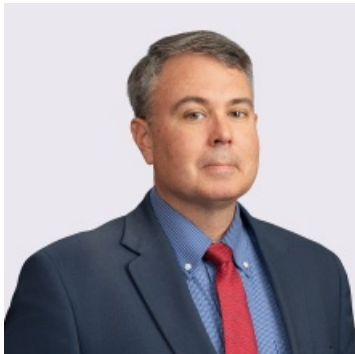


New Jersey Tightens Restrictions as COVID-19 Cases Increase

By James M. McDonnell & Luke P. Breslin

November 19, 2020

Meet the Authors



James M. McDonnell

Principal
908-795-5208
James.McDonnell@jacksonlewis.com



Luke P. Breslin

Principal
908-795-5200
Luke.Breslin@jacksonlewis.com

Related Services

COVID-19

Disability, Leave and Health
Management

Workplace Safety and Health

For at least the eighth time in the past nine months, in response to the COVID-19 pandemic, the New Jersey Governor has signed an Executive Order that limits the number of individuals permitted to attend indoor or outdoor gatherings. [Executive Order 196](#) (EO) also places limitations on athletic competitions at all levels (*e.g.*, youth through professional) at both indoor and outdoor events.

While not as broad as New Jersey's [March 21, 2020, stay-at-home order](#), the new EO may signal a return to even broader restrictions in the state.

Indoor Gathering Restrictions and Exceptions

All indoor gatherings (subject to the exceptions below) are limited to a total of 10 persons, regardless of the capacity of the room(s) in which the gathering occurs. The EO expressly applies to private residences or residential units and, therefore, effectively limits holiday gatherings unless and until the EO is lifted or modified.

The following are exempted from these limitations:

- Religious services, religious celebrations, political activities, wedding ceremonies, funerals and memorial services are limited to 25% of the capacity of the room in which the event takes place, but the limit may not be more than 150 individuals or fewer than 10 individuals.
- Proceedings by state government, county governments, local governments, boards of education, and state or local judicial proceedings.

The limitations in administrative orders regarding sporting events (*e.g.*, indoor dining, outdoor dining, face coverings, and so on) continue to apply.

Outdoor Gathering Restrictions, Exceptions

The number of individuals permitted at outdoor gatherings is limited to 150 persons or fewer, *i.e.*, a return almost to the 100-person restriction in the June 9, 2020, [Executive Order 152](#). While the numerical limitations similarly do not apply to religious services, religious celebrations, political activity, wedding ceremonies, funerals, or memorial services, the EO incorporates other requirements for outdoor gatherings from prior restrictions, including:

- Social distancing of at least six feet (excluding immediate family members, caretakers, household members, romantic partners, and a limited number of event organizers);
- No contact between attendees (subject to the above exclusions);
- Organizers should demarcate six feet of spacing (*e.g.*, flags, cones, or markers) where appropriate;
- No sharing of physical items (excluding immediate family members, caretakers, household members, and romantic partners), unless the items have been sanitized

before and after use;

- Open-air rain tarps, tents, and other outdoor structures are allowed solely for protection against weather or for shade;
- Face coverings must be worn (except where doing so would inhibit an individual's health or an individual is under the age of two); and
- If the gathering requires pre-payment, contactless payment options for pre-payment must be offered wherever feasible.

Outdoor entertainment centers (*e.g.*, movie theaters, performing arts centers, concert venues, and the like) must similarly ensure that all attendees can remain at least six feet apart and limit attendance to 150 individuals.

Sports Restrictions

The EO further places limitations on indoor and outdoor sporting events. It applies to all sporting levels (*i.e.*, youth through professional) and will affect attendance at sporting events.

Indoor Sports

Professional and collegiate athletic competitions are subject to the 10-person indoor limitation. However, the EO provides that “[a]thletes, coaches, referees, trainers and other individuals who are necessary to the competitive professional or collegiate sporting event are not included in the number of individuals present at a gathering for purposes of the limits on gatherings.” Nevertheless, the events are limited to 25% of the capacity of the room or facility in which the event takes place and the number of individuals may not exceed 150 persons.

A similar limitation applies to youth practices and competitions conducted indoors. The 10-person limit applies except where: (1) the number of individuals necessary for the practice or competition exceeds 10 persons; and (2) no individuals are present who are not necessary for the practice or competition, *i.e.*, spectators. The 25% capacity and maximum of 150-person limit apply as well.

Outdoor Sports

Professional and collegiate athletic competitions conducted outdoors are subject to the 150-person limitation. Athletes, coaches, referees, trainers, and other individuals who are necessary for the competitive professional or collegiate sporting events are not included in the number. Sports practices and competitions conducted outdoors at all other levels are subject to the 150-person limitation, but athletes, coaches, referees, and trainers are included.

Reopening orders contain extensive requirements creating compliance issues that can vary significantly depending on the specific state or local jurisdiction. Jackson Lewis attorneys are closely monitoring updates and changes to legal requirements and guidance and are available to help employers weed through the complexities involved with [state-specific or multistate-compliant plans](#).

If you have questions or need assistance, please reach out to the Jackson Lewis attorney with whom you regularly work, or any member of our [COVID-19 team](#).

©2020 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on employment and labor law since 1958, Jackson Lewis P.C.'s 1,000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged and stable, and share our clients' goals to emphasize belonging and respect for the contributions of every employee. For more information, visit <https://www.jacksonlewis.com>.