



GOVERNMENT OF THE DISTRICT OF COLUMBIA

OFFICE OF DISABILITY RIGHTS

**District Mask Requirement  
Reasonable Accommodation for Individuals with Disabilities**

Updated August 26, 2021

**Purpose**

The purpose of this document is to provide guidance to District Government Americans with Disabilities Act (ADA) Agency Coordinators (ADA Coordinators), Human Resources (HR) Managers, and supervisors on processing reasonable accommodation requests for a medical exemption from the mask requirement in compliance with the ADA and the DC Human Rights Act (DC HRA).<sup>1</sup>

This guidance is based in part on materials published by DC Health, the Centers for Disease Control and Prevention (CDC), and the U.S. Equal Employment Opportunity Commission.<sup>2</sup> It covers major considerations for the vaccine mandate, such as:

- [District Mask Policy](#)
- [Providing Notice to Employees, Constituents](#)
- [Medical Reasonable Accommodation Considerations](#)
- [Answers to Frequently Asked Questions](#)
- [Additional Inquiries and Technical Guidance](#)

**District Mask Policy**

Pursuant to Mayor's Order 2021-097 (issued July 29, 2021), "[a]ll persons must wear masks indoors as prescribed by DC Health guidance and regulations..." reinstating the District's prior

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<sup>1</sup> Mayor's Order 2021-097 (July 29, 2021), found at: [https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page\\_content/attachments/Mayors-Order-2021-097.pdf](https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/Mayors-Order-2021-097.pdf); See *Americans with Disabilities Act*, 42 U.S.C. § 12101 (Sep 26, 2008) and *DC Human Rights Act of 1977, as amended*. D.C. Code § 2-1401.01 (Apr 16, 2020).

<sup>2</sup> <https://mayor.dc.gov/release/dc-health-statement-updated-mask-guidance-centers-disease-control-and-prevention>; Coronavirus 2019 (COVID-19): Mask Guidance for the General Public (DC Health Mask Guidance for the General Public) (updated July 30, 2021), found at [https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page\\_content/attachments/Masks\\_Guidance\\_DCHealth\\_COVID-19\\_2021-7-30.pdf](https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/Masks_Guidance_DCHealth_COVID-19_2021-7-30.pdf) [cdc.gov/coronavirus](https://cdc.gov/coronavirus); [eeoc.gov/coronavirus](https://eeoc.gov/coronavirus).

mask mandate under the further guidance of the City Administrator.<sup>3</sup> The Mayor has delegated authority to agencies to define and enforce masking requirements.<sup>4</sup>

Accordingly, masks must be worn in indoor environments (such as workspaces, public transportation vehicles, schools, correctional settings, homeless shelters, and any establishment or facility open to members of the public) at all times with the following exceptions:<sup>5</sup>

- Indoor gatherings at private residences
- Actively eating or drinking
- Actively playing or training for indoor sports in a collegiate or professional sports setting
- In the water at a swimming pool or aquatic facility
- Alone in an enclosed office that no one else is permitted to enter
- Giving a speech for broadcast or an audience, provided no one is within six (6) feet of the speaker
- Speaking to or translating for a Deaf or hard of hearing person
- Required to use equipment for a job that precludes the wearing of a mask and the person is wearing or using that equipment, or when wearing a mask would endanger public safety
- Lawfully asked to remove their mask for facial recognition purposes

Additionally, agencies may provide exemptions to the mask requirement as a reasonable accommodation for individuals with disabilities. Accommodations requesting a medical exemption from the mask requirement should be evaluated in the same manner as those that were received during the ordinary course of business.<sup>6</sup> Agency ADA Coordinators should refer to the resources and training provided by the Office of Disability Rights (ODR) when processing all reasonable accommodation requests.<sup>7</sup>

### **Providing Notice to Employees, Constituents**

Each agency, with the assistance of its ADA Coordinator, should ensure that Employees and constituents know whom to contact to request a reasonable accommodation and appeal a determination. Additionally, ODR recommends that each agency post the reasonable

<sup>3</sup> See footnote 1 at section II; See City Administrator's Order 2021-4 (July 30, 2021), found at [https://oca.dc.gov/sites/default/files/dc/sites/oca/page\\_content/attachments/CAO-2021-4-Masks-in-District-buildings-and-for-District-employees-and-contractors-issued-07-30-2021.pdf](https://oca.dc.gov/sites/default/files/dc/sites/oca/page_content/attachments/CAO-2021-4-Masks-in-District-buildings-and-for-District-employees-and-contractors-issued-07-30-2021.pdf); See Mayor's Order 2020-080 (July 22, 2020),

found at: [https://mayor.dc.gov/sites/default/files/dc/sites/mayoromb/release\\_content/attachments/Mayor%27s%20Order%202020-0-080%20Wearing%20Masks%20in%20DC%20to%20Prevent%20COVID19.pdf](https://mayor.dc.gov/sites/default/files/dc/sites/mayoromb/release_content/attachments/Mayor%27s%20Order%202020-0-080%20Wearing%20Masks%20in%20DC%20to%20Prevent%20COVID19.pdf).

