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December 17, 2021

NYC Releases Detailed Guidance Regarding Vaccine Mandate

Further to New York City Mayor Bill DeBlasio's December 6, 2021 [announcement](#), the New York City Department of Health has now released detailed guidance regarding the vaccine mandate for private employers. Specifically, beginning December 27, 2021, private employers must mandate that New York City employees who perform in-person work or interact with the public in the course of business show proof that they have received at least one dose of a COVID-19 vaccine. Employees will then have 45 days to show proof of their second dose (for the Pfizer or Moderna vaccines). Employers may not allow any unvaccinated workers to come to the workplace, unless the worker is granted an accommodation for a medical condition or sincerely held religious belief.

Covered Entities

The mandate applies to any "non-governmental entity that employs more than one worker in New York City or maintains a workplace in New York City; or a self-employed individual or a sole practitioner who works at a workplace or interacts with workers or the public in the course of their business." However, the mandate excludes entities already subject to "another Order of the Commissioner of the Department, Board of Health, the Mayor, or a State or federal entity that is in effect and requires them to maintain or provide proof of full vaccination."

Covered Workplace

"Workplace" is broadly defined as "any location, including a vehicle, where work is performed in the presence of another worker or member of the public."

Covered Workers

The mandate applies to all individuals who work in person in New York City at a workplace, including employees, contractors, interns, and volunteers. The vaccination mandate does not apply to:

- Workers who have been granted a reasonable accommodation for medical or religious reasons;
- Workers who work from home and whose employment does not involve interacting in person with co-workers or members of the public; and
- Workers who enter the workplace for a quick and limited purpose (e.g., using the bathroom or picking up documentation).

Verifying Proof of Vaccination and Recordkeeping Requirements

Employers must confirm that each covered worker who has not been granted an accommodation has received at least one dose of the vaccine on or before December 27, 2021, and that the worker has received the second dose (for the Pfizer or Moderna vaccines) within 45 days of receipt of the first dose.

Acceptable proof of vaccination, which should be viewed together with picture identification, includes the following:

- A photo or hard copy of the employee's Centers for Disease Control and Prevention (CDC) vaccination card or other official immunization record from the jurisdiction, city, state, or country where the vaccine was administered, or from a healthcare provider or other approved immunizer who administered the vaccine, that provides the person's name, vaccine brand, and date of administration;
- NYC COVID Safe App;
- New York State Excelsior Pass;
- CLEAR's Digital Vaccine Card, CLEAR Health Pass;
- Official vaccine record; or
- A photo or hard copy of an official vaccination record of a vaccine administered outside the United States for one of the following vaccines: AstraZeneca/SK Bioscience, Serum Institute of India/COVISHIELD and Vaxzevria, Sinopharm, or Sinovac.

Employers must maintain a record of each worker's proof of vaccination or the documentation that the worker submitted in support of a reasonable accommodation. Acceptable records include:

- Maintaining a copy or taking a picture of the employee's proof of vaccination;
- Maintaining a paper or electronic record that includes: (1) the employee's name; (2) whether the employee is fully vaccinated; and (3) for an employee who submits proof of the first dose of a two-dose vaccine, the date by which proof of the second dose will be provided. Employers may consider supplementing this method by recording the date on which the vaccination proof was verified and the type of vaccination proof submitted (e.g., vaccination card, Excelsior Pass, etc.); or
- Employers may check each employee's proof of vaccination before they enter the workplace each day. In turn, a record of each verification must be maintained.

For employees who have been granted a medical or religious exemption, employers must maintain copies of the employees' accommodation documentation.

Posting Affirmation of Compliance

By December 27, 2021, employers must complete a certificate affirming they are in compliance with the vaccination mandate and post the certificate in a public place.

Reasonable Accommodations

The mandate allows employees to seek accommodations for medical conditions or sincerely held religious beliefs that prevent them from obtaining a vaccination. Employees must request a reasonable accommodation on or before December 27, 2021.

Given the mandate's fast-approaching deadline, employers must promptly notify their employees of the vaccine mandate and develop policies necessary to ensure compliance. If you have any questions, or would like further information about New York City's vaccine mandate, we would be happy to help.

Authors

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