

Summary of Executive Order 2020-77 as it pertains to Credit Unions

We have received several questions relating to requirements placed on employers in Executive Order 2020-77 (“EO”) of May 7, 2020 which is **in effect until May 28, 2020** unless modified earlier. We reviewed the provisions as they would pertain to credit unions as well as employers and meetings.

Overall, it should be noted that there is some ambiguity to the order and arguably some sections are up for interpretation. We therefore recommend that if ambiguous, you err on the side of caution and implement the safety measure. We will indicate below where there can be some confusion and different viewpoints. Part of the issue comes when looking at a credit union branch that is currently closed to the public but still has employees working at the branch. That seems to be the focus of questions presented.

We recommend that you read the complete EO but below is a summary of sections that directly impact credit unions:

Paragraph 2: board meetings or member meetings are still prohibited as there can be no private gatherings that are not part of a single household.

Paragraph 8(l) declares financial institutions as part of the “critical infrastructure workers”.

Paragraph 4(b) credit unions should still only have workers on site that are necessary to conduct minimum operations. You should designate these employees in writing.

Paragraph 5 credit unions, as critical infrastructure workers, need to adopt social distancing practices and other mitigation measures to protect employees and those that come into the facility as set forth in **Paragraph 11**.

Paragraph 11 requires credit unions to develop a COVID-19 preparedness and response plan consistent with OSHA (Occupational Safety and Health Act) recommendations. Guidance is provided here: <https://www.osha.gov/Publications/OSHA3990.pdf> . You should promote remote work where possible and restrict the number of employees on site to only those that are necessary. Employees and members should remain 6 feet away from one-another. Tell employees with COVID-19 symptoms to not come in and adopt policies to prevent workers from coming in if they show symptoms or have been around someone who has been exposed. Practice other social distancing measures recommended by the CDC (Center for Disease Control). The last section of this paragraph does not apply to credit unions.

Paragraph 10(h): Allows workers in the real-estate industry, including agents, appraisers, brokers, inspectors, surveyors, and registers of deeds to return to work on May 7th, 2020 while adhering to strict social distancing standards and the proper use of PPE.

Paragraph 15 is somewhat of a catch-all and seems to apply to everyone. **15(a)** says that anyone that can tolerate a mask or face covering should wear one in any enclosed, public space. This is somewhat unclear for credit unions as when open, a credit union is certainly a public place but some may argue when closed for business, it is not. However, **Paragraph 15(b)** says that all businesses with workers that perform in-person work must, at a minimum, provide employees with non-medical grade face coverings for their workers. This order also provides protection against discrimination under the Elliott-Larsen Civil Rights Act as it relates to individuals who wear a face covering under this order.

Paragraph 20 - A willful violation of the EO is a misdemeanor.

A frequent question combination is – with a closed branch, do we 1) have to provide employees with a mask and 2) are the employees required to wear them?

There can be no debate that when a credit union has employees working on site, it is a business with workers performing in-person work. Therefore, it would appear that any business that is open with in-person work, must provide face coverings for their employees.

Do employees have to wear the mask? Even the OSHA guidelines say that employers should provide a mask “and ask the person to wear it, if tolerated.” It also says that employers should provide employees with PPE - personal protective equipment – like gloves, masks, goggles, etc, - as appropriate. PPE’s, per OSHA, should be provided based on the hazards to the worker.

We have heard that if employees are spread out and not coming into contact with one another, they are resistant to wearing a mask. When closed to the public, you should provide employees a mask and encourage them to wear it. This would seem to meet your obligation under the EO. Once open to members, it would seem prudent to require front-line employees to wear masks or other appropriate face covering.

By providing a mask and suggesting employees wear one when working at a closed branch, we do not see how a credit union can be found to be willfully violating the EO if the employee elects not to wear it. You should also ensure that you are following the other guidelines of OSHA and the CDC as well as establishing your own COVID-19 policy that requires frequent handwashing, social distancing, etc.