

Technical Academies of Minnesota

Adopted: Orig. 12-22-2020

535 Face Coverings

I. GENERAL POLICY

In accordance with Emergency Executive Orders 20-81 and 20-82, including the applicable face covering requirements established by the Minnesota Department of Education (MDE) and the Minnesota Department of Health (MDH), all persons are required to wear a face covering when they are in any building that is owned, leased, or operated by or on behalf of the District, unless an exemption or exception stated in this policy applies. Similarly, all persons are required to wear a face covering when they are in any vehicle that is owned, leased, or operated by or on behalf of the District, unless an exemption or exception stated in this policy applies. This policy will remain in effect as long as Emergency Executive Order 20-81 is in effect.

The MDH has stated that face coverings are meant to protect other people in case the person wearing the face covering does not know that he or she is infected with COVID-19. A face covering is not meant to be a substitute for social distancing. But a face covering is especially important in situations when maintaining social distancing (six feet of physical distance) is not possible.

For schools that have a kitchen, cafeteria, or other food services component licensed by MDH or a local health department, all food services workers must follow the Industry Guidance for Safely Reopening Restaurants and Bars. To the extent that this Policy conflicts with the MDH guidance for kitchen, cafeteria, or other food service, the more restrictive provision applies.

II. DEFINITIONS

A. Disability. The term “disability” means a mental or physical impairment that substantially or materially limits a major life activity.

B. District. The term “District” refers to Independent School District No. ___. The District is an institution of learning. It is also a nonprofit, political subdivision. The District is not a “business” that has “customers” for purposes of Emergency Executive Order 20-81.

C. Face Covering. The term “face covering” means any paper or disposable mask, cloth

face mask, medical-grade mask, medical grade respirator, scarf, bandanna, neck gaiter, or religious face covering that covers the nose and mouth completely in accordance with CDC guidance. Masks with valves, mesh, openings, holes, vents, or visible gaps in the material do not qualify as face coverings.

D. Face Shield. The term “face shield” means a clear plastic barrier that covers the face, extends below the chin, and wraps around the sides of the face to the ears. A face shield may not have an exposed gap between the forehead and the shield’s headpiece.

E. Medical Authority. For purposes of this policy, the term “medical authority” means a medical doctor, clinical psychologist, physician assistant, or nurse practitioner who has seen or treated the student or employee in question.

F. Medical Condition. For purposes of this policy, the term “medical condition” means a disease, illness, injury, or physiologic, mental, or psychological disorder. A biological or psychological state that is within the range of normal human variation is not a medical condition.

G. Parent. For purpose of this policy, the term “parent” means the legal parent, legal guardian, or conservator of a child who is under the age of eighteen. A student who is eighteen years of age or older is considered to be a “parent” for purposes of this policy, unless a court has found that the student is incompetent and has appointed a conservator for the student.

H. Visitor. For purposes of this policy, the term “visitor” means any person other than a student or employee of the District. The term visitor includes, but is not limited to, parents, community members, vendors, and contractors.

III. EXEMPTIONS

A. Circumstances When a Face Covering Should Not Be Used

- 1. Children under the age of two.** A face covering should not be placed on a child under the age of two.
- 2. Incapacitated persons.** A face covering should not be placed on any person who is unconscious, incapacitated, or otherwise unable to remove the face covering without assistance.

3. **Trouble breathing.** A face covering should not be placed on any person who has trouble breathing,

B. Persons Who Are Exempt from Wearing a Face Covering

1. **Students five and under in child care.** Pre-kindergarten students who are five years of age or younger and are participating in child care programming in a District building are not required to wear a face shield or face covering. Pre-kindergarten students who are at least two years of age may wear face coverings if done in compliance with CDC guidance.
2. **Medical condition, mental health condition, or disability.** A person is not required to wear a face covering if the person has a medical condition, mental health condition, or disability that makes it unreasonable for the person to maintain a face covering. This includes a person who has a medical condition that compromises the person's ability to breath.

