ensure employees do not use cleaning procedures that could re-aerosolize infectious particles. This includes, but is not limited to, avoiding practices such as dry sweeping or use of high-pressure streams of air, water, or cleaning chemicals.

## Screening and Illness Requirements

- ❑ Children and adults will be screened for fever and contagious symptoms upon entry into the childcare program consistent with the Minimum Requirements.
- ❑ Childcare program staff members who demonstrate symptoms of COVID-19 must be tested for the illness.
- ❑ Children or adults that test positive for COVID-19 must follow the recommendations of their local health department on when to return to the childcare program.
- ❑ When a child shows a fever or other contagious symptoms, the child must be removed from the classroom immediately and placed in a safe, secluded area. The parent or guardian must remove the child from the childcare program within one hour.
- ❑ Childcare programs must notify enrolled families and staff of a diagnosed case of COVID19 in the program, while still protecting the privacy of the diagnosed individual.

## Personal Protective Equipment (PPE) Requirements

- Ensure, pursuant to Executive Order 2020-586 and 902 KAR 2010E, which are attached to this document, that all customers, vendors, contractors, and any other member of the public who enters the premises wear a face covering so long as they are not subject to any of the exemptions listed in the Executive Order.
- Inform any person attempting to enter the facility without a face covering of the requirement to wear a face covering. If the individual refuses and is not subject to any of the exemptions listed in the Executive Order, the individual must not be permitted entry onto the premises.
- Instruct any person who was previously wearing a face covering and removed it while on the premises and not subject to any of the exemptions listed in the Executive Order (e.g., individuals are permitted to remove face coverings when seated and actively consuming food or beverages) to put the face covering back on. If the individual refuses to do so, the facility must not provide them service and must ask them to leave.
- Restaurants and bars who fail to follow these requirements of the Executive Order will be subject to a fine and may also be subject to an order from a local health department or the Labor Cabinet requiring immediate closure.
- Require employees to use face coverings whenever they are near other employees or customers so long as such use does not jeopardize the employees' health or safety. Employers should provide appropriate face coverings at no cost to employees and provide instruction on proper use of them.
- Ensure employees wear face coverings for any interactions with customers, co-workers, or while in common travel areas of the business (e.g., aisles, hallways, loading docks, breakrooms, bathrooms, entries and exits). Employees are not required to wear face coverings while alone in personal offices, while more than six (6) feet from any other individual, or if doing so would pose a serious threat to their health or safety.

# Healthy at Work



- ❑ Childcare providers should wear gloves while serving food and preparing bottles. Gloves should be changed between bottle feedings.
- ❑ Childcare programs should make face coverings available for parents and custodial adults where in-facility interaction is necessary. Parents and custodial adults may bring and use their own face covering. If parents or custodial adults, suppliers, or vendors refuse to wear face coverings, the facility may refuse those individuals entrance to the facility.
- ❑ Childcare programs should establish a policy as to whether to allow parents or custodial adults enter the facility if the parent or custodial adult refuses to adhere to the facility's policy to adhere to CDC guidelines.
- ❑ Childcare programs must ensure employees use gloves, along with any PPE normally used for routine job tasks, when cleaning equipment, toys, playspaces, workspaces, and high-touch areas of the facility.

- ❑ Childcare programs must ensure gloves are available to employees engaging in high-touch activity to the greatest extent practicable provided that they do not create additional hazards while being worn.
- ❑ Childcare programs must ensure employees wear gloves while handling products during drop-off and pick-up as well as during any shipping and receiving.

