

**ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD  
ATTORNEY GENERAL



JANE E. YOUNG  
DEPUTY ATTORNEY GENERAL

September 25, 2020

**VIA FACSIMILE AND/OR EMAIL**

His Eminence Metropolitan Methodios of Boston  
Rev. Fr. Theodore J. Barbas, Chancellor  
Greek Orthodox Metropolis of Boston  
162 Goddard Avenue  
Brookline, MA 02445

Fax: (617) 739-9229  
[metropolis@boston.goarch.org](mailto:metropolis@boston.goarch.org)

Rev. Fr. Robert J. Archon  
St. Nicholas Greek Orthodox Church  
40 Andrew Jarvis Drive  
Portsmouth, NH 03801

Fax: (603) 436-2943

**Re: New Hampshire's Emergency Order 52, as extended, and the Places of  
Worship Guidance**

Your Eminence Metropolitan Methodios of Boston, Chancellor Barbas, and Father Archon,

The New Hampshire Attorney General ("AGO"), on behalf of the New Hampshire Department of Health and Human Services, Division of Public Health ("DPH"), is enforcing the Governor's Emergency Order 52, as extended by Emergency Orders 61 and 66, and issued pursuant to Section 18 of Executive Order 2020-04, as currently extended by Executive Order 2020-18, and all of its guidance documents, including, more specifically the Universal Guidelines and the Places of Worship Guidance. The DPH has been working with St. Nicholas Greek Orthodox Church with respect to managing and controlling an outbreak of COVID-19 among its parishioners. We understand that there is some confusion within the Greek Orthodox Church regarding whether Emergency Order 52, as extended, is applicable to it. As explained below, both Emergency Order 52, as extended, and Emergency Order 63 are applicable to the Greek Orthodox Church in New Hampshire and must be complied with.

## Emergency Order 52 and its Applicable Guidance

All businesses and organizations, including places of worship, are required to comply with the Governor's Emergency Order 52, as extended, in order to be open for operation. Places of worship are required to comply with the Universal Guidelines, which are Exhibit A to Emergency Order 52, as extended, and the Places of Worship Guidance, which are included in Exhibit B to Emergency Order 52, as extended.

Despite the use of the terms such as "guidelines" and "guidance," the requirements in the Emergency Orders and their applicable documents must be complied with. *See* Emergency Order 52, Paragraph 1, "[a]ll businesses and other organizations operating within this State shall comply with the ... Universal Guidelines ..and any other industry-specific guidelines ...issued subsequent to this Order." Additionally, while much of the Places of Worship Guidance is discretionary, using words such as "should" and "may," some of the Guidance is mandatory, using words such as "shall" and "must," as shown below in the reference to Paragraph 3 of the Guidance.

The Places of Worship Guidance is intended to cover all religions, no matter what denomination, and all religious services. The language used in that Guidance is intended to be as general as possible and was not intended to place restrictions on only specific religions. There is no language in that Guidance that states that it only applies to certain religious sects, such as Protestants or Catholics. Therefore, the Places of Worship Guidance applies to the Greek Orthodox Church in New Hampshire.

Some of the mandatory provisions of the Places of Worship Guidance include the following provisions:

Paragraph 3, states that any place of worship:

**shall** limit building occupancy to 50 percent of the building's maximum permitted occupancy level as documented in its occupancy permit on record with the municipal building department or other municipal record holder. However actual occupancy might need to be lower than 50% occupancy in order to comply with social distancing and other guidance contained in these Guidelines....

Paragraph 11 requires that all attendees "who are not part of the same immediate household **must be seated/positioned** at least 6 feet apart."

Under Paragraph 15, the lead-in language states that, "Shared cups, serving utensils, books of worship, or passing of plates **must be avoided**..." The three subparagraphs then provide some examples of what the lead-in language is referring to. Subparagraph b states, "Communion and Eucharist, **for example**, should not involve a shared cup or passing of a plate between people. Having individual elements that are picked up by attendees upon entry to a facility is recommended."

(Emphasis added)

## Emergency Order 63

Emergency Order 63, requiring face coverings to be worn when at an event with more than 100 people present, also applies to “faith based ... events.” *See* Paragraph 1. While individuals can remove their face coverings while seated at a distance of at least 6 feet from other household groups or individuals, face coverings must be worn when moving inside the facility or at the event. *See* Paragraph 2(a). Additionally, the organizer of any event or the property owner where an event occurs “shall make reasonable efforts to ensure compliance with this Order.” *See* Paragraph 4.

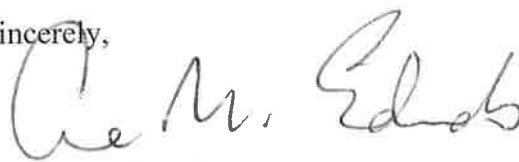
## Violations

The Greek Orthodox practice of using a single, shared chalice and spoon appears to be a possible source of the COVID-19 outbreak at St. Nicholas. This practice of using a single, shared chalice and spoon does not comply with Paragraph 15 of the Guidance and therefore, is a violation of Emergency Order 52, as extended. St. Nicholas Greek Orthodox Church was informed of this violation on July 25, 2020, by Portsmouth’s Public Health Officer, Kim McNamara. However, the practice seems to have continued. This practice must be modified in order to achieve compliance with Emergency Order 52, as extended.

Violations of the Governor’s Emergency Orders 52 or 63, as extended, and its applicable Guidance are taken very seriously. These provisions have been instituted so New Hampshire businesses and organizations can operate as safely as possible during the COVID-19 pandemic. By not complying with the Emergency Orders, organizations risk endangering the health of all individuals involved in an event as well as everyone else who those individuals come into contact with after the event ends. Organizations also risk further legal enforcement actions to achieve compliance.

If you have any questions regarding the Governor’s Emergency Orders, please do not hesitate to contact me at [anne.edwards@doj.nh.gov](mailto:anne.edwards@doj.nh.gov) or 602-271-3650.

Sincerely,

A handwritten signature in cursive script that reads "Anne M. Edwards". The signature is written in black ink and is positioned above the printed name.

Anne M. Edwards

cc: Dr. Benjamin Chan, State Epidemiologist