

HENDERSON BROTHERS UPDATE

CDC Releases Big News on Mask Use – Businesses Should Proceed Cautiously

May 2021

On May 13, 2021, the Centers for Disease Control and Prevention (CDC) released new guidance for people who have been fully vaccinated for COVID-19. This long-awaited guidance loosens the CDC's recommendations for fully vaccinated individuals, allowing them to stop wearing a mask in most settings. The announcement comes with a big caveat for businesses though – i.e., this new CDC guidance does not overrule federal, state, local or other regulations mandating mask use and it does not take into account certain workplace safety and discrimination issues that may arise when businesses modify their mask-use policies.

Update from OSHA

The Occupational Safety and Health Administration (OSHA), which has been providing guidance on preventing and mitigating the spread of COVID-19, just updated its website Monday with the following notice:

The Centers for Disease Control and Prevention (CDC) has issued new guidance relating to recommended precautions for people who are fully vaccinated, which is applicable to activities outside of healthcare and a few other environments. OSHA is reviewing the recent CDC guidance and will update our materials on this website accordingly. Until those updates are complete, please refer to the CDC guidance for information on measures appropriate to protect fully vaccinated workers.

Fully Vaccinated Individuals

According to the CDC, individuals are considered fully vaccinated two weeks after their second dose in a two-dose Pfizer or Moderna vaccines. Individuals that receive the single-dose Johnson & Johnson vaccine are considered fully vaccinated two weeks after receiving their shot.

The most notable update from the CDC's new recommendations is that those who are fully vaccinated can resume indoor and outdoor activities without wearing masks or physically distancing, except where required by federal, state, local, tribal or territorial laws, rules and regulations, including local business and workplace guidance. In addition, this new CDC guidance says fully vaccinated people can:

- Resume domestic travel and refrain from testing before or after travel, or self-quarantine after travel
- Refrain from testing before leaving the United States for international travel (unless required by the destination) and refrain from self-quarantine after arriving back in the United States
- Refrain from testing following a known exposure, if asymptomatic, with some exceptions for specific settings
- Refrain from quarantine following a known exposure if asymptomatic
- Refrain from routine screening testing if feasible

For now, the CDC recommends that fully vaccinated people continue to get tested if they are experiencing [COVID-19 symptoms](#).

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Unvaccinated Individuals

According to the CDC, unvaccinated individuals should continue to take preventive steps, such as wearing a mask and practicing social distancing. However, according to the agency, it's safe for those unvaccinated people to walk, run or bike outdoors with members of their household without wearing a mask. In addition, the agency says it is safe to take off the mask when attending a small, outdoor gathering with fully vaccinated family and friends.

Workplace Considerations

As Littler has illustrated in their recent [ASAP](#), “the CDC’s announcement poses some obvious implementation and logistical challenges for employers.”

For example, employers should make sure they implement a formal process for collecting, reviewing and storing vaccine information if mask use is no longer required for fully vaccinated individuals to avoid employee relations issues, discrimination complaints and inaccurate vaccine records. All efforts involving the new policy should be coordinated through a single department, like Human Resources, Safety/Risk Control, etc. Additionally, as we mentioned above, employers should be monitoring OSHA’s updates, EEOC releases and should be prepared to follow state and local laws that still require masks for all employees, restrict the process for requesting vaccine information or, prohibit employers from requiring proof of vaccination status entirely.

In a recent Insight posted May 16th, Littler Mendelson lists the state jurisdictions where face coverings are recommended or required as of the date of the posting.

Next Steps

Your organization should determine whether, based on your customers, employees, operations, and physical space, should follow the CDC’s guidelines, a local/state rule that may take precedence, or a different standard, which you elect to apply to your private enterprise. Nothing prevents a private establishment from implementing stricter mask requirements or greater COVID-19 restrictions than what the CDC or local law allows. These mask requirements and other restrictions are likely to vary from business to business and from jurisdiction to jurisdiction. No matter your organization’s choice, you will need to map out your protocols for handling vaccination questions, resolving potential discrimination and/or mistreatment issues which may arise from mask and restriction differences, and accommodating individuals who may be eligible for exceptions or variances from the rules and expectations your organization sets. If you have questions with these next steps, please contact your Henderson Brothers consultant today.

HBI will provide updates as more information becomes available.

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