STATE OF INDIANA

EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER 21-09

FOR: **MODIFICATION OF COUNTY-BASED MEASURES AND RESTRICTIONS BASED ON THE IMPACT AND SPREAD OF THE CORONAVIRUS DISEASE (COVID-19)**

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS:

WHEREAS, on March 6, 2020, I issued Executive Order 20-02 which declared a public health emergency exists throughout the State of Indiana as result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and a confirmed report of the disease in our State and this initial declaration has been extended by me in subsequent Executive Orders (Executive Orders 20-17, -25, -30, -34, -38, -41, -44, -47, -49, -52, 21-03, -05 & -08);

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 to be a global pandemic and, on March 13, 2020, the President of the United States declared a national emergency with respect to this dangerous virus;

WHEREAS, as of the date of this Executive Order, the virus has now spread to every county in our State, with over 686,000 confirmed cases and over 12,600 deaths;

WHEREAS, as Governor, under Indiana's Emergency Management and Disaster Law, Ind. Code ch. 10-14-3 ("Emergency Disaster Law"), I have authority to take actions necessary to prepare for, respond to and address a public health disaster emergency including the following:

- making, amending and rescinding the necessary orders, rules and regulations to carry out the response to a public health disaster emergency;
- suspending the provisions of any regulatory statute prescribing the procedures for conduct of state business, including the orders, rules or regulations of any state agency if strict compliance with any of these provisions would in any way prevent, hinder, or delay necessary action in coping with the emergency;
- transferring the direction, personnel, or functions of state departments and agencies or units for performing or facilitating emergency services; and
- using any and all available resources of state government and of each political subdivision of our State as reasonably necessary to cope with the public health disaster emergency;

WHEREAS, in addition to the authority granted to me by the Indiana General Assembly, the Indiana State Department of Health (ISDH) has been granted authority under Title 16 of the Indiana Code to take measures in connection with prevention and suppression of disease and epidemics;

WHEREAS, the Indiana Occupational Safety and Health Agency (IOSHA) has authority under Title 22 of the Indiana Code to inspect and take steps to ensure businesses are operating a workplace free from recognized hazards that are causing or likely to cause death or serious physical harm to employees;

WHEREAS, to reduce and slow the spread of COVID-19, the Centers for Disease Control and Prevention (CDC) and the ISDH recommended implementation of mitigation strategies to contain this virus including engaging in social distancing, wearing face coverings in public settings and when around individuals who do not live in the same household, increased handwashing and isolating when symptomatic;

WHEREAS, in order to take all necessary steps to increase containment of this virus, I have issued various Executive Orders directing Hoosiers to stay-at-home order, closing of state government buildings and restricting retail establishments and in-person dining at restaurants, among other things;

WHEREAS, by consulting with experts and utilizing a data-driven approach to make decisions based on facts, science, and recommendations from experts in health care, business, labor, and education, we began to reopen our Hoosier economy while prioritizing Hoosiers' health in the process;

WHEREAS, to continue mitigation of COVID-19 and to lower the risk of a resurgence, a measured and staggered approach to reopening businesses and entities was instituted. Five stages were outlined with each ensuing stage being subject to fewer restrictions and limitations than the previous stage. These stages were initiated on March 23, 2020, and continued through November 14, 2020, at which time the stage system was rescinded;

WHEREAS, by Executive Order 20-43, I directed the Commissioner of the ISDH to conduct county-based assessments to better understand the impact of COVID-19 throughout the Hoosier state and to allow state and local officials to make targeted adjustments to address the spread of COVID-19 within a particular county and by Executive Order 20-48, effective November 15, 2020, the State of Indiana transitioned to county-based measures and restrictions based on the impact and spread of COVID-19 in each county;

WHEREAS, on a weekly basis, the ISDH reviews each county's number of cases per 100,000 individuals and the county's seven-day positivity rate for the prior week and from that data assigns a numerical score which translates to one of four colors (blue, yellow, orange or red);