IV. WHEN FACE COVERINGS MAY BE TEMPORARILY REMOVED

A. Child Care and Prekindergarten.

1. **Temporary removal permitted when a face covering or a face shield is impracticable.** Nonexempt workers and children who are required to wear a face covering or shield may remove the covering or shield temporarily to engage in certain activities that make wearing a covering or shield impracticable. These activities include:
 - a. Eating;
 - b. Drinking;
 - c. Communicating with an individual who is deaf or hard of hearing;
 - d. Communicating with an individual who has a disability, medical condition, or mental health condition that makes communication with that individual difficult while wearing a face covering;
 - e. Participating in physical activities;

f. Participating in activities where the face covering would get wet;

g. Playing instruments;

h. Performing or presenting; and

i. Receiving a service, such as a nursing or medical service, which would be difficult or impossible to perform with a face covering;

2. **Single group cohort in single setting.** Nonexempt employees may temporarily remove face coverings or face shields when in an indoor classroom or care setting that is confined to one group or cohort. Employees are strongly encouraged to wear face coverings or shields in these settings to the extent possible, especially when social distancing cannot be maintained, unless wearing a covering or shield would interfere with the early childhood development process. This exception does not apply to staff who float between rooms such as those helping to cover staff break times or deliver meals. In those cases, staff must be required to wear face coverings.

B. Kindergarten Through Grade 12.

1. **Staff working alone.** Staff may temporarily remove face coverings when working alone (such that social distancing is maintained), including when alone in an office, classroom, district vehicle, cubicle with walls or barriers (including plexiglass) that are at least face level, or other enclosed work area.

2. **Temporary removal permitted when a face covering or a face shield is impracticable.** Any person who is in a school building or district office may temporarily remove a face covering or face shield in the following situations, provided that social distancing of at least six feet (or more, if specified below) is maintained, to the extent possible:

a. When engaging in indoor physical where the level of exertion makes wearing a face covering difficult or impracticable;

b. When eating or drinking;

c. When participating in practices or performances involving singing, acting, public speaking (e.g. debate or speech team events), or playing musical instruments that make wearing a face covering difficult or

impracticable, provided that twelve feet of social distancing is maintained, to the extent possible;¹

d. When asked to remove the covering for identification purposes, such as when a person enters a school building during the school day and a staff member asks the person to remove the face covering briefly for the purposes of verifying the person's identity;

e. When communicating with an individual who is deaf or hard of hearing or who has a disability, medical condition, or mental health condition that makes communication with a face covering difficult;

f. When participating in activities, such as swimming or showering, that would cause the face covering to become wet; and

g. When receiving a service – including nursing, medical, or personal care services – that cannot be performed or would be difficult to perform when the individual receiving the service is wearing a face covering.

¹ Depending on the activity, face shields should also be considered as an alternative if twelve feet of physical distance cannot be consistently maintained.

V. WHEN FACE SHIELDS ARE PERMITTED AS AN ALTERNATIVE TO FACE COVERINGS

A. Students. A nonexempt student may use a face shield as an alternative to a face covering if:

1. The student is unable to tolerate a face covering due to a developmental, behavioral, or medical condition;

2. The student is in kindergarten through eighth grade and the teacher or an administrator determines that wearing a face covering would be problematic for the student; or

3. A face covering would interfere with religious attire that is worn as part of

a sincerely held religious belief.

B. Employees. A nonexempt employee may use a face shield as an alternative to a face covering with approval from an administrator if:

1. The employee is a teacher and a face covering would impede the educational process;
2. The employee is a staff member who is providing direct student support services and a face covering would interfere with the services that are being provided;
3. The employee has a disability or medical condition that prevents the employee from wearing a face covering;
4. A face covering would interfere with religious attire that is worn as part of a sincerely held religious belief; or
5. A face covering would create a job hazard for the employee or others, if approved by an administrator based on local, state, or federal laws, requirements, or workplace safety and health standards and guidelines

C. Visitors. A visitor may use a face shield as an alternative to a face covering if:

1. The visitor states that he or she has a medical condition, mental health condition, or disability that makes it unreasonable to wear a face covering; or
2. A face covering would interfere with religious attire that is worn by the visitor as part of a sincerely held religious belief.

VI. PROCEDURES FOR DETERMINING WHETHER AN EXEMPTION APPLIES OR WHETHER AN INDIVIDUAL MAY WEAR A FACE SHIELD INSTEAD OF A FACE COVERING

A. Students. If a parent states that a student is exempt from wearing a face covering under this policy because the student has a medical condition, mental health condition, or disability that makes it unreasonable for the student to maintain a face covering, or if the parent states that a student is unable to tolerate a face covering because of a

developmental, behavioral, or medical condition, the District will require the parent to submit documentation from a medical authority stating that the student has such a condition or disability and needs to be exempted from wearing a face covering. The documentation from the medical authority must also state whether the student can wear a face shield.