## **Training and Safety Requirements**

- ❑ Childcare programs must have required cleaning supplies and PPE (face coverings, latex/non-latex gloves) on site before they can reopen their facility. Childcare Aware staff will screen programs to make sure that supplies are on site prior to opening.
- ❑ All staff members will need to take a refresher training on cleaning and sanitizing procedures, as well as mandatory reporting of child abuse before the date that their program reopens. Limited Duration Childcare staff members will need to complete their training before their program transitions back to a licensed or certified program.
- ❑ Centers will not be penalized if staff members did not complete required training hours during the childcare closure. Childcare programs will begin annual training hours again on July 1, 2020, and they will have until June 30, 2021 for providers to complete their annual required training hours.
- ❑ Additional monitoring will be conducted to verify compliance with the additional preventative measures required due to the pandemic. The Division of Regulated Childcare will conduct monitoring for enhanced health and safety requirements along with required annual inspections. Childcare Aware coaches will assist with preventative monitoring by assisting centers prior to their reopening date to make sure they are prepared to open for children. Childcare Aware coaches and Childcare Health Consultants will assist centers with implementing new preventative requirements once the centers are open.
- ❑ Annual visits from the Division of Regulated Childcare will begin soon after childcare programs reopen.
- ❑ All childcare providers with a completed and approved KARES background check are ready to return to the classroom and safely be left alone with children.
- ❑ Since the statewide fingerprint background check system has not yet reopened, new childcare providers will have to file name-based background checks prior to starting in the center. They will not be left alone with children until the named-based background checks are sent back to the childcare facility with an approved status. Once the fingerprint background system reopens, the employees will go and complete the fingerprint system once time and staffing at the DCBS regional offices will allow for them to receive an appointment.



# Healthy at Work



- ❑ Childcare programs must train staff/employees to use PPE. This training includes: when to use PPE; what PPE is necessary; and how to properly put on, use, and remove PPE.
- ❑ Childcare programs must establish log-in procedures and maintain that information for potential contact notification
- ❑ Childcare programs should ensure employees are informed that they may identify and communicate potential improvements and/or concerns in order to reduce potential risk of exposure at the workplace. All education and training must be communicated in the language best understood by the individual receiving the education and training.



**ANDY BESHEAR**  
**GOVERNOR**

**EXECUTIVE ORDER**

**Secretary of State**  
Frankfort  
Kentucky

**2020-586**  
**July 9, 2020**

**STATE OF EMERGENCY**

**WHEREAS**, the novel coronavirus (COVID-19) is a respiratory disease causing mild to very severe illness, including death, and many cases of COVID-19 have been confirmed in the Commonwealth; and

**WHEREAS**, dozens of states across the nation have begun to experience sharp increases in COVID-19 infection, and Kentucky has begun to report its highest numbers of new cases since the beginning of the pandemic; and

**WHEREAS**, Kentuckians have begun increasing their number of contacts as well as traveling outside the state to areas with higher infection rates and then returning to Kentucky; and

**WHEREAS**, the United States and Kentucky are experiencing an increase in COVID-19 infection rates among younger people, including children; and

**Cases In Kentucky Are On The Rise**

**WHEREAS**, Kentucky has 17,919 reported cases of COVID-19 and 608 Kentuckians have died from COVID-19, including 402 new cases and six deaths on July 8, 2020; and

**WHEREAS**, Kentucky reported its highest weekly total of COVID-19 cases for the week of June 29 through July 5, 2020, with 1,675 new cases; and

**WHEREAS**, COVID-19 is impacting Kentuckians of all ages, including younger Kentuckians. 510 Kentuckians ages 0-9, and 1,013 Kentuckians ages 10-19 have tested positive for COVID-19; and



**ANDY BESHEAR**  
**GOVERNOR**

**EXECUTIVE ORDER**

**Secretary of State**  
Frankfort  
Kentucky

**2020-586**  
**July 9, 2020**

**Cases In the United States Are On The Rise**

**WHEREAS**, on July 8, 2020, America had more than 3,000,000 cases of COVID-19, and a one-day record 60,021 new cases were reported on July 7, 2020. More than 132,000 Americans have died from COVID-19; and

**WHEREAS**, hospitals in other states are experiencing increases in COVID-19 patients and hospital intensive care units are reaching capacity. In Arizona, more than ninety percent (90%) of its ICU beds were filled as reported on July 8, and Florida has at least 56 hospital intensive care units at capacity. In California, hospitalizations have increased fifty percent (50%) from two weeks ago. The Georgia Emergency Management and Homeland Security reported that only eighteen percent (18%) of critical care hospital beds remain available and only seventeen percent (17%) of inpatient beds are available, and in Savannah, Georgia, hospitalizations have nearly quadrupled. On July 8, 2020, Louisiana reported that ninety-five percent (95%) of its 1,891 new cases were from community spread; and

**WHEREAS**, in the State of Texas, 1,335 people have tested positive for COVID-19 from childcare facilities, consisting of 441 children and 894 staff members. In North Carolina, earlier this week nine children and two staff members at a Charlotte child care facility tested positive for COVID-19, according to the state's dashboard tracking COVID-19 "clusters"; and