WHEREAS, our county-based response and mitigation efforts are working: two months ago, five (5) counties were in red, eight (8) in yellow and the remainder in orange and currently, forty-eight (48) counties are in blue, forty-two (42) are in yellow, two (2) are orange, and none in red;

WHEREAS, our vaccination program is one of the best in the nation with over 1.1 million Hoosiers vaccinated, including nearly 70% of Hoosiers age 65 and above, and today, all Hoosiers age sixteen (16) and above will be eligible to be vaccinated;

WHEREAS, although improvements have occurred, the spread and consequences of this disease in the Hoosier state remain as demonstrated by a 7-day average positivity rate of over 3%; new confirmed cases daily; continued hospitalizations; and tragically, continued deaths from COVID-19;

WHEREAS, the data has shown us that the spread of COVID-19 in the Hoosier state and in other areas can be significantly reduced where there is adherence to mitigation efforts; and

WHEREAS, based on all of the above, mitigation efforts must continue and the State of Indiana will continue using county-based assessments to monitor and advise whether measures and restrictions are needed to counter the spread or impact of COVID-19 within a particular county.

NOW, THEREFORE, I, Eric J. Holcomb, by virtue of the authority vested in me as Governor by the Indiana Constitution and the laws of the State of Indiana, do hereby order:

1. **Continuation of Executive Order 21-06 through April 5, 2021**

   Effective 11:59 p.m. on March 31, 2021, Executive Order 21-06 is further extended and shall remain in full force and effect until 11:59 p.m. on Monday, April 5, 2021 at which time it shall be rescinded. All Indiana counties will continue to adhere to the directives of Executive Order 21-06 through 11:59 p.m. on April 5, 2021.

   On April 6, 2021, at 12:01 a.m. and continuing through 11:59 p.m. on April 30, 2021, all Hoosiers, Hoosier businesses, and other individuals in the state must adhere to the directives in this Executive Order set forth below unless rescinded, modified, or extended by me.

2. **Other Executive Orders**

The continuation of Executive Order 21-06 and the directives in this Executive Order shall be read in conjunction with other Executive Orders responding to the COVID-19 pandemic which are still in effect. This Executive Order supersedes any contrary provisions of previous orders.

3. **County-Based Assessments by the Indiana State Department of Health**

a. ***County by County Assessment:***

The State has implemented a color-coded system to inform Hoosiers about the status of COVID-19 in each county and across Indiana. The ISDH will continue to update each county's status under the color-coded system at least weekly.

b. ***Color-coded Score or Zone:***

The four (4) levels of the monitoring system are as follows:

i) *Blue Zone:* Community spread is low and a county has a point score of 0.5 or below;

ii) *Yellow Zone:* Community spread is moderate and a county has a point score of 1.0 or 1.5;

iii) *Orange Zone:* Community spread is approaching high levels and a county has a point score of 2.0 or 2.5; and

iv) *Red Zone:* Community spread is high and a county has a point score of 3.0 or higher.

c. ***Assessment by the State Health Commissioner:***

i) *County Specific Weekly Assessment:* I direct the Commissioner of the ISDH to:

1) continue to conduct on a weekly basis, a four level, color-coded health assessment for each county within the state based on data indicating an increase or decrease of COVID-related activity;

2) continue communicating with local health and other officials when assessing and assigning the appropriate level to each county;

3) continue providing guidance to local officials and consulting with them regarding issuance of additional measures to mitigate against COVID-19; and

4) in making the weekly assessment (and assigning points), continue considering the following:

a) seven (7) day positivity rate for all tests (percentage of positive test results over the number of tests performed);

b) new weekly cases per 100,000 residents;

c) whether a county's positivity rate has increased or decreased from the previous week; and

d) whether any increase in the percentage of positive cases is isolated to congregate living settings or is from the community at large.

ii) *Statewide:* I direct the Commissioner of the ISDH to continue monitoring the following factors and report any significant regional or statewide changes in:

1) the number of hospitalized COVID-19 patients;

2) the capacity for critical care beds and ventilators;

3) the ability to test for COVID-19; and

4) the capacity for contact tracing.