1. **Exception.** The District will not require a parent to submit documentation from a medical authority if the District already has reliable information showing that the student has a medical condition, mental health condition, or disability that makes it unreasonable for the student to maintain a face covering, or if the District already has reliable information showing that the student is unable to tolerate a face covering because of a developmental, behavioral, or medical condition.

2. **Religious reasons.** The District will not require documentation if a parent or student over the age of fourteen states that a face covering would interfere with religious attire that is worn by the student as part of a sincerely held religious belief. The District may consider whether the student wore the same or similar religious attire before the COVID-19 pandemic began.

3. **Determination.** In determining whether a student is exempt from wearing a face covering, the District will consider the parent's request, any documentation the District receives from a medical authority, and all reliable information in the student's educational records. The District may also consider and give weight to the knowledge of certified staff members who have taught or worked with the student.

a. If the District determines that the student is exempt from wearing a face covering or is unable to tolerate a face covering because of a developmental, behavioral, or medical condition, the District will determine whether the student can wear a face shield.

b. If the District determines that the student is unable to wear a face covering or a face shield because of a medical condition, mental health condition, or disability, the District will consider other options for reducing the potential spread of COVID-19. Such options may include, but are not limited to, using plexiglass barriers around the student's desk, maintaining more than six feet of physical distance from the student, providing PPE for staff members who work with the student, and offering the student remote learning.

c. If the student has an IEP or Section 504 Plan, the IEP team or Section 504 team is responsible for determining the appropriate placement for the student and any accommodations or supports that may be necessary based on the student's disability. In determining the appropriate placement for the student, the IEP team or Section 504 team should consider the student's individual educational needs and all relevant information, including, but not limited to, whether the student's presence at school, without a face covering or face shield, would create a direct threat of harm to the student or others.

B. Employees. If an employee claims to be exempt from wearing a face covering under this policy, the District will require the employee to submit documentation from a medical authority stating that the employee: (1) has a medical condition, mental health condition, or disability that makes it unreasonable for the student to maintain a face covering; or (2) is unable to tolerate a face covering because of a developmental, behavioral, or medical condition.

1. **Exception.** The District will not require an employee to submit documentation from a medical authority if the District already has reliable information showing that the employee has a medical condition, mental health condition, or disability that makes it unreasonable for the employee to maintain a face covering, or if the District already has reliable information showing that the employee is unable to tolerate a face covering because of a developmental, behavioral, or medical condition.

2. **Religious reasons.** The District will not require documentation if an employee states that a face covering would interfere with religious attire that is worn by the employee as part of a sincerely held religious belief. The District may consider whether the employee wore the same or similar religious attire before the COVID-19 pandemic began.

3. **Determination.** In determining whether an employee is exempt from wearing a face covering because of a medical condition, mental health condition, or disability, the District will consider the employee's request, any documentation the District receives from a medical authority, and all reliable information the District maintains about the employee.

a. If the District determines that the employee has or may have a disability,

the District will engage in an interactive process with the employee.

b. If the District determines that the employee is unable to wear a face covering or a face shield because of a medical condition, mental health condition, or disability, the District will consider other options for reducing the potential spread of COVID-19. Such options may include, but are not limited to, using plexiglass barriers around the employee's work area, maintaining more than six feet of physical distance from others, and the availability of a remote work assignment.

c. The District is not required to create a remote work assignment, to create a light duty position, or to excuse an employee from performing the essential functions of the job.

C. Visitors. If a visitor is not wearing a face covering while in a building that is owned, leased, or operated by the District, a staff member will inform the visitor of the face covering requirement, offer a face covering, and request that the visitor put it on. If the visitor refuses and claims that he or she is entitled to an exemption from the face covering requirement, the staff member will contact an administrator to determine whether the visitor should be permitted in the building or should be required to leave. Visiting a building that is owned, leased, or operated by the District is a privilege, not a right. Based on the risk of harm that a visitor without a face covering or face shield creates when students and staff members are present for educational purposes, including the risk of a widespread outbreak that could close the schools, building administrators and other school officials may require a visitor to leave the premises if the visitor refuses to wear a face covering or face shield, or if the visitor refuses to maintain social distancing of at least six feet when students or staff are present for educational purposes. If the visitor refuses to leave, the school official, or a designee, should contact law enforcement.

