

April 4, 2022

Considerations in Designing a Masking Policy

Background:

On February 25, 2022, the Centers for Disease Control and Prevention (CDC) made significant changes to its guidance regarding masking in connection with COVID-19.¹ The CDC's new approach draws on "community levels" to inform recommendations on whether masks need to be worn and, if so, by whom.

Under the new guidance, masks are only universally recommended for indoor, public settings where the COVID-19 Community Level is "High."² Otherwise, masking is generally left as a matter of "personal preference, informed by your personal level of risk" with some additional considerations for individuals who are immunocompromised or at high risk of severe illness (or individuals living with or otherwise coming into contact with such individuals). Notably, there is no distinction in the current guidance between individuals who are vaccinated and those who are unvaccinated when it comes to general masking.

Around the same time, many – although not all – of the New York State and New York City mask mandates were lifted, including a broad State mandate that had required masking in all "indoor public places" that didn't require proof of vaccination as a condition of entry.³

Certain nonprofits operating in New York may still be subject to mask mandates, but there is generally much more latitude for organizations to provide for more flexible policies on masking, consistent with current public health guidance. Below are some of the considerations organizations may want to take into account if they are considering implementing a new masking policy (or revising a prior masking policy) in light of the new guidance.

Considerations:

Who does the policy apply to?

- Are there different rules for different groups in the workplace?
 - Employees?
 - Visitors?
 - Clients/participants?
 - Vendors?

¹ See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>.

² The Community Level for a county can be found using the "COVID-19 County Check" tool on the CDC's [website](#). As of March 9, 2022, the community level was "Low" for New York County, Kings County, Bronx County, Richmond County and Queens County. Per CDC guidance, this indicates that "People may choose to mask at any time. People with symptoms, a positive test, or exposure to someone with COVID-19 should wear a mask."

³ See <https://www.governor.ny.gov/news/governor-hochul-announces-winter-toolkit-new-phase-covid-response-keep-new-york-safe-open-and>.

- Do masking requirements depend on vaccination status?
 - If so, how will vaccination status be verified?

Do the same rules apply to all work sites?

- Indoor office spaces?
 - Single offices?
 - Shared offices?
 - Other communal or shared spaces in the office?
- Outdoor activities?
- Spaces controlled by third parties?

Are there other reasons that masking may continue to be required for certain individuals or in certain circumstances?

- Is it still required by specific mandates (e.g., healthcare settings in New York State) and/or by contract (e.g., New York City human service contractors)?
- Is it still required or recommended by health officials (e.g., CDC guidance⁴ calls for masking for 10 days following a known exposure to COVID-19, whether or not vaccinated)?
- Is masking part of an accommodation (in lieu of vaccination) for certain employees?

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⁴ <https://www.cdc.gov/coronavirus/2019-ncov/your-health/quarantine-isolation.html>