4. **General Requirements for All Hoosiers and Individuals within the Hoosier State**

All Hoosiers and all individuals in the State of Indiana must adhere to the following:

a. ***Exercise Caution at all Times:***

All Hoosiers and each and every person within the Hoosier state should adhere to CDC guidance and the measures outlined in this directive to take responsibility for their safety and the health and safety of those around them. This includes following CDC guidelines for individuals who have been fully vaccinated.

b. ***Self-Quarantine When Warranted:***

All Hoosiers are strongly encouraged to obtain a COVID-19 test and self-quarantine if they or a household member becomes symptomatic or have been in close contact with a person who has tested positive for COVID-19. All Hoosiers who have received a positive COVID-19 test shall self-quarantine and are strongly encouraged to cooperate with contact tracers.

Quarantine guidelines for K-12 educational institutions are outlined in paragraph 8.e. below.

c. ***High Risk and Vulnerable Individuals:***

Individuals at high risk of severe illness from COVID-19, including those 65 and above and those who are sick or have underlying medical issues, are urged to remain vigilant about protecting themselves from exposure to COVID-19.

Hoosiers who will be in contact with individuals 65 and older and those with known high-risk medical conditions should suspend in-person visits if symptomatic or if they have received a positive COVID-19 test. When in contact with individuals 65 and older and those with known high-risk medical conditions it is also recommended that CDC guidelines be followed and a face covering be worn at all times, whether inside or outside, and regardless of whether six (6) or more feet of distance can be achieved.

d. ***Social Distancing & Increased Sanitation:***

Every individual within the State of Indiana should engage in social distancing with all other individuals, unless they are all members of a single household. The phrase "social distancing" means maintaining at least six (6) feet of distance from other individuals or, in the event six (6) feet of distance is not possible, use of a barrier to separate individuals or members of a single household from others.

Increased sanitation is also strongly recommended and includes washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands.

e. ***Face Coverings:***

Every individual within the State of Indiana shall wear a face covering over the nose and mouth when:

i) inside all state government buildings, offices and facilities, including but not limited to the Indiana Government Center, Indianapolis office locations and other offices or facilities throughout the state;

ii) outside on state property where six (6) feet of social distancing cannot be achieved and maintained with individuals who are not in your household;

iii) at a COVID testing or vaccination site;

iv) at a K-12 educational facility as more specifically provided for in ¶ 8 below;

unless an exemption outlined in ¶ 4.f. below applies.

In all other public locations, all individuals within the State of Indiana are encouraged to wear a face covering over the nose and mouth and where six (6) feet of social distancing

cannot be achieved and maintained between individuals not in the same household as wearing a face covering helps prevent an infected person from spreading the disease and similarly helps prevent a healthy person from becoming infected when in close contact with a person with COVID-19.

f. ***Exemptions to Wearing Face Coverings:***

The following individuals are exempt from this directive to wear a face covering but are strongly encouraged to do so if practicable and without undue risk, or alternatively, are strongly encouraged to wear a face shield:

i) children under two (2) years of age should not wear a face covering because of the risk of suffocation;

ii) children who are over the age of two (2) years and under the age of eight (8) years unless otherwise required by a directive in this Executive Order;

iii) any person with a medical condition, mental health condition or disability which prevents wearing a face covering;

iv) any person who is deaf or hard of hearing, or communicating with a person who is deaf or hard of hearing, where the ability to see the mouth is essential for communication;

v) any person for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines;

vi) any person while consuming food or drink, or while seated at a restaurant or other establishment to eat or drink;

vii) any person while exercising or engaging in sports activity and who can maintain six (6) feet of social distancing from other individuals not in the same household;

viii) any person who is in a swimming pool, lake, or similar body of water and who can maintain six (6) feet of social distancing from another person not in the same household;

ix) any person while driving alone or with passengers who are part of the same household as the driver;