D. School Board Meetings. Face coverings are generally required at school board meetings, regardless of where the meetings are held.

1. **Exception for medical condition or disability.** If a person asserts that he or she has a medical condition, mental health condition, or disability that makes it unreasonable for the person to maintain a face covering, the District will seek to accommodate the person by allowing the person to wear a face shield. If the person refuses to wear a face shield, the District may seek to accommodate the person by allowing the person to watch the meeting from a remote location. Individuals are encouraged to contact the Superintendent's office at least

twenty-four hours in advance of a school board meeting if they want the District to establish a separate remote location for the person to view the meeting.

2. **Temporary removal when speaking.** If a person has been recognized by the School Board Chair at a school board meeting (meaning the Chair has authorized the person to speak at the meeting), the person may temporarily remove a face covering while speaking to the Board at the meeting, provided that at least twelve feet of social distancing is maintained, to the extent possible.

VII. POSTING, TRAINING, SUPPORT, AND ACCESS

A. Posting. The requirement to wear a face covering will be conspicuously posted in the entryway of each building that is owned, leased, or operated by the District. Additionally, this policy will be posted in each building and posted on the District's website.

B. Training. The District will provide training to staff and students on the requirements of this policy. The training will address the proper use of face coverings in District buildings and vehicles, and will reinforce the importance of using face coverings, face shields, and social distancing to prevent the spread of COVID-19. The training will also seek to facilitate understanding in the school community about the exemptions and exceptions stated in this policy, including the legitimate reasons why some staff members and some students cannot wear face coverings. Additionally, the training will seek to combat any stigma associated with wearing or not wearing face coverings and will emphasize to students and staff that bullying or harassment related to the wearing of a face covering is prohibited and may result in discipline up to and including suspension, expulsion, or discharge.

C. Support. School staff members will provide support and guidance to a student who cannot wear a face covering because of a medical condition, mental health condition, or disability that makes it unreasonable for the student to maintain a face covering, and to a student who cannot wear a face covering because the student qualifies to wear a face shield instead of a face covering (i.e. the student is unable to tolerate a face covering due to a developmental, behavioral, or medical condition; a face covering would be problematic; or a face covering would interfere with religious attire that is worn as part of a sincerely held religious belief).

D. Access to Face Coverings. The District will make at least one face covering available to each student and to each employee of the District. Students and employees may choose to wear their own face coverings as long as they meet the definition of a "face covering" under this Policy and they cover the mouth and nose completely. To the extent

practicable, the District will maintain an extra supply of face coverings for students and employees who forget to bring them.

VIII. COMPLIANCE

A. Compliance with Other Policies.

1. Compliance with dress code. All face coverings must comply with the District's dress code requirements for clothing. Face coverings may not promote or contain images of items that are illegal for minors or items that minors are prohibited from possessing on school property. Additionally, face coverings must not contain images or messages that are: (1) vulgar; (2) obscene; (3) threatening; (4) incite violence; or (5) reasonably likely to create a material and substantial disruption at school. The District's dress code policy may not be interpreted to prohibit the wearing of any face covering or shield required under this policy. To the extent that any conflict exists between the two policies, this policy controls.

2. No bullying or harassment. No student, employee, or visitor may wear a face covering that violates any District policy, including, but not limited to, the District's policy prohibiting bullying and the District's policies prohibiting harassment and other forms of discrimination based on protected class status. Additionally, no student, employee, or visitor may bully, unlawfully harass, or unlawfully discriminate against any student or employee because the student or employee is wearing a face covering or a face shield, or is exempt from wearing a face covering or a face shield.

B. Discipline of Students. This policy contains reasonable school board regulations. Any student who willfully violates this policy is subject to discipline. The District will administer such discipline in accordance with the Minnesota Pupil Fair Dismissal Act.

