

> Client Alert

A Whole New World: New York State and City Changes to Mask and Vaccine Mandates

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Authors and Key Contacts

If you require any additional information regarding workplace laws concerning the COVID-19 pandemic or other employment law questions please feel free to contact any of the attorneys listed below.

Jeffrey P. Englander
Partner & Co-Chair
P (212) 735-8720
jenglander@morrisoncohen.com



Keith A. Markel
Partner & Co-Chair
P (212) 735-8736
kmarkel@morrisoncohen.com



John B. Fulfree
Senior Counsel
P (212) 735-8850
jfulfree@morrisoncohen.com



Cassandra N. Branch
Associate
P (212) 735-8838
cbranch@morrisoncohen.com



Alana Mildner
Associate
P (212) 735-8784
amildner@morrisoncohen.com



Nearly two years after the first cases of the COVID-19 virus were uncovered in New York, and after the peak of the Omicron variant appears to have passed, New York State and City leaders are taking steps to remove many of the restrictions put in place during the pandemic. While restrictions are diminishing, not all public health and safety measures have been removed from the workplace.

Changes to the New York State Mask Mandate

On February 10, 2022, New York Governor Kathy Hochul lifted New York State's "mask-or-vaccine" requirement for indoor businesses. Local mask mandates still apply, however, and individual businesses may continue to require that patrons wear masks indoors.

In addition, effective March 2, 2022, the New York State's mask mandate for K-12 schools was lifted. However, localities within the state may choose to keep a mask mandate in place. New York City's mask mandate for schools is expected to be lifted on March 7, 2022. In those school districts without mask mandates, staff and students may continue to wear masks as desired. The mask mandate, however, remains in place for all public universities in the state (in both the SUNY and CUNY systems).

Due to federal regulations, masks are still required for all commercial air travel and all public transportation, including in airports and transit stations. Drivers and passengers must also wear masks in taxis or rideshare services such as Uber and Lyft. Masks are also still required in healthcare settings, correctional facilities and homeless shelters statewide. Broadway theaters and performing arts sites have chosen to require that their audiences wear masks through at least April 30, 2022.

The New York Health and Essential Rights Act, otherwise known as the HERO Act, also remains in effect, and workplaces are still required to engage in exposure controls, including daily health screenings and requiring face coverings when physical distancing is not possible. Please see our previous Client Alerts on the HERO Act linked [here](#), [here](#), and [here](#).

Mayor Adams Expected to End "Key to NYC"

Barring any unforeseen rises in local COVID-19 cases over the next few days,

effective March 7, 2022, New York City Mayor Eric Adams is expected to end the “Key to NYC” requirements that were put in place by the de Blasio administration. Please see our previous Client Alerts on the Key to NYC linked [here](#) and [here](#).

In short, the Key to NYC program required indoor public activities, defined as indoor dining, indoor fitness, and indoor entertainment / meeting spaces, to require proof of vaccination from visitors ages 5 and older. Businesses who failed to check the vaccination status of their guests could be subject to fines or other enforcement.

Next Steps for Employers

Changes to the Key to NYC program do not affect the City’s vaccine mandate for private sector employees. Thus, while the doors of many businesses will soon be open to unmasked and/or unvaccinated customers, the *employees* of these businesses must be vaccinated (under the City’s private sector vaccine mandate) and masked when physical distancing is not possible, in accordance with the HERO Act.

Until these mandates are lifted or modified, employers operating in New York City must continue to abide by the requirements of the vaccine mandate that went into effect in December 2021. Employers should continue to gather proof of vaccination for new employees and review their cooperative dialogue policies to ensure that any requests for reasonable accommodations are handled appropriately, as detailed in our prior [Client Alert](#).

Employers should continue to follow the guidelines set forth in the HERO Act unless and until such time as the State decides no longer to designate COVID-19 as a highly communicable airborne disease, which could be as soon as March 17, 2022. Given the CDC’s recent push to identify COVID-19 risk on a local basis, it could soon be a whole new world, but prudence and care should remain high priorities for all.

The Morrison Cohen LLP Labor & Employment Team is available to provide legal advice concerning workplace laws concerning the COVID-19 pandemic, or other employment law questions that may arise from time to time and as otherwise needed.