x) any person obtaining a service which requires temporary removal of the face covering for security surveillance, screening, or a need for specific access to the face, such as while visiting a bank or while obtaining a health-related or personal care service involving the face, however the removal of the face covering must be temporary and limited only to the extent necessary to obtain the service;

xi) any person, upon request, as part of a law enforcement investigatory stop or investigation or court-related proceeding;

xii) any person who is incarcerated;

xiii) any person who is experiencing homelessness;

xiv) any person while giving a speech for a broadcast or to an audience if the person can maintain six (6) feet of social distancing from another person not in the same household; or

xv) any person attending or engaged in a religious service.

g. ***Definitions:***

i) *Face Coverings:* A "face covering" means a cloth, preferably with two layers of material, which covers the nose and mouth and is secured to the head with ties, straps, or loops over the ears or is simply wrapped around the lower face.

ii) *Face Shields:* A "face shield" is a mask, typically made of clear plastic, which covers the nose and mouth.

5. **General Requirements for All Hoosier Businesses and Entities in Indiana**

For purposes of this Executive Order, all businesses and entities situated or operating in the State of Indiana are covered by directives in this Executive Order and include any for-profit, non-profit or educational entity, regardless of the nature of the service, the function it performs, or its corporate or entity structure.

Hoosier businesses and entities include retail, restaurants, professional services, personal services, cultural and entertainment, public amusement, gyms, exercise and fitness centers, sports and athletic activities, outdoor activities, child care, day camps, adult care, education, health care providers and operations, financial and insurance, social services, charitable and religious, laundry, hotels and motels, manufacturing and production, trades, shipping and delivery, transportation, industrial, labor, infrastructure, media, and governmental.

All Hoosier businesses and entities are allowed to be open and operate subject to adhering to the following general requirements:

a. ***COVID-Response Plans:***

All businesses and entities continuing operations or resuming full operations are required to develop a plan to implement measures and institute safeguards to ensure a safe environment for their employees, customers, clients, and members.

The business plan must be provided to each employee or staff and posted publicly.

Businesses must have a plan that addresses, at a minimum, the following points:

i) instituting an employee health screening process;

ii) employing enhanced cleaning and disinfecting protocols for the workplace, including regularly cleaning high-touch surfaces;

iii) enhancing the ability of employees, customers and clients to wash hands or take other personal hygiene measures such as use of hand sanitizer; and

iv) encouraging compliance with social distancing requirements established by the CDC, including maintaining six-foot social distancing for both employees and members of the general public when possible and/or employing other separation measures such as wearing face coverings or using barriers when social distancing is not possible.

All open businesses and entities must re-evaluate any existing plan and update it to reflect current business practices and safeguards.

All businesses must implement the measures outlined in their plan.

b. ***Compliance with IOSHA Standards:***

All employers, whether manufacturers, distributors, professional offices, retailers or others, must comply with safety and health standards established and enforced by IOSHA. Employers are subject to specific standards to prevent the exposure or spread of a disease. Additionally, the General Duty Clause requires employers to provide their employees with a workplace free from recognized hazards likely to cause death or serious physical harm.

c. ***Guidance for all Businesses/Employers:***

All businesses and employers are encouraged to adopt and/or take the following actions:

i) ensure sick leave policies are up to date, flexible, and non-punitive in order to allow sick employees to stay home to care for themselves, children or other family members. Consider encouraging employees to do a self-assessment each day in order to check if they have any COVID-19 type symptoms (fever, cough or shortness of breath);

ii) actively encourage sick employees to stay home until they are free of fever and symptoms for the requisite time periods recommended by the CDC as set forth here: https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/quarantine.html. Suspend any policies and do not require a healthcare provider's note to validate the illness or return to work of employees who are sick with acute respiratory illness;

iii) promptly separate employees who appear to have acute respiratory illness symptoms from other employees and send them home immediately. Restrict their access to the business until they have recovered;

iv) reinforce key messages to all employees regularly (including stay home when sick, use cough and sneeze etiquette, and practice hand hygiene), and place posters in areas where they are most likely to be seen. Provide protection supplies such as soap and water, hand sanitizer, tissues, and no-touch disposal receptacles for use by employees;

v) frequently perform enhanced environmental cleaning of commonly touched surfaces, such as workstations, countertops, railings, door handles, and doorknobs. Use the cleaning agents that are usually used in these areas and follow the directions on the label. Provide disposable wipes so commonly used surfaces can be wiped down by employees before each use;

