

## New CDC Guidelines Pose Complications for Office Space

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By **Erik Sherman**

When the Centers for Disease Control issued new Covid-19 guidance and said vaccinated people were safe, you'd think that the office space industry would have breathed a sigh of relief. But business is complicated.

"The new CDC guidelines caught everyone by surprise, as it was a marked shift for what the agency had been saying for the prior 12 months," Marko Cerenko, shareholder of Miami-based law firm Kluger Kaplan, tells GlobeSt.com.

"Notwithstanding the news, I believe that commercial landlords for the time being will continue to have tenants abide with mask protocols in common areas, such as lobbies and parking garages, while they await further guidance from agencies such as the Dept. of Public Health and others. They will also likely leave it to the tenants to impose their own mask mandates."

There are multiple practical issues. Neither the CDC nor the federal government is the sole voice of authority when it comes to mask mandates. The agency noted that states, local agencies, and even businesses might have their own requirements. While some governments are ending their mandates, not all have.

"The CDC made clear that masks and distancing should be maintained 'where required by federal, state, local, tribal, or territorial laws, rules, and regulations, including local business and workplace guidance,'" says Becky Baker, partner and chair of Bracewell's labor and employment practice group. "We may see an uptick in office-based employees being recalled to the workplace at a quicker pace than before the CDC updated its recommendations."

“These guidelines seem to have been the magic words employers were waiting to hear,” Gabriel De Jesus, vice president of brokerage services for Orlando-based Foundry Commercial, tells GlobeSt.com. “During tenant and client meetings in the past couple of days, several employers cited the new guidance as the reason behind opening their offices to full capacity voluntarily starting June 1.”

“Goldman Sachs and JP Morgan, in particular, have announced that they’re bringing people back into the office,” says Ari Rastegar, CEO of Rastegar Property Company. “We’re going to see it come back much, much quicker than previously anticipated.”

At least, where it’s possible because there are complications.

Patrice Arend, an employment law attorney and practice group leader at Michigan-based law firm Jaffe Raitt Heuer & Weiss, tells GlobeSt.com that there are three factors that will affect office returns, including whether businesses downsized as workers went remote, if the entire workforce is returning, and the state of local regulations.

“There is an interplay between masking, social distancing and vaccinations,” she says. “I think the space constraints will dictate the protective measures that are needed.”

“Companies are still trying to determine how the new CDC guidelines will actually impact them,” says Mark Kruthers, director of the employment and labor practice at Fennemore Craig. “Ultimately, I am not sure the new guidelines will have much of an impact on a company’s decision about restarting operations. The majority of companies that were in a position to return to work have already done so and developed ways to function while staying in compliance with the pandemic related mandates.”

Then there’s vaccination status, on which the new guidance rests. “In order for the new mask guidelines to work as intended, the criteria would need to be mandatory, but the truth is there’s no way to enforce it,” says Jason Keys, CEO at Keyz Group. As he notes, people may not be willing to offer their vaccination status, and the CDC’s new take is for those who are inoculated. What does a company do if it can’t know?