<sup>4</sup> See footnote 1 at section I(6).

<sup>5</sup> DC Health Mask Guidance for the General Public at page 2.

<sup>6</sup> *Enhancing Compliance with the Disability Rights Protection Act of 2006 and the Americans with Disabilities Act*. Mayor's Order 2017-010 (Jan 20, 2017), found at [dcregs.dc.gov/Common/NoticeDetail.aspx?noticeId=N0062097](https://dcregs.dc.gov/Common/NoticeDetail.aspx?noticeId=N0062097)

<sup>7</sup> See ODR Manual for Accommodating Employees with Disabilities, found at: [odr.dc.gov/book/manual-accommodating-employees-disabilities](https://odr.dc.gov/book/manual-accommodating-employees-disabilities).

accommodation protocol on the agency intranet site or other portal that employees regularly use to access information as well as in a publicly available location.

### **Medical Reasonable Accommodation Considerations**

Employees and constituents who cannot wear a mask due to a medical condition must receive an exemption from the agency ADA Coordinator. According to the CDC and DC Health, there are limited medical conditions that would render a mask inadvisable:<sup>8</sup>

- Children younger than age 2.
- Anyone who is unconscious, incapacitated or otherwise unable to remove a mask without assistance.
- Individuals who have a high sensitivity to materials on their faces.
- Individuals who have difficulty understanding why wearing a mask is protective (such as those with an intellectual disability).
- Individuals who have problems controlling their behavior.
- Individuals with medical conditions that put them at risk of inhaling a mask or blocking their airways.

While individuals with asthma and other pulmonary impairments may be entitled to protections against disability discrimination under the ADA, any mitigating measures should be taken into account when determining whether an agency should grant an accommodation from the mask requirement. For example, an individual who uses an inhaler or other medication to control asthma can be expected to use a mask.

### **Answers to Frequently Asked Questions**

What verification is required for individuals requesting an exemption to the mask policy?

Employees and individuals requesting an exemption should provide documentation from a health care provider to the ADA Coordinator, unless the disability and danger nature of the mask are obvious.

What if an individual is not able to provide documentation or refuses to wear a mask?

Agencies should keep a variety of masks on hand to supply as an option to individuals who may have different needs and preferences, including, but not limited to:<sup>9</sup>

- Medical grade disposable,

<sup>8</sup> CDC Guidance for Wearing Masks, found at: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>; DC Health Mask Guidance for the General Public at page 3.

<sup>9</sup> DC Health Mask Guidance for the General Public at pages 3-4; CDC Guidance for Wearing Masks.

- Non-medical grade disposable,
- Cloth,
- Clear masks or cloth masks with a clear plastic panel,
- NIOSH-approved N95 respirators.

To the extent possible, agencies should explore alternative methods for allowing individuals to access programs, such as:

- Delivering services outside or through safe conduit,
- Permitting access to an isolated and closed area in the facility that can be thoroughly disinfected,
- Requiring a mask for a limited purpose, such as traveling through a facility,
- Confirming whether the individual's service needs can be met through virtual or telephonic offerings,
- Other practices in adherence with agency operations and policy.

An individual who is not wearing a mask poses a direct threat to the health and safety of others, particularly those who are immunocompromised, have underlying medical conditions impacting the effectiveness of the vaccine, and those who are not eligible to get the vaccine.<sup>10</sup> Accordingly, individuals who are not able to provide documentation, refuse to wear a mask, or accept alternative agency options should be denied entry to the facility.

### **Additional Inquiries and Technical Assistance**

The DC Office of Disability Rights (ODR) encourages District ADA Coordinators, HR Managers, and supervisors to review the guidance issued by the CDC, DC Health, and EEOC and to consult ODR where additional information or technical assistance is needed in determining whether to grant or deny a reasonable accommodation.

Please note that ADA Coordinators are obligated to record each request in the ODR Centralized Reasonable Accommodation Database, pursuant to Mayor's Order 2017-010.<sup>11</sup>

**For additional questions, technical assistance, and resources, please contact ODR at [ODR@dc.gov](mailto:ODR@dc.gov) or (202) 724-5055.**

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<sup>10</sup> DC Health Mask Guidance for the General Public at page 1; CDC Your Guide to Wearing Masks, found at: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>.

<sup>11</sup> See Mayor's Order 2017-010 (Jan 20, 2017).