



Lum, Drasco & Positan, LLC

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## Lum Law Notes

**NJ Executive Order No. 192,  
NJ Employers**

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# Lum, Drasco & Positan LLC

## Attorneys At Law Since 1870

### **EXECUTIVE ORDER NO. 192: HEALTH AND SAFETY STANDARDS REQUIRED FOR ALL NEW JERSEY EMPLOYERS**

On October 28, 2020, [Governor Murphy signed Executive Order No. 192](#) which creates a state law mandate for health and safety standards applicable to all New Jersey employers. The Executive Order references the recent increase in reported cases of COVID-19 across the State, and imposes mandatory protocols for all employers within the State whose employees have returned to work in person in any capacity and for any period of time. The Executive Order takes effect on November 5, 2020 at 6:00 a.m., and applies to all New Jersey-based public and private employers. In addition to establishing mandatory safety protocols during the continuation of the pandemic, the Executive Order also creates an enforcement procedure for employees to report noncompliance, and notice requirement for employers so their employees are informed of the protective measures established by the Order.

Executive Order No. 192 mandates:

- Employers must require all individuals who enter the work location, including employees, visitors, and customers to wear a face mask at all times subject to only limited exceptions:
  - An employee does not need to wear a mask in their personal work space or while eating and drinking, provided the employee is more than 6 feet apart from any other individual in the workplace;
  - An employee does not need to wear a mask when the employee is alone in a walled office space;
- Employers must provide, at their expense, a face mask to any employee, visitor or customer if they do not have a mask when they enter the work location;
- Employers may deny entry to the worksite to any employee, visitor or customer who declines to wear a face mask, unless the employee, visitor or customer cannot wear a mask due to a disability consistent with the Americans with Disabilities Act; in such instance with regard to an employee, the employer may require the employee to produce medical documentation supporting any claim that they are unable to wear a mask due to disability;
- Employers must require all individuals within the work location to maintain a distance of at least 6 feet from another person, including during worksite meetings and in common areas;

- Employers must take measures to ensure a “health screening” of employees on a daily basis or prior to every hourly shift if applicable, with such measures consisting of either: (1) temperature screenings, (2) visual symptom checking, (3) self-assessment checklists, and/or (4) health questionnaires;
- Employers must notify all employees if there is a known exposure to COVID-19 in the workplace, consistent with employee confidentiality requirements under the Americans with Disabilities Act, and federal and state guidance;
- Employers must provide all employees, visitors, customers, and any other individuals who access to the work location, with access to sanitizing materials, at the employer’s expense;
- Employers must ensure high-access areas in the work location are routinely cleaned and disinfected; and
- Employers must provide all employees with break time throughout the day to wash their hands (unless gloves are provided to the employees).

In order to ensure enforcement of the Executive Order, the New Jersey Department of Labor is creating an online complaint-intake form for employees to report noncompliance with the Executive Order. An employee’s complaint of violation of the Executive Order will be investigated and addressed with enforcement actions by the New Jersey Department of Labor in conjunction with the New Jersey Department of Health. The New Jersey Department of Labor is also in the process of preparing a worksite notice referencing the mandatory safety protocols for employers to post to ensure their employees are informed of their workplace protection rights under the Executive Order.

Employers are encouraged to review any return to work plans to ensure the mandatory safety protocols are being met for compliance with the Executive Order. The Firm is available to answer questions regarding the new Executive Order and address questions or concerns regarding employee safety protocols as employers continue to navigate through the pandemic while exercising best practices for its workplace.

To discuss any of this please contact one of the attorneys below:

Wayne J. Positan	(973) 228-6730	<a href="mailto:wpositan@lumlaw.com">wpositan@lumlaw.com</a>
Christina Silva	(973) 228-6763	<a href="mailto:csilva@lumlaw.com">csilva@lumlaw.com</a>
Daniel M. Santarsiero	(973) 228-6780	<a href="mailto:dsantarsiero@lumlaw.com">dsantarsiero@lumlaw.com</a>
Elizabeth Y. Moon	(973) 228-6792	<a href="mailto:emoon@lumlaw.com">emoon@lumlaw.com</a>
Jordan B. Doppelt	(973) 228-6747	<a href="mailto:jdoppelt@lumlaw.com">jdoppelt@lumlaw.com</a>

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Tel: (973) 403-9000 | Fax: (973) 403-9021  
[www.lumlaw.com](http://www.lumlaw.com)