



Mask FAQs: Can you refuse service to someone who won't wear a mask and claims it is a medical reason?

A restaurant should try not to refuse service to someone with a legitimate disability. The challenge is that under the Americans with Disabilities Act, you cannot ask what the disability is or for documentation, which complicates the issue.

The following reasons are not permissible reasons NOT to wear a mask:

- It is uncomfortable
- It is hot
- The customer doesn't want to wear a mask

Restaurants are allowed to deny goods or services to an individual with a disability if their presence would result in a "direct threat" to the health and safety of others, but **only** when this threat cannot be eliminated by modifying existing policies, practices or procedures or permitting another type of accommodation.

It might be difficult to legally deny service to someone not wearing a mask because of a disability that does not have COVID-19 symptoms, but if the person is also exhibiting generally recognized symptoms of COVID-19, such as aggressive coughing with profuse sweating or visible difficulty breathing, then, refusal of service without a mask regardless of disability would probably be justifiable. Likewise, if a person without a face mask was claiming a disability and was asymptomatic, or if there was some form of accommodation that would have allowed the person to be served, e.g., sit outside, wear a scarf instead of a mask, etc, the argument for denying service gets harder.

The restaurant should always contemporaneously document its actions and justifications for denying service for someone claiming a disability in the event the decision is later challenged after refusing service on "direct threat" grounds.