**Face Coverings Are Effective In Slowing The Spread Of COVID-19**

**WHEREAS**, numerous recent medical studies have shown that the use of face coverings can decrease the spread of respiratory droplets from people; and



**ANDY BESHEAR**  
**GOVERNOR**

**EXECUTIVE ORDER**

**Secretary of State**  
Frankfort  
Kentucky

**2020-586**  
**July 9, 2020**

**WHEREAS**, based on these studies, the wearing of face coverings has been found by both the Centers for Disease Control and Prevention and the Kentucky Department for Public Health to help prevent the further spread of COVID-19; and

**WHEREAS**, numerous federal leaders of both parties, including Vice President Mike Pence, Senator Mitch McConnell, and Surgeon General Jerome Adams, have also urged the American public to wear face coverings; and

**Face Coverings Are Effective In Protecting The Economy**

**WHEREAS**, an economic analysis by Goldman Sachs indicates that the national economy could experience an additional 5% drop in gross domestic product if face coverings are not mandated, which would amount to an economic loss for Kentucky of about \$10 billion; and

**WHEREAS**, the Retail Industry Leaders Association, which represents 9 of the top 10 retailers in the nation, comprising more than 100,000 stores and millions of jobs, recently urged the governors of all states to mandate the wearing of face coverings when in public settings; and

**WHEREAS**, at the time of this Order, at least 22 states have followed the recommendations discussed above and required members of the general public to wear face coverings in various public settings, including the neighboring states of Illinois, Ohio, and West Virginia; and

**WHEREAS**, the Kentucky Constitution and Kentucky Revised Statutes, including, but not limited to, KRS Chapter 39A, empower me to exercise all powers necessary to promote and secure the safety and protection of the civilian population; and



ANDY BESHEAR  
GOVERNOR

EXECUTIVE ORDER

Secretary of State  
Frankfort  
Kentucky

2020-586  
July 9, 2020

WHEREAS, under those powers, I declared by Executive Order 2020-215 on March 6, 2020, that a State of Emergency exists in the Commonwealth. The State of Emergency continues:

NOW, THEREFORE, I, Andy Beshear, Governor of the Commonwealth of Kentucky, by virtue of authority vested in me pursuant to the Constitution of Kentucky and KRS Chapter 39A, do hereby Order and Direct the following:

1. For the purposes of this order, a “face covering” is a material that covers the nose and mouth and is secured to the head with ties, straps, or loops over the ears, or is wrapped around the lower face. It can be made of a variety of materials, including cotton, silk, or linen, and ideally has two or more layers. Face coverings may be factory-made, homemade, or improvised from household items such as scarfs, bandanas, and t-shirts. Guidance on how to make a face covering at home is available at: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-make-cloth-face-covering.html>.
2. The provisions of this Order shall apply to members of the public in Kentucky. Existing sector specific requirements mandating face coverings for employees of entities in the Commonwealth remain in effect and are available online at: <https://healthyatwork.ky.gov>.
3. People in Kentucky must cover their nose and mouth with a face covering when they are in the following situations that represent a high risk of COVID-19 transmission:
  - a. While inside, or waiting in line to enter, any: retail establishment; grocery store; pharmacy; hair salon/barbershop; nail salon/spa; tattoo parlor; child care facility; restaurant or bar (when not seated and consuming food or beverage); health care setting, or; any other indoor public space in which it is difficult to maintain a physical distance of at least six feet from all individuals who are not members of that person’s household;
  - b. While waiting for or riding on public transportation or paratransit, or while riding in a taxi, private car service, or ride-sharing vehicle,



**ANDY BESHEAR  
GOVERNOR**

**EXECUTIVE ORDER**

**Secretary of State**  
Frankfort  
Kentucky

**2020-586  
July 9, 2020**

or driving any of the above while customers are present; or

- c. While in outdoor public spaces in which the person cannot maintain a physical distance of six feet from all individuals who are not members of the person's household and is not otherwise covered by previously issued guidance.