1. Exempt students. School administrators may not dismiss an exempt student who does not wear a face covering.

2. Nonexempt students. School administrators may dismiss nonexempt students who refuse to wear a face covering, but suspension is strongly discouraged as a first step. School administrators are encouraged to take the following steps in addressing a student's refusal to wear a face covering:

a. Offer the student a face covering and give the student an opportunity to explain why he or she is refusing to wear a face covering. In accordance

with Section VI of this policy, determine whether an exemption applies or whether the student may wear a face shield instead of a face covering.

b. If the school administrator determines that the student is not exempt and that no other exception applies, the school administrator should direct the student to wear the face covering and inform the student that failure to comply with the directive will be considered to be insubordination, which is a ground for dismissal. If the student persists in refusing to wear a face covering, the school administrator may send the student home for the remainder of the school day and direct the student to wear a face covering upon returning to school, including entry on any District vehicles.

c. If the student returns to school the following day and persists in refusing to wear a mask, the school administrator may suspend the student for one school day by following the procedures stated in the Pupil Fair Dismissal Act. The school administrator should warn the student that another violation will result in a three-day suspension. The school administrator, or a designee, should also contact the student's parent to discuss the matter and give the parent the option of having the student receive remote instruction.

d. If the student returns to school after the suspension and persists in refusing to wear a mask, the school administrator may suspend the student for three school days by following the procedures stated in the Pupil Fair Dismissal Act. The school administrator should warn the student that another violation will result in a suspension of at least ten school days along with the initiation of expulsion proceedings. The school administrator, or a designee, should also contact the student's parent to discuss the matter and give the parent the option of having the student receive remote instruction.

e. If the student returns to school after the suspension and persists in refusing to wear a mask, the school administrator may suspend the student for ten school days, which may be extended to fifteen days for a regular education student, while initiating expulsion proceedings. The school administrator, or a designee, should also contact the student's parent to discuss the matter and give the parent the option of having the student receive online or remote instruction in lieu of attending school and as an alternative educational service beginning on the sixth day of suspension.

(Note: Special education students are entitled to receive a free appropriate public education beginning on the tenth cumulative day of suspension.)

f. If the student is expelled, the District may offer remote learning as an alternative educational service during the period of expulsion.

C. Discipline of Employees

1. **Exempt employees.** School administrators may not discipline an exempt employee who does not wear a face covering.

2. **Nonexempt employees.** School administrators may discipline nonexempt employees who refuse to wear a face covering. Employees must understand the importance of complying with District policies because employees serve as a role model for students. School administrators are encouraged to take the following steps in addressing an employee's refusal to wear a face covering:

a. Offer the employee a face covering and give the employee an opportunity to explain why he or she is refusing to wear a face covering. In accordance with Section VI of this policy, determine whether an exemption applies or whether the employee may wear a face shield instead of a face covering.

b. If the school administrator determines that the employee is not exempt and that no other exception applies, the school administrator should direct the employee to wear a face covering and inform the employee that failure to comply with the directive will be deemed to be insubordination, which is a ground for discipline up to and including immediate discharge. If the employee persists in refusing to wear a face covering, the school administrator may suspend the employee without pay for one duty day and direct the employee, in writing, to wear a face covering upon returning to work for the District. In issuing the suspension, the school administrator must comply with any applicable requirements set forth in the employee's employment contract or labor agreement.

c. If the employee returns to work following the suspension and persists in refusing to wear a mask, the school administrator should consult with the superintendent about taking further disciplinary action up to and potentially including immediate discharge.

D. Referral to Law Enforcement. A building administrator or other school official may report to law enforcement any employee or visitor who repeatedly violates this policy. An employee or visitor who willfully violates Executive Order 20-81 or 20-82 is guilty of a petty misdemeanor.

Legal

References:

Emergency Executive Order 20-81

Emergency Executive Order 20-82

Minn. Stat. § 12.45 (Governor's Orders and Rules, Effect)

Minn. Stat. § 12.45 (Violations; Penalties)

Cross References:

Other References

MDE Safe Learning Plan for 2020-2021 MDE 2020-2021 Planning Guidance for Minnesota Public Districts MDH Guidance for Delivering Direct Student Support Services: Staff Protective Equipment MDH Frequently Asked Questions About the Requirement to Wear Face Coverings, MDH 2020-2021 Planning Guide for Districts MDH Best Practices for Masks: Considerations for People with Disabilities and Special Health Needs