

> Client Alert

New York City Announces Vaccine Mandate for All Private Sector Employees and Updated “Key to NYC” Requirements

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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.

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On December 6, 2021, New York City Mayor Bill de Blasio announced that in the coming weeks, New York City will impose a vaccine mandate (the “NYC Mandate”) for all private sector employees to help fight against the anticipated surge of COVID-19 cases in the coming months. The NYC Mandate covers an estimated 184,000 businesses, and will go into effect on December 27, 2021. Unlike the federal government’s Emergency Temporary Standard, which we addressed in our previous alert [here](#), the NYC Mandate does not provide unvaccinated employees with the alternative option of weekly testing in lieu of being vaccinated.¹ New York City will be the first jurisdiction in the nation to implement such mandatory vaccination requirements for private sector employees.

Under the NYC Mandate, every private sector employee within New York City will be required to receive at least one dose of the COVID-19 vaccine by December 27, 2021, and provide their employer with proof of vaccination by that date. Acceptable forms of proof include a CDC issued vaccination card, the New York State Excelsior Pass, the Clear Health Pass, the New York State COVID Safe App, or a New York City vaccination record. The NYC Mandate will only apply to employees working in-person and not to those who work solely in a remote capacity.

Although details of the impending NYC Mandate are limited at this time, Mayor de Blasio announced that the City will publish guidelines on December 15, 2021