6. **Restaurants, Bars, Taverns, Nightclubs and Other Establishments Providing In-Person Food and Drink Service**

Restaurants, bars, taverns, nightclubs and other establishments providing in-person food and/or drink service are encouraged to continue to arrange and maintain seating so that individuals, households, or parties are spaced at least six (6) feet apart from any other individual, household or party and to have patrons remain seated while consuming food and/or drink or when otherwise remaining on the premises.

7. **Gatherings or Events**

Local health departments, based on the overall spread of COVID-19 within their community or based the color-coded metric for the county, may impose measures and restrictions on gatherings and events, including limiting the size of a social gathering or event by overall attendance (attendees, staff and others) or at a percentage of a facility's capacity.

8. **General Requirements for K-12 Educational Institutions**

a. ***Buildings, Facilities and Grounds:***

Throughout the public health emergency, unless rescinded or modified by me, all public and private K-12 educational institutions shall require all students in grades 3-12 regardless of age, all faculty, all staff, all vendors, all contractors, all volunteers, and all visitors to their educational institutions to wear a face covering or a face shield while physically present in any building, facility or grounds at all times who do not otherwise fall within an exemption listed in ¶ 4.f..

b. ***School Buses or School-Sponsored Modes of Transportation:***

All students regardless of age or grade, all faculty, all staff, all vendors, all contractors, all volunteers, and all visitors shall wear a face covering or a face shield while on a school bus or other school-sponsored mode of transportation except those who fall within an exemption listed in ¶ 4.f. (ii – xv).

c. ***Additional Exemptions to Face Covering Requirement for K-12 Educational Institutions:***

i) *Food Consumption:* Face coverings or face shields are not required while eating or drinking.

ii) *Faculty/Staff Areas:* Faculty and staff, while working—other than to prepare food or meals—along with other individuals who are in a room, office or place, where all individuals not of the same household can maintain six (6) feet of social distance from each other are not required to wear a face covering or face shield.

iii) *Children Between Ages 2 & 8:* Except when on school buses or on other school-sponsored modes of transportation, children, whether or not students, who are over the age two (2) years and under the age of eight (8) years are not required to wear face coverings or face shields. Such children, however, are strongly encouraged to

wear a face covering or a face shield. Children under the age of two (2) years should not wear a face covering because of the risk of suffocation.

iv) *Classroom Settings:*

1) Where a classroom or place of instruction can be configured so that all students and instructors can maintain six (6) feet of social distancing from one another at all times, face coverings or face shields do not need to be worn during in-person educational instruction;

2) Where a classroom or place of instruction can be configured so that all students can maintain at least three (3) feet of social distancing from one another at all times, and where students are positioned to face in the same direction, face coverings or face shields do not need to be worn during in-person educational instruction by students. Instructors must wear a face covering or face shield unless the instructor(s) can maintain six (6) feet of social distancing from students; or

3) Where a classroom or place of instruction cannot be configured so that all students can maintain either six (6) feet of social distance or at least three (3) feet of social distancing from one another with students facing the same direction at all times, face coverings or face shields must be worn during in-person educational instruction by students. Instructors must wear a face covering or face shield unless the instructor(s) can maintain six (6) feet of social distancing from students. At the direction of the instructor, a student may be permitted to remove his or her mask on an intermittent and temporary basis.

v) *Recess:* Face coverings and face shields may be removed during recess periods provided social distancing can be maintained.

