



MARICOPA
COMMUNITY COLLEGES

Office of the
General Counsel

TO: MCCCCD Supervisors
FROM: The Office of General Counsel
DATE: August 12, 2021
RE: Updated guidance responding to employees or visitors who refuse to wear face coverings

The guidelines below update the Office of General Counsel's previous guidance dated June 22, 2020 for supervisors regarding how to manage issues arising from the District's face covering requirements in response to the COVID-19 pandemic. For questions or assistance, feel free to email David Bowman at david.bowman@domail.maricopa.edu.

Guidance related to Employees

- District policy requires that face coverings be worn by all staff, faculty, students, police, and guests (including contractors) *when inside all Maricopa buildings*. Face coverings are no longer required when an individual is outside on District grounds. These policies protect the health and safety of the students, faculty and staff in our college/District community during the COVID-19 pandemic. Research shows that wearing face coverings indoors reduces the risk of spreading the disease. Since a person infected with COVID-19 may not exhibit symptoms for several days, he or she may unknowingly spread the virus when interacting with others. In addition, fully vaccinated individuals may be capable of spreading the virus while exhibiting few or no symptoms themselves. MCCCCD's current policy does not mandate vaccination, and because of this, no employee (or other campus or District guests) shall be asked whether they have received the COVID-19 vaccine.
- The District will continue to maintain an adequate supply of free face coverings for employees, students, and visitors.
- This face covering/mask requirement does not violate the Governor's Executive Order (2021-15) or Arizona Revised Statute 15.1650.05 (effective September 29, 2021) because both specifically prohibit colleges and universities from imposing a mask or vaccine mandate (or any other different treatment) for those who choose not to be vaccinated or

choose not to disclose their vaccination status. This current face covering/mask requirement applies to all employees and students regardless of vaccination status.

- Some employees may indicate a need to be excused from wearing a face covering for religious or health-related reasons, or because of existing disabilities that would be aggravated by a COVID-19 diagnosis. Such requests for accommodation will be evaluated on a case-by-case basis, depending on the facts of each specific circumstance. The goal of the evaluation process is to protect the safety and health not only of the employee requesting an accommodation, but also other employees, faculty, and students. All available options will be considered in each case, including providing adequate physical distance in the workplace, erecting plexi-glass barriers, and/or telecommuting.
- Human Resources Directors are prepared to handle employee accommodation requests to not wear a face covering for health-related reasons or because of existing disabilities. During the required interactive process, the employee may be removed from the workplace with no employment penalty, either through telework arrangement or paid administrative leave. An employee who indicates they need an accommodation to not wear a face covering should not be asked by their supervisor to provide any additional information about the basis for the accommodation, but should be referred to Human Resources.
- Supervisors should handle employee requests to not wear a face covering for religious reasons pursuant to the District's [Religious Accommodation Procedure](#). Requests for a religious accommodations should be made using this [form](#).
- An employee seeking an accommodation from wearing a face covering for health-related reasons or because of existing disabilities will need to provide documentation to support the employee's claim that they cannot wear a face covering and indicate whether there is any accommodation that would enable them to wear one (for example, a different type of face covering, the ability to frequently change the face covering, etc.).
- District staff and faculty may ask an individual who is not wearing a face-covering if they have been granted permission from either Human Resources (for employees) or DRS (for students) or the campus COVID-19 representative (for visitors) that excuses them from the requirement of wearing face-covering while in the presence of others in a Maricopa building. Those who have not received such permission should be directed to engage in the established process, depending on whether they are staff, a student or visitor, and asked to leave until such time as they have been granted such permission. At no time may a person be asked to reveal the specific health conditions, existing disabilities or religious reasons that justify their granted accommodation. HR Directors, DRS managers, or campus COVID-19 leads may be asked to verify that a person not wearing a face covering has an accommodation that excuses use of a face covering. Such persons should not indicate the basis for the accommodation.
- Employees who refuse to wear a face covering when required in the work place and who have no accommodation in place due to health-related reasons, religious reasons or an existing disability, will be asked to leave the workplace. If an employee who is not wearing a face covering refuses to leave the workplace, a supervisor should be called to help address the situation. If the employee refuses the supervisor's request to leave, the supervisor should call the campus COVID-19 lead.

- If all of the above efforts to ensure an employee wears a face covering have been unsuccessful, and the employee refuses to leave the workplace, Public Safety may be called.
- Employees who refuse to wear a face covering may be subject to disciplinary action pursuant to the Staff Policy Manual or the Faculty Agreement, as applicable.

Guidance related to Visitors

- If a visitor refuses to wear a face covering while in a college or District building, remind them that Maricopa County Regulations and District policy require all individuals to wear a face covering in these circumstances. These policies protect the health and safety of the students, faculty and staff in our college/District community during the COVID-19 pandemic. Research shows that wearing face coverings indoors reduces the risk of spreading the disease. Since a person infected with COVID-19 may not exhibit symptoms for several days, he or she may unknowingly spread the virus when interacting with others.
- Some visitors may indicate a need to be excused from wearing a face covering for religious or health-related reasons or because of an existing disability. Such visitors may be referred to a supervisor or other employee with the authority to determine how to best meet the visitor's needs while maintaining a safe environment for other Maricopa employees, students, and visitors. It may be necessary to conduct such conversations outside, at an appropriate distance, or over the phone.
- If a visitor refuses to comply with a request to leave a District building, the campus COVID-19 lead should be called. If the visitor refuses the campus COVID-19 lead's direction to leave the property, Public Safety may be called.