4. The following are exempt from wearing face coverings:

- a. Children who are age 5 or younger;
- b. Any person with disability, or a physical or mental impairment, that prevents them from safely wearing a face covering;
- c. Any person who is hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential to communication;
- d. Any person engaged in work that a state or federal regulator has concluded would make wearing a face covering a risk to their health or safety;
- e. Any person who is seated and actively consuming food or beverage at a restaurant, bar, or other establishment that offers food or beverage service;
- f. Any person who is obtaining a service that requires temporary removal of the face covering in order to perform the service;
- g. Any person who is required to temporarily remove their face covering to confirm their identity or for security or screening purposes;
- h. Any person who is giving a speech or broadcast to an audience and is able to maintain a safe distance of six feet from all individuals who are not members of the person's household;



ANDY BESHEAR  
GOVERNOR

**EXECUTIVE ORDER**

**Secretary of State**  
Frankfort  
Kentucky

**2020-586**  
**July 9, 2020**

- i. Any person who is in a swimming pool, lake, or other body of water;
  - j. Any person who is actively engaged in exercise in a gym or indoor facility so long as six or more feet of separation between individuals exists, and where the gym or indoor facility engages in required cleaning;
  - k. Any person who is actively participating in athletic practice, scrimmage, or competition that is permitted under separate Healthy at Work requirements or guidance available online at: <https://healthyatwork.ky.gov>; or
  - l. Any person who is engaged in a lawful activity where federal or state law prohibits wearing a face covering.
5. Failure to follow the requirements provided in this Order and any other Executive Order and any Cabinet Order, including but not limited to the Orders of the Cabinet for Health and Family Services, is a violation of the Orders issued under KRS Chapter 39A and must result in a loss of access to a business's services.
  6. The Secretary of the Cabinet for Health and Family Services, pursuant to KRS 194A.010, KRS 194A.025, KRS 211.025, KRS 214.020, KRS 39A.180, KRS 12.270(2), KRS 13A.190, and other applicable law, shall promulgate an emergency administrative regulation consistent with this Order.
  7. All local, county, and city government offices and agencies are encouraged to adopt or incorporate the requirements provided in this Order.
  8. Nothing in this Order should be interpreted to interfere with or infringe on the powers of the legislative and judicial branches, or other constitutional officers to perform their constitutional duties or exercise their authority. However, the legislative and judicial branches, and other constitutional officers, are encouraged to adopt or incorporate the requirements provided in this Order.
  9. Failure to follow the requirements provided in this Order and any other Executive Order and any Cabinet Order is a violation of the Orders issued under KRS Chapter 39A and could subject a person or entity violating the Orders to penalties as authorized by law.



**ANDY BESHEAR**  
**GOVERNOR**

**EXECUTIVE ORDER**

**Secretary of State**  
Frankfort  
Kentucky

**2020-586**  
**July 9, 2020**

10. This Order is effective at 5 p.m. on July 10, 2020, for a period of 30 days, and is subject to renewal.

A handwritten signature in blue ink, appearing to read "AB", is written over a horizontal line.

---

ANDY BESHEAR, Governor  
Commonwealth of Kentucky

---

MICHAEL G. ADAMS  
Secretary of State



**STATEMENT OF EMERGENCY  
902 KAR 2:190E**

This emergency administrative regulation is being promulgated to establish actions that the Department for Public Health may take in response to a declared national or state emergency. These actions include enhancing prevention of the spread of the infectious disease COVID-19 by wearing a face covering in public, subject to certain exceptions. This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)1. and 4. to meet an imminent threat to public health, safety and welfare, and to protect human health. This emergency administrative regulation will not be replaced by an ordinary administrative regulation as these measures are in direct response to the declared state public health emergency.



---

**Andy Beshear, Governor**



---

**Eric C. Friedlander, Secretary  
Cabinet for Health and Family Services**

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Public Health

3 Division of Epidemiology

4 (New Emergency Administrative Regulation)

5 902 KAR 2:190E. Covering the Face in Response to Declared National or State  
6 Public Health Emergency.

7 RELATES TO: KRS 39A.180, 211.180(1), 214.010, 214.645, 333.130

8 STATUTORY AUTHORITY: KRS 194A.010, KRS 194A.025, KRS 194A.050(1), KRS  
9 211.025, KRS 211,180(1), KRS 214.020, KRS 39A.180, KRS 12.270(2)

10 NECESSITY, FUNCTION, AND CONFORMITY: KRS 214.020 requires the Cabinet  
11 For Health and Family Services to take action, promulgate, adopt, and enforce rules  
12 and regulations, it deems efficient in preventing the introduction or spread of infectious  
13 or contagious disease within this state. KRS 211.025 requires the cabinet to perform  
14 actions reasonable necessary to protect and improve the health of the people. KRS  
15 211.180(1) requires the cabinet to enforce administrative regulations to control  
16 communicable diseases. This administrative regulation establishes requirements for  
17 face covering in response to a declared national or state public health emergency.

