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## New CDC Covid Guidelines for Fully Vaccinated Individuals

The Centers for Disease Control recently issued updated guidance for individuals who have been fully vaccinated against COVID. Individuals are considered “fully vaccinated” two weeks after they receive their second dose of the Pfizer or Moderna vaccine or two weeks after receiving a single dose of the Johnson & Johnson vaccine. The new guidelines have several potential implications for employers, discussed below.

### Summary of CDC Guidelines

#### ***Mask and distancing requirements.***

According to the CDC, fully vaccinated individuals can pursue indoor and outdoor activities without wearing masks or physically distancing from others, but they remain subject to federal, state, and local mandates. Although the new guidance applies in most circumstances, fully vaccinated individuals must still wear masks and practice social distancing on planes, buses, subways, trains, and other forms of public transportation; while present in transportation hubs (e.g., airports and train stations); and when visiting doctor’s offices, hospitals, and long-term care facilities.

***Travel restrictions.*** Fully vaccinated domestic travelers do not need to get a COVID test before or after travel, unless testing is required by local, state, or territorial authorities, and do not need to self-quarantine following travel. Fully vaccinated international travelers do not have to get a COVID test before leaving the United States (unless testing is required by their destination); must test negative before boarding a flight to the

United States; and do not need to self-quarantine upon arriving in the United States. It is still recommended that fully vaccinated international travelers get a COVID test 3-5 days after travel.

***Testing and quarantine.*** Fully vaccinated individuals experiencing COVID symptoms should quarantine, be medically evaluated, and be tested for COVID if medically indicated. Fully vaccinated individuals with no COVID symptoms who were exposed or suspect they were exposed to someone with COVID do not need to self-quarantine, be restricted from work, or be tested for COVID but should monitor for COVID symptoms for 14 days following the suspected exposure. Testing is still recommended in these circumstances for residents and employees of correctional and detention facilities and homeless shelters.

### Considerations for Employers

Employers may want to review their current COVID-19 policies in light of the new guidance from the CDC, although it may be prudent to delay implementation of any changes pending updated guidance from the Occupational Safety and Health Administration (OSHA), which enforces workplace safety rules. OSHA has not yet updated its guidance in light of the new CDC information but has indicated that it is reviewing the new guidance and will update its information accordingly. Before implementing changes, employers should also check local and state requirements.

Given the new CDC guidance, and depending upon the restrictions employers currently have in place, employers may wish to consider permitting fully vaccinated employees to return to the workplace; to work without masks and without social distancing restrictions; to resume business-related travel; to interact with customers; or to attend currently-prohibited activities (such as trade shows and in-person meetings). Employers may also wish to modify their employee screening and quarantine procedures in light of the new guidance. In making any such revisions, employers should always keep in mind the safety and health of employees, both vaccinated and unvaccinated.

A few precautionary measures should also be considered. In order to enforce revised policies for fully vaccinated employees, employers will need to know the vaccination status of their employees. The Equal Employment Opportunity Commission (EEOC) has indicated that employers can legally inquire about employees' vaccination status; however, employers should not inquire why any given employee has not been vaccinated because such an inquiry could constitute a prohibited disability inquiry. Best practice is probably to verify employees' vaccination status by requesting supporting documentation, such as a vaccination card; however, in verifying vaccination status, employers should be careful not to request or receive medical information. Employers should also monitor the workplace for any bullying, harassment, or other prohibited behavior related to vaccination status or mask use and continue to consider accommodation requests from employees who are not

able to be vaccinated due to a medical condition or because of a sincerely held religious belief.

If an employer adopts different standards and procedures for vaccinated and unvaccinated employees, it should ensure that such differential treatment based on vaccination status is not applied in a manner that discriminates against employees based on a legally protected status.

Neither the Food and Drug Administration, the CDC, EEOC, OSHA, nor any other government agency has directly addressed whether employers can legally require employees to be vaccinated against the coronavirus given the emergency use authorization under which the current COVID vaccines are being administered. This issue may become moot in the not too distant future given that Pfizer has recently submitted an application seeking full approval of its vaccine and Moderna has plans to do so.

If you have any questions or would like assistance in reviewing and revising your COVID-related policies, please contact one of the Stuart PC attorneys listed below.

This article is a summary of recent legal developments and is provided for informational and education purposes. It is not intended as legal advice or to create an attorney-client relationship. For more information or assistance contact:

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