



THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT  
DEPARTMENT OF LABOR STANDARDS

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**COVID-19 Workplace Safety Occupancy Rule for Institutions of Higher Education  
Engaged in Approved Phase II and Phase III Activities  
Updated September 9, 2020**

The Governor's Second Revised Order Regulating Gatherings (COVID-19 Order No. 44) sets a default rule to limit on occupancy of indoor spaces. The default rule of the Order states that

- Indoor gatherings are limited to 8 persons per 1,000 square feet of accessible, indoor floor space, and never more than 25 persons in a single enclosed, indoor space.

The Order further provides, however, that a business or other organization that has been designated by Executive Order as a Phase I, Phase II, or Phase III enterprise and that is permitted to open its brick-and-mortar premises to workers and the public shall not be subject to this default rule if the enterprise is operating in compliance with COVID-19 safety rules and any applicable capacity limitation issued by the Department of Public Health, the Department of Labor Standards, the Massachusetts Gaming Commission, or the Executive Office of Energy and Environmental Affairs.

The Department of Labor Standards issues this sector-specific COVID workplace safety rule establishing capacity limitations for institutions of higher education pursuant to sections 3 and 4 of COVID-19 Order No. 37 and Sections 4 and 5 of COVID-19 Order No. 43.

Each institution of higher education operating in the Commonwealth shall ensure that no gatherings will occur on campus or otherwise within facilities controlled by the institution that exceed the capacity limits set in any current, generally applicable Executive Order governing gatherings in the Commonwealth, provided, however, that (1) gatherings held for the limited purpose of educational instruction may exceed such limits where the institution is able to ensure that each person in attendance can at all times maintain not less than six feet of distance from every other person in attendance; (2) gatherings held for the limited purpose of conducting COVID-19 testing of students and workers of the institution may exceed such limits where the institution is able to ensure that each person in attendance can at all times maintain not less than six feet of distance from every other person in attendance, except where a lesser distance is required for the administration of a COVID-19 test; and (3) all other non-educational activities and services shall comply with sector-specific safety capacity limitations and protocols applicable to the activity or service, all as maintained and from time to time updated on the Commonwealth's Reopening Plan website.