18 Section 1. Definition. (1) "Face covering" means a material that covers the nose and  
19 mouth and is secured to the head with ties, straps, or loops over the ears, or is wrapped  
20 around the lower face. It can be made of a variety of materials, including cotton, silk, or  
21 linen, and ideally has two or more layers. Face coverings may be factory-made,  
22 homemade, or improvised from household items such as scarfs, bandanas, and t-shirts.

23 Section 2. Scope of Covering the Face in Response to Declared National or State

1 Public Health Emergency. (1) The provisions of this Order shall apply to members of the  
2 public in Kentucky. Existing sector-specific requirements mandating face coverings for  
3 employees of entities in the Commonwealth remain in effect and are available online at:  
4 <https://healthyatwork.ky.gov>.

5 (2) Except as provided by subsection (3) of this section, each person in Kentucky  
6 must cover their nose and mouth with a face covering when they are in the following  
7 situations:

8 (a) While inside, or waiting in line to enter, any: retail establishment; grocery store;  
9 pharmacy; hair salon/barbershop; nail salon/spa; tattoo parlor; child care facility;  
10 restaurant or bar (when not seated and consuming food or beverage); health care  
11 setting, or; any other indoor public space in which it is difficult to maintain a physical  
12 distance of at least six feet from all individuals who are not members of that person's  
13 household;

14 (b) While waiting for or riding on public transportation or paratransit, or while riding  
15 in a taxi, private car service, or ride-sharing vehicle, or driving any of the above while  
16 customers are present, or;

17 (c) While in outdoor public spaces in which the person cannot maintain a physical  
18 distance of six feet from all individuals who are not members of the person's household  
19 and is not otherwise covered by previously issued guidance.

20 (4) The following are exempt from wearing face coverings:

21 (a) Children who are age 5 or younger;

22 (b) Any person with disability, or a physical or mental impairment, that prevents  
23 them from safely wearing a face covering;

1 (c) Any person who is hearing impaired, or communicating with a person who is  
2 hearing impaired, where the ability to see the mouth is essential to communication;

3 (d) Any person engaged in work that a state or federal regulator has concluded  
4 would make wearing a face covering a risk to their health or safety;

5 (e) Any person who is seated and actively consuming food or drink at a restaurant,  
6 bar, or other establishment that offers food or beverage service;

7 (f) Any person who is obtaining a service that requires temporary removal of the  
8 face covering in order to perform the service;

9 (g) Any person who is required to temporarily remove their face covering to  
10 confirm their identity or for security or screening purposes;

11 (h) Any person who is giving a speech or broadcast to an audience and is able to  
12 maintain a safe distance of six feet from all individuals who are not members of the  
13 person's household;

14 (i) Any person who is in a swimming pool, lake, or other body of water;

15 (j) Any person who is actively engaged in exercise in a gym or indoor facility so  
16 long as six or more feet of separation between individuals exists, and where the gym or  
17 indoor facility engages in required cleaning;

18 (k) Any person who is actively participating in athletic practice, scrimmage, or  
19 competition that is permitted under separate Healthy at Work requirements or guidance  
20 available online at: <https://healthyatwork.ky.gov>, or;

21 (l) Any person engaged in a lawful activity where federal or state law prohibits  
22 wearing of a face covering.

23 Section 3. Non-Compliance. (1)(a) The requirements of this administrative

1 regulation that pertain to a business or other public-facing entity shall be enforced by  
2 the Labor Cabinet, the Department for Public Health, another state regulatory agency,  
3 and each local health department. As it pertains to individuals, this regulation will be  
4 enforced by state and local law enforcement authorities, as required by KRS 39A.180.

