



State of New Jersey

DEPARTMENT OF CHILDREN AND FAMILIES

PHIL MURPHY
Governor

SHEILA OLIVER
Lt. Governor

CHRISTINE NORBUT BEYER, MSW
Commissioner

September 23, 2021

Dear Child Care Providers,

On Monday, Governor Murphy announced his issuance of Executive Order #264, which instituted vaccination or testing requirements for all child care center personnel, and a more robust masking requirement applicable to all children age two and over. A copy of that Executive Order is attached here for your reference. Since the issuance of that order, DCF has received numerous questions on the new requirements, and requests for clarification on their implementation. Though further guidance on several aspects of the order will be forthcoming at a later date, this memorandum is intended to provide clarification and guidance on several matters of more immediate concern.

1. The Mask Mandate

Though the mask mandate included in that order is based on recommendations from the Centers for Disease Control (CDC) and identical to mandates already imposed by New York, Pennsylvania and other states, DCF has heard from many of you that this requirement—particularly its applicability to children age two and up—is of concern. Lots of little kids, you’ve told us, simply don’t like wearing masks, and the prospect of requiring them to do so is causing a lot of stress for both you and the families you serve.

As has been our guidance to licensed centers since the outset of the pandemic, the expectation from the Office of Licensing remains the same: do your best.

Some young children will resist wearing a mask. It is not expected that you or your staff forcibly replace it, impose harsh discipline, or in any way exceed the limits of age-appropriate behavioral management. Enforcement here should mirror the approach you would hypothetically take with a child who refused to wear pants, or a toddler who refused to wear a diaper.

What the Office of Licensing will cite during inspections and potentially take enforcement action over is willful non-compliance or a lack of a bona fide effort to comply. Such a determination will be made based on the totality of circumstances at the center, however, indicators of non-compliance with this mandate may include:

1. All or most of the children in care being unmasked, rather than an isolated few;
2. A broad lack of masks on children old enough to understand and follow verbal instructions;
3. Not having masks for every child, or not having the mask in close proximity to each child;
4. Communications to parents which convey tolerance for mask refusal;
5. Chronic or repeated issues with a lack of masks, particularly over the course of multiple inspections;
6. Continued enrollment of children if parents refuse to permit or actively discourage masking during care;
7. Explicit refusal to enforce the mandate.

Please note, also, that the Executive Order does spell out circumstances when masks can be removed, including for eating, sleeping, exercising, or otherwise engaging in activities that preclude mask usage. Masks are not required when children are outdoors. Also, note that the mask requirement may be waived for children with medical conditions or disabilities that preclude their usage, provided that the need for the waiver is supported by a note from a medical or treatment provider.

2. Grouping Requirements

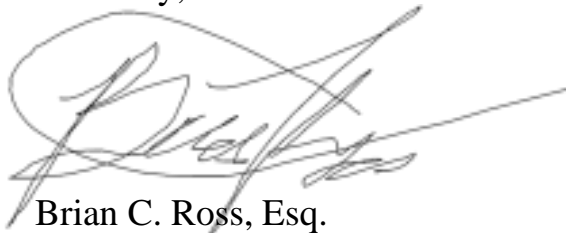
With this order, Governor Murphy has closely aligned the safety precautions applicable to child care centers with those already applicable to schools. In doing so, this order also renders some of the prior safety precautions directed by DCF unnecessary. To that end, and by this memorandum, DCF is rescinding the “Grouping of Children” restrictions contained in the “Updated Covid-19 Standards for Child Care Centers” issued on May 26, 2021.

3. Staff Vaccine or Testing Requirement

Further details on the vaccine mandate, including information on reporting of testing results, is being developed with the New Jersey Department of Health and will be forthcoming at a later date. For now, though, be advised that those who have not been vaccinated should act quickly to obtain the first dose of either of the two-dose vaccines if they wish to avoid the testing requirement. A second dose of those vaccines, or the single dose of the Johnson & Johnson vaccine, must be received prior to October 18 to avoid the need for testing starting on November 1.

We expect that you may have additional questions on this and related matters. As always, those are best directed to the Office of Licensing at DCF.ChildCareLicensing@dcf.nj.gov.

Sincerely,



Brian C. Ross, Esq.
Assistant Commissioner
Policy, Oversight, and Regulatory Affairs