

Legal*focus*

CDC Mask Guidance Update

Since the beginning of the Covid-19 pandemic, the Center for Disease Control and Prevention (CDC) has issued guidance on taking certain preventative measures, such as wearing a mask, to prevent the spread of the coronavirus. Most states have also either encouraged mask-wearing or have adopted some form of mandate or directive to require mask-wearing. As a growing portion of the US population continues to get vaccinated, the CDC, and some states, have begun to scale back their orders and recommendations for wearing a mask. However, the requirement to continue following certain coronavirus protocols, such as wearing a mask, continues to be in effect for those traveling on commercial vehicles.

Current Federal Guidance

On May 13, 2021, the CDC issued Interim Public Health Recommendations for Fully Vaccinated People. These interim recommendations provide that fully vaccinated individuals can resume most everyday activities and refrain from wearing a mask or practicing social distancing measures. While the recent recommendations do provide

that fully vaccinated individuals can resume domestic travel, an order published by the CDC on January 29, 2021 addressing preventative measures while traveling on a plane, bus, train, and any other form of public transportation is still in effect for all travelers, including the requirement to wear a mask. Effective as of February 1, 2021, the CDC's mask order requires all individuals to wear a mask while traveling on conveyances or through transportation hubs. For school transportation contractors, this means any person on a school bus is required to wear a mask. However, it should be noted that there are some exceptions to the requirement to wear a mask on commercial vehicles, such as when a driver or passenger has a disability or when the driver is the sole occupant of the vehicle.

Recently, the Biden administration announced that the CDC's mask order for those traveling on commercial vehicles will be extended through September 13, 2021. Because the circumstances surrounding the coronavirus are fluid, it is possible this date may be shortened or extended into the fall of 2021, contractors

should continue to monitor federal guidance and be prepared to respond accordingly. In addition to the federal order directing individuals to wear masks while traveling, contractors should be aware that state and local governments may also implement requirements to follow certain coronavirus protocols.

State and Local Government Guidance

While the federal government is requiring those traveling on commercial vehicles to abide by masking requirements, noticeably lacking is an enforcement provision for those violating this order. On the other hand, certain state and local governments who implement mask orders are more likely to be able to enforce these mandates on the targeted population. For example, some cities that have masking orders in effect may provide selected agencies, such as the local department of health, with the authority to take certain actions against a business for failing to adhere to coronavirus protocols, such as implementing fines or temporarily suspending business operations. In addition, certain school

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districts may have the authority to implement their own policies to require compliance with coronavirus protocols. Along with requiring students to wear masks, it is not uncommon for school districts to require those who contract with the school district to follow their guidance as well. This is especially relevant to transportation contractors because, while the federal government is currently mandating masks on commercial transportation, in the event that the federal masking requirement on commercial transportation is lifted, a school district may continue to implement and enforce their own rules which could require bus drivers and students on the bus to continue wearing masks at all times.

Repercussions for Not Wearing Masks

As discussed above, transportation contractors should be aware that, while the CDC is generally no longer requiring individuals to wear masks, the rules will continue to apply to those traveling on commercial transportation. While the federal mandate requiring masks on commercial transportation may be difficult, if not impossible to enforce, transportation contractors should be mindful of state and local mandates, including those issued by the school district the contractor serves, which may continue to require compliance

with coronavirus protocols, such as wearing a mask on a school bus. Failing to comply with local mask orders could expose your business to enforcement actions by local government agencies. In addition, a transportation contractor who fails to observe coronavirus guidance from a school district that the contractor serves may unnecessarily strain their relationship with the district. Ultimately, the school district is a paying customer and thus it is wise to make reasonable efforts to do what they ask. While it is recommended to continue following orders requiring masks on school buses, it is important to recognize that drivers and/or students who cannot wear a mask for medical reasons should not be forced to wear one, which is consistent with CDC guidelines. Because the circumstances surrounding masking requirements continues to change, contractors should continue to monitor federal, state, and local rules that address the need to follow coronavirus guidelines.



¹<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html>

²https://www.cdc.gov/quarantine/pdf/Mask-Order-CDC_GMTF_01-29-21-p.pdf

³<https://www.reuters.com/world/us/us-extends-transit-face-mask-requirements-through-sept-13-2021-04-30/>

⁴<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html>



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