



## PSA

**Date:** June 30, 2020  
**To:** All Media  
**From:** Stephanie Krell, PIO Unified Command  
**Subject:** **The ADA and Face Mask Policies**

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Beginning July 1, face masks or coverings are required statewide. The Department of Justice has been made aware of postings or flyers on the internet regarding the Americans with Disabilities Act (ADA) and the use of face masks due to the COVID-19 pandemic, many of which include the Department of Justice's seal. These postings were not issued by the Department and are not endorsed by the Department.

All Oregon counties are requiring the use of a face mask in indoor public spaces, however, wearing face masks may be difficult for some people with disabilities. The Centers for Disease Control and Prevention (CDC) recommends that anyone over the age of two wear a face mask in public where it is difficult to remain six feet apart. The CDC also states that those that have trouble breathing, are unconscious, incapacitated or are otherwise unable to remove the face mask without assistance should not wear a face mask.

The ADA does not have rules that address the required use of face masks by private business owners. If a person with a disability is not able to wear a face mask, private businesses must consider reasonable modifications to a face mask policy so that the person with the disability can participate in, or benefit from, the programs offered or goods and services that are provided.

Examples of reasonable modifications to a face mask policy:

- Allow a person to wear a scarf, loose face covering, or full face shield instead of a face mask;
- Allow customers to order online with curbside pick-up or no contact delivery in a timely manner;
- Allow customers to order by phone with curb-side pick-up or no contact delivery in a timely manner;

- Allow a person to wait in a car for an appointment and enter the building when called or texted; or
- Offer appointments by telephone or video calls.

There are three reasons that a business does not have to provide reasonable modifications to its face mask policy:

- A fundamental alteration is a change to such a degree that the original program, service, or activity is no longer the same;
- A private business is not required to take any action if it can demonstrate that it would result in an undue financial or administrative burden;
- Modification of policies, practices, or procedures for the individual with a disability poses a direct threat to the health or safety of others. The determination that a person poses a direct threat to the health or safety of others may not be based on generalizations or stereotypes about the effects of a particular disability.

It is best practice to be prepared with examples mentioned above of possible alternatives to a face mask/cloth face covering policy that you can share with people with disabilities who request a reasonable modification to your policy.

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