

## Building an Employer Response that Protects Survivors, Employees and Domestic Violence Organizations

As Ohio re-opens, employers who are DV organizations can take steps to increase safety for the families we serve, our employees, and our organizations. This short document outlines resources about what is required and other possible risks to programs.

- 1) **GOAL: Reduce Risk of Covid Spread** - The Ohio Department of Health has published a poster that succinctly outlines precautions we employers must be taking (distancing, sanitizing, sending sick people home, etc.) Most can easily be accomplished but one requirement for PPE may be difficult.

- a. **MASKS FOR EMPLOYEES** - Note that as an employer, you must ***require that masks be worn by all employees.*** More guidance about your responsibilities are at:

<https://businesshelp.ohio.gov/pdf/Responsible-Protocols-Bulletin-04302020.pdf> and

[https://coronavirus.ohio.gov/wps/wcm/connect/gov/5dcfbc66-90bf-44d8-82df-855fdaf1e9e3/COVID-19+Checklist+for+Businesses+and+Employers+05.01.2020.pdf?MOD=AJPERES&CONVERT\\_TO=url&CACHEID=ROOTWORKSPACE.Z18\\_M1HGK0N0JO00QO9DDDDM3000-5dcfbc66-90bf-44d8-82df-855fdaf1e9e3-n88vybU](https://coronavirus.ohio.gov/wps/wcm/connect/gov/5dcfbc66-90bf-44d8-82df-855fdaf1e9e3/COVID-19+Checklist+for+Businesses+and+Employers+05.01.2020.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_M1HGK0N0JO00QO9DDDDM3000-5dcfbc66-90bf-44d8-82df-855fdaf1e9e3-n88vybU)

- b. **MASKS FOR SURVIVOR CLIENTS** - In addition, ODVN is sharing a policy that programs can adopt if they so choose to add another layer of protection, ***by requiring survivors/consumers to wear protective PPE*** (as some businesses are doing as they open). The following policy has been vetted by ODVN's counsel; you should have your own legal counsel advise you about if and how you want to adopt this:

\_\_\_\_\_ (name of agency) is committing to assisting all survivors of domestic violence in our community. For the safety of our staff, their families, and the other families we serve, our staff wears masks during the delivery of in-person services and can offer remote assistance via phone or internet. We provide masks to families we serve and require that masks are worn during in-person services. If you have difficulty wearing a mask due to trauma or other issues, please inform your advocate and we will work with you on those issues. We can also provide services to you remotely. For everyone's safety at this time, our staff, their families and the other families we serve, we cannot provide in person services to clients not wearing masks but will assist you by phone or internet.

- 2) **GOAL: Reduce Risk of Negative Impacts on Operations**- There are several possible risks to operations from Covid. These may include:

- a. **Employee litigation in the context of unsafe workplace or wrongful terminations** – Recent articles documenting trends in litigation include:

- i. *Coronavirus Lawsuits on the Horizon: Termination and Discrimination* (Tuesday, May 12, 2020) - <https://www.natlawreview.com/article/coronavirus-lawsuits-horizon-termination-and-discrimination>

- ii. *The Coming Tsunami of Employment-Related COVID-19 Litigation* (April 21, 2020) - <https://www.law.com/newyorklawjournal/2020/04/21/the-coming-tsunami-of-employment-related-covid-19-litigation/?slreturn=20200418095219>
- iii. *As Businesses Reopen, A Fight Is Brewing Over Worker Safety Lawsuits* (May 6, 2020, National Public Radio) - <https://www.npr.org/sections/coronavirus-live-updates/2020/05/06/851262646/as-businesses-reopen-a-fight-is-brewing-over-worker-safety-lawsuits>

**b. Employee turnover if employees feel unsafe returning to normal operations**

c. **Client litigation in context of unsafe shelter settings** – claims could be made by clients or their abusers if our programs are not following the State order and potentially exposing clients and their children to Covid.

d. **Survivor litigation for mask requirements**- this could come in the form of an ADA claim although our legal counsel vetted the policy above and did not have concerns. If you adopt the policy, check with your own legal counsel, too.

e. **Calls to the Health Department for violations of the ODH Requirements** – these could come from employees, clients, or even abusers who learn their children are in a shelter where staff are not following the state’s orders for PPE, sanitizing, etc. Calls to ODH about possible violations are anonymous and could result in the health department shutting a business down.

**3) SUPPORT FOR PROGRAMS**

a. **There is some protection in due diligence** - Document all of your efforts to comply with the state requirements. However, if we are not following the state requirements, even if you feel you have a good reason, the risk increases that someone will be successful in any complaint filed.

**b. Current possible resources for PPE Masks for employees and clients:**

- i. Local Emergency Management Agency
- ii. Local United Way
- iii. HUD Continuum of Care – initial supplies are exhausted, they may obtain more in coming weeks
- iv. NNEDV - will be mailing a *small* amount of PPE to programs in coming weeks.

c. **See updated Covid related resources on ODVN’s website and call on us for help:** <https://www.odvn.org/covid-19/covid-19-resources/>