

DOT/HHS/DHS Issue Joint COVID-19 Guidance to Airlines and Airports

On July 2, 2020, the U.S. Departments of Transportation, Homeland Security, and Health and Human Services issued a joint guidance document titled “Runway to Recovery - the United States Framework for Airlines and Airports to Mitigate the Public Health Risks of Coronavirus.” The non-binding guidance document recommends that airports and airlines implement specific measures to (1) mitigate public health risks associated with COVID-19, (2) prepare for increased travel volume, and (3) ensure aviation safety and security are not compromised. These measures fall into 11 categories:

1. Educate and communicate with passengers and employees;
2. Require appropriate face coverings;
3. Promote social distancing to the extent possible;
4. Enhance cleaning and disinfection procedures;
5. Conduct health assessments for passengers and employees;
6. Collect passenger contact information for public health response purposes;
7. Protect employees and separate passengers and crew;
8. Minimize in-person interaction touch points and shared objects, documents and surfaces;
9. Report daily status of public health risk mitigation efforts among stakeholders;
10. Enhance airport security checkpoint operations; and
11. Utilize government technology programs.

Of note, the guidance recommends that airlines take certain actions that could have an effect on airline operations while resulting in a cost to carriers:

Collecting Information for Contact Tracing

The guidance recommends that airlines “collect complete and current passenger and crew contact information prior to international flight departures and provide the information in an electronic format to the U.S. Government for further dissemination to destination U.S. health authorities before departure in order to support public health mitigation measures.” It outlines the interim final rule published by the CDC on February 6, 2020, which requires that airlines with flights arriving in the United States collect passenger and crew contact information and provide it to the U.S. government within 24 hours of a request from the CDC. Carriers have pushed back on the feasibility of implementing the requirements outlined in the interim final rule. The guidance subtly acknowledges this, noting that “the U.S. Government is currently working with airlines to identify appropriate options for meeting this requirement on both an interim and long-term basis.”

Masks

The guidance does not discuss a federal mask mandate, and instead strongly encourages “airlines and airports ... to require that everyone correctly wear a mask or cloth face covering in shared spaces” unless an individual is a child under age two, has a medical condition that causes breathing difficulty, is unconscious and unable to be awakened, or is otherwise unable to remove the mask without assistance. The guidance recommends that airlines and airports have masks or cloth face coverings available for passengers and workers who may arrive without one or require a replacement.

Cleaning and Disinfection

Airlines and airports should require that areas with a potential for human contact and transmission be disinfected in accordance with CDC and OSHA cleaning schedules.



Rachel Welford

Member

rwelford@cozen.com
Phone: (202) 912-4825
Fax: (202) 304-1451

Related Practice Areas

- Aviation Litigation
- Aviation Regulatory
- Transportation & Trade

Passenger Health Assessments

Airlines should “implement health attestations to reinforce the expectation that passengers will not travel when ill or at a higher risk of developing and/or spreading COVID-19.” The guidance recommends that the attestation be presented at the earliest opportunity at check-in and require that passengers affirm their awareness and willingness to follow required measures onboard aircraft, including wearing a mask and remaining in his or her assigned seat. Passengers who identify as unfit to fly via the attestation should be allowed to rebook without penalty, and airlines should communicate this policy to passengers prior to check-in.

Temperature Screening

The guidance does not discuss a federal role in temperature screening, and instead says that “some airports or airlines may decide to use temperature screening in their multi-layered approach to identify potentially sick passengers.” The guidance acknowledges that such screenings “have limited reliability in detecting individuals with COVID-19,” but cautions that if airlines or airports choose to conduct such screenings, they “should be done in accordance with the protocols of the relevant health authorities and should not create significant passenger flow delays or crowding, which can create additional exposure risks.” The guidance recommends that the screening “include the passenger health attestation and may include visual observations conducted by trained staff” and notes that “any temperature screening of passengers arriving from international locations must be conducted after the CBP inspection process is complete and not interfere with CBP standard operating procedures.” Finally, the guidance states that airports, airlines, or other authorities that decide to bar travelers with temperatures over a certain threshold from flying must communicate that policy in a transparent way in advance, and that “all passengers should be directly notified of the policy before making a decision on whether they will attempt to fly or not.”

Seat Assignments

Airlines “should consider the feasibility of limiting seat availability to enable passengers to maintain social distance from each other during the flight,” and “when social distancing can no longer be accommodated on a flight, passengers should be made immediately aware of the status and be offered alternative flight options, such as a flight change, without penalty.”

Adjusted Boarding and Disembarkation Process

The guidance recommends that airlines board passengers in a manner that reduces the spread of transmission (such as by boarding window seats first or from the back of the aircraft forward), as long as the process is consistent with FAA weight and balance requirements. Deboarding should be adjusted to prohibit passenger queuing in the aisle.

Segment Lavatory Access

The guidance recommends that “when practicable, airlines should designate passenger lavatory use based on seat assignment to limit cabin movement,” and should also provide disinfectant wipes in lavatories.

While the guidance is intended for use by airports and airlines that handle passengers and crew traveling to, from, or within the United States, the document recognizes that there are unique international considerations and requirements associated with COVID-19, and notes that while the guidance aligns with ICAO’s international recommended measures, differences in various countries’ containment strategies may result in the implementation of alternate mitigation measures depending on the country.

Finally, the guidance concludes by cautioning U.S. entities considering health measures involving international travel to consider the “potential unintended effects on competition and market access distortions as they relate to U.S. obligations under its various international air transport agreements and other relevant international agreements relating to aviation,” noting that “it is important that public health measures be implemented in a manner that is legally sustainable considering U.S. obligations under international law.”
