

Electronic Alert

Volume 24, Issue 24

May 19, 2021

Here's What You Need to Know About OHA's Updated Guidance Regarding Vaccinated Individuals

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Last week, the U.S. Centers for Disease Control issued guidance allowing fully vaccinated individuals to go mask-free and not have to adhere to physical distancing requirements in most situations. Importantly, the CDC's guidance is merely guidance and does not preempt state or local authorities that may impose stricter public health rules. The CDC guidance itself states that fully vaccinated individuals do not need to wear masks or physically distance in most circumstances, "except where required by federal, state, local, tribal, or territorial laws, rules, and regulations, including local business and workplace guidance."

In the wake of the CDC's guidance, many employers and businesses were left confused about how to navigate these changing rules and conflicts between state and federal guidance. Today, the Oregon Health Authority updated its Statewide Guidance on Masks and issued Interim Guidance for Fully Vaccinated Individuals to align with the CDC's guidance.

Here's what businesses need to know:

In its updated guidance, OHA requires all businesses, employers, and faith institutions to continue to apply and enforce mask and physical distancing requirements **unless** it:

- Has a policy for checking for proof of vaccination status of individuals;
- Requests proof of vaccination status from each individual; and
- Reviews each individual's proof of vaccination prior to entry or admission.

In other words, businesses, employers, and faith institutions may allow fully vaccinated individuals to forego wearing a mask and adhering to physical distancing requirements if they have a policy as described above. Importantly, OHA's guidance makes clear that this is not required. Meaning, businesses, employers, and faith institutions may still require and enforce mask and physical distancing requirements at their discretion.

OHA defines proof of vaccination to mean "documentation provided by a tribal, federal, state or local government, or a health care provider, that includes an individual's name, date of birth, type of COVID-19 vaccination given, date or dates given, depending on whether it is a one-dose or two-dose vaccine, and the name/location of the health care provider or site where the vaccine was administered. Documentation may include, but is not limited to, COVID-19 vaccination record card, or a copy or digital picture of the vaccination record card."

It is recommended that businesses that choose to exempt vaccinated individuals from the mask and physical distancing requirements do not keep copies showing proof of vaccination status. Rather, if documentation is kept, it should be limited to a “yes” or “no” determination, the name of the individual verified, and who performed the verification. Similarly, employers should invite employees to submit proof of vaccination if they wish to be exempt from mask and physical distancing requirements but need not keep a copy of proof of vaccination. Employers should avoid asking employees why they are not vaccinated to avoid making a disability-related inquiry.

OHA’s updated guidance allowing businesses, employers, and faith institutions to loosen restrictions for fully vaccinated individuals does **not** apply in:

- any setting where the owner or operator continues to require masks, face coverings, or face shields in accordance with the Statewide Mask, Face Coverings, Face Shields Guidance;
- health care settings;
- adult jails and correctional facilities;
- youth detention and correctional facilities;
- shelters and transitional housing;
- K-12 schools (fully vaccinated individuals must comply with Ready School, Safe Learners (RSSL) guidance face covering requirements);
- Planes, buses, trains, and other forms of public transportation traveling into, within, or out of the United States;
- U.S. transportation hubs such as airports and bus stations.

Businesses that intend to allow fully vaccinated individuals and employees to enter their facilities without a mask or physical distancing should develop a policy describing the process for verifying vaccination status before doing so. It is recommended that businesses who choose to have a policy allowing fully vaccinated individuals into their facilities use signage and post updates on their websites to notify visitors of their policy. OHA’s sample signs can be found [here](#) and [here](#).

Oregon OSHA

Oregon OSHA also released its own [advisory memorandum](#) to align with OHA’s updated guidance. Consistent with OHA’s guidance, Oregon OSHA provides that “an employer who requests and reviews verification of vaccination may permit fully vaccinated individuals with such proof of vaccination to go without a mask, face covering, or face shield, and does not need to enforce physical distancing requirements for such individuals.” Verification is key here—Oregon OSHA notes that an employer must continue to enforce the physical distancing and facial covering requirements for individuals who claim to be vaccinated but refuse to provide verification of vaccination status.

Other than this “vaccination exemption,” all OR OSHA requirements imposed by its permanent rule on COVID-19 safety measures for workers remain in place. More information on OR OSHA’s permanent rule can be found [here](#).

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