d. ***Extracurricular & Co-Curricular Activities:***

i) *Overall Attendance:* Schools, in consultation with local health departments, should consider whether attendance or capacity limits are warranted for extracurricular and co-curricular activities.

ii) *Face Coverings:* Students, teachers, instructors, directors, coaches, trainers, volunteers, and other personnel when not engaging in strenuous physical activity, as well as all spectators, shall wear face coverings or face shields as set forth in ¶ 4e–g above.

iii) *Social Distancing:* Measures should be taken to ensure all spectators and non-family/household groups remain socially distanced.

e. ***Quarantine Guidelines for K-12 Educational Institutions:***

K-12 Educational Institutions shall follow the guidelines on isolation and quarantine as directed by the Indiana State Department of Health and/or their local health department and, at a minimum, include the following:

i) quarantining continues to apply to exposures which occur in non-classroom settings (at lunch, athletics, and other extracurricular or co-curricular activities);

ii) quarantining continues to apply where exposure occurs in a classroom and face coverings are not worn; and

iii) quarantining rules and contact tracing are not required when exposure occurs in a classroom setting and where students, teachers and staff wear face coverings at all times in the classroom.

f. ***Enforcement:***

Schools are responsible for developing and implementing an enforcement plan.

9. Special Measures or Restrictions for Counties Based on Color Designation

a. *County Designations*

i) A county will be designated as Blue when it has a point score of 0.5 or below.

ii) A county will be designated as Yellow when it has a point score of 1.0 or 1.5.

iii) A county will be designated as Orange when it has a point score of 2.0 or 2.5.

iv) A county will be designated as Red when it has a point score of 3.0 or higher.

b. *Changes to a County's Color Code Status:*

i) A county must meet the metrics/score of a less restrictive category for two consecutive weeks before being allowed to move to that category.

ii) A county will be moved to a more restrictive category whenever the county's metric/score rises to a higher category.

iii) Local officials should convene whenever a county moves to a more restrictive category.

1) Local health officials should evaluate the source of positive tests, undertake targeted testing where appropriate, and issue isolation or quarantine orders where necessary.

2) Local health officials, health care providers, elected officials, school leadership and other key local leaders are encouraged to convene regularly to discuss actions that should be implemented to decrease the spread of COVID in their communities.

3) School officials should review plans for all extra-curricular activities and assemblies to ensure best mitigation practices are being followed.

10. Enforcement

a. *Workplace Safety:*

I direct the IOSHA to take all available administrative and enforcement actions against businesses or entities failing to comply with workplace safety conditions.

b. *Health & Law Enforcement Officials:*

The ISDH, Indiana Department of Homeland Security, Alcohol & Tobacco Commission, local boards of health, and other state and local officials or law enforcement officers may take all available administrative and enforcement actions against businesses or entities failing to comply with restrictions and other public health requirements for businesses as set forth in this Executive Order.

11. No Limitation on Authority

Nothing in this Executive Order shall, in any way, alter or modify any existing legal authority allowing the State, any local health department, or any other proper entity from ordering: (a) any quarantine or isolation that may require an individual to remain inside a particular residential property or medical facility for a limited period of time, including the duration of this public health emergency; or (b) any closure of a specific location for a limited period of time, including the duration of this public health emergency.

12. Local Declarations of Emergency

Pursuant to the Emergency Disaster Law, no local ordinance, directive, or order of any county, political subdivision, or other local government entity pertaining to this public health emergency, may contradict or impose less restrictive requirements than those set forth in this Executive Order, or else that ordinance, directive, or order will be void and of no force or effect. However, unless prohibited by an Executive Order, local ordinances, directives, and orders may be more restrictive.

13. **Savings Clause**

If any provision of this Executive Order, or its application to any person or circumstance, is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are hereby declared to be severable.

IT IS SO ORDERED.

IN TESTIMONY WHEREOF, I, Eric J. Holcomb, have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana, on this 31st day of March, 2021.

Eric J. Holcomb
Governor of Indiana

ATTEST: Holli Sullivan
Secretary of State