5 (2) Any person who violates this Regulation by failing to wear a face covering while  
6 in a location listed in Section 2 and not subject to any of the listed exemptions shall  
7 receive a warning for the first offense, a fine of fifty dollars (\$50) for the second offense,  
8 seventy-five dollars (\$75) for the third offense, and one hundred dollars (\$100) for each  
9 subsequent offense. Additionally, if the person is violating this Regulation by attempting  
10 to enter a public-facing entity or mode of transportation listed in Section 2 while failing to  
11 wear a face covering and not subject to any of the exemptions listed, they shall be  
12 denied access to that public-facing entity or mode of transportation. If a person is  
13 already on the premises and violates this Regulation by removing a face covering, they  
14 shall be denied services and asked to leave the premises, and may be subject to other  
15 applicable civil and criminal penalties.

16 (3) Any owner, operator or employer of a business or other public-facing entity  
17 who violates this Regulation by permitting individuals on the premises who are not  
18 wearing a face covering and are not subject to any exemption shall be fined at the rates  
19 listed in section 3(2). The business may also be subject to an order requiring immediate  
20 closure.


21 Section 4. Effective Date. This regulation is effective at 5 p.m. on July 10, 2020, for a  
22 period of 30 days, and is subject to renewal.

23 Section 5. Reference. Guidance on how to make a face covering at home is available


- 1 at: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-make-cloth->
- 2 [face-covering.html](https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-make-cloth-face-covering.html).

902 KAR 2:190E

REVIEWED:

  
\_\_\_\_\_  
Dr. Steven J. Stack, MD, MBA                      Date  
Commissioner, Department for Public Health                      7-10-20

APPROVED:

  
\_\_\_\_\_  
Eric C. Friedlander                      Date  
Secretary, Cabinet for Health and Family Services                      7-10-20

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:**

A public hearing on this administrative regulation shall, if requested, be held on September 28, 2020, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621. Individuals interested in attending this hearing shall notify this agency in writing by September 21, 2020, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until September 30, 2020. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

**CONTACT PERSON:** Donna Little, Deputy Executive Director, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, KY 40621; Phone: 502-564-6746; Fax: 502-564-7091; [CHFSregs@ky.gov](mailto:CHFSregs@ky.gov).



## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 902 KAR 2:190E

Agency Contact: Julie Brooks, (502) 564-3970, julied.brooks@ky.gov or Donna Little, (502) 564-6746, CHFSregs@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation requires the wearing of face coverings at specific events and locations in the Commonwealth of Kentucky to prevent the spread of COVID – 19 during the declared national or state public health emergency.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure the health and safety of the citizens of the Commonwealth during the current national or state public health emergency.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 194A.050, 194A.010, KRS 194A.025, KRS 211.025 and KRS 214.020 authorize the Cabinet for Health and Family Services to take action to protect the health and welfare of the citizens of the Commonwealth and to adopt regulations and to take other action to prevent the spread of disease in the Commonwealth.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will prevent the spread of COVID-19 in the Commonwealth and will protect the health and welfare of the citizens of the Commonwealth during the declared national and state public health emergency.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This is a statewide administrative regulation that could potentially affect the entire population of the Commonwealth. This administrative regulation also impacts all Kentucky businesses, organizations and governments.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment: Citizens of the Commonwealth will be required to wear face coverings in certain places and venues to prevent the spread of COVID-19. A business or other public-facing entity shall not permit an individual on the premises who is not wearing a face covering and who is not subject to any exemption.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): The costs of this regulation is unknown at this time.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance with this administrative regulation, the health and welfare of the citizens of the Commonwealth will be protected during the current declared national and state public health emergency. Compliance with this regulation will prevent the spread of COVID-19.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no costs to implement this administrative regulation initially.

(b) On a continuing basis: There will be no ongoing costs for implementation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding will be necessary.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an amendment: An increase in fees or funding is not needed to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. This administrative regulation does not establish fees.

(9) TIERING: Is tiering applied? (Explain why or why not.) Tiering is applied in this administrative regulation as Section 3 of this administrative regulation establishes a number of exemptions to the general requirements in Section 2 of this administrative regulation regarding mandatory face coverings.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation: 902 KAR 2:190E

Agency Contact: Julie Brooks, (502) 564-3970, julied.brooks@ky.gov or Donna Little, (502) 564-6746, CHFSregs@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact the Cabinet for Health and Family Services, and all state or local governments that are public-facing or that regulate businesses or public-facing entities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.010, 194A.025, 211.025, 214.020, 39A.180, 12.270(2) and 13A.190.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation does not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation does not generate revenue.

(c) How much will it cost to administer this program for the first year? This administrative regulation will have no impact on costs.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will have no impact on costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: