

## Gym Reopening: Frequently Asked Questions

Since August 24, gyms in New York could begin to reopen for indoor exercise. The gym reopening guidance (the Guidance) may be found [here](#). This reopening has generated a lot of questions. Below, we cover some frequently asked questions about the Guidance and how it impacts more than just the typical fitness industry.

### **Who does the Guidance apply to?**

The Guidance applies to any operator of a fitness facility. This includes gyms in hotels, office buildings, higher education institutions and residential facilities. It also applies to operators of fitness class centers, including yoga/Pilates/barre studios, fitness boot camps, boxing/kickboxing gyms and other types of group fitness classes.

### **What is the local government's role in the Guidance?**

Local governments have significantly more control over the reopening of gyms than the reopening of other industries. County leaders (e.g., county executive, administrator, manager or the chair of the county legislature) and the New York City mayor may postpone the reopening of gyms until September 2, 2020. Further, those leaders may decide to opt out of indoor fitness and aquatic classes within their jurisdiction indefinitely. You should check with your county health department to determine if indoor fitness and aquatic classes are permitted in your jurisdiction.

In addition, a gym operator must coordinate with the local health department to schedule an inspection of the facility. The inspection must occur either before or within 14 days after opening. The inspection is to ensure compliance with the Guidance.

### **What are the occupancy and space requirements at the gym?**

The total capacity of the gym must be limited to 33% of the maximum occupancy as set by the certificate of occupancy. ***This limitation includes both employees and visitors.***

All individuals at the gym must maintain at least six feet of distance from one another.

### **What about weightlifting that requires spotting?**

Activities that require spotting are discouraged by the Guidance. If spotting occurs, it must be conducted within the least amount of time possible, meaning no socializing or lingering is to occur.

### **What are the face covering requirements?**

Everyone must wear a face covering in the gym at all times. The exceptions here are limited. A person does not have to wear a face covering if he or she is eating in a designated area or in an aquatic setting (e.g., the pool).

If a person cannot medically tolerate a face covering, that person may wear a face shield. For everyone else, face coverings are required.

Further, the Guidance lists out acceptable and unacceptable face coverings. Acceptable face coverings include cloth-based face coverings and disposable masks. Bandanas, buffs and gaiters are unacceptable face coverings for gyms and fitness centers.

### **What is the screening process for people entering the gym?**

All people entering the gym must pass and complete a health check-in, which may be performed remotely. A questionnaire must be completed to determine if the individual has:

1. knowingly been in close contact in the past 14 days with anyone who has tested positive for COVID-19 or who has or had symptoms of COVID-19;
2. tested positive for COVID-19 through a diagnostic test in the past 14 days;
3. experienced any symptoms of COVID-19 in the past 14 days; and
4. traveled to a state listed on New York's travel advisory for longer than 24 hours within the past 14 days.

A central point of contact must be responsible for receiving and "attesting to having reviewed" all questionnaires. Additionally, this person must be identified on the questionnaire as the party to contact for individuals to inform if they later develop COVID-19 symptoms.

For additional information about the screening process, please see the Guidance.

### **What if we perform temperature checks for employees?**

The Guidance explicitly prohibits employers from retaining records of employee health data. Gyms should not retain records of specific employee temperature data. Gyms may, however, retain records confirming the employee was screened and the result of the screening (e.g., pass or fail).

### **Does the gym need to maintain a log of all people entering?**

Yes. The gym must maintain a log of every person, including employees, gym users, and where practicable, contractors and vendors, who have entered the facility and may have close or proximate contact with other individuals. The log must contain contact information including the name, address and phone number of the individuals. The log must be kept for a period of 28 days.

### **What are the air filtration requirements?**

Facilities with central air systems must have, at a minimum, MERV-13 filters (or the industry equivalent) installed. If a facility cannot handle such filters, a certified HVAC technician, professional or company; ASHRAE-certified professional, certified retro-commissioning professional or New York licensed professional building engineer must certify and document that the currently installed system cannot perform to the minimum level of heating and cooling that it was otherwise able to provide prior to the COVID-19 public health emergency, if such high degree of filtration was installed. Such documentation must be retained for review by state or local health department officials. If a facility cannot install MERV-13 or greater filters, there are numerous filtration mitigation protocols that must be followed. Please see the Guidance for additional information.

### **What are the requirements for fitness classes?**

Fitness classes are to be conducted with appointments and advanced sign-ups. The number of participants must be limited **to the lesser of the following**:

- the number of individuals permitted by New York's gathering limitations, which is currently 50 people in all regions of the state;
- the maximum number of individuals that may fit in the space so long as there is a minimum of six feet between individuals at all times; or

- 33% of the typical class size.

To the extent that is possible, gym operators should conduct fitness classes outdoors.

### **Are there gym activities that continue to remain prohibited?**

Yes. Higher-risk activities are limited to “individual or distanced group training and organized no/low-contact group training.” Such higher-risk activities include:

- football
- wrestling
- ice hockey
- rugby
- basketball
- contact lacrosse
- volleyball
- martial arts
- competitive cheer & group dance
- other sports and recreation activities with similar abilities to maintain physical distance and/or limit exposure to shared equipment prior to such equipment being cleaned and disinfected

If you have questions, or want to effect the standards applicable to your industry, please contact [Hermes Fernandez](#), [Caitlin Anderson](#) or the attorney at the firm with whom you are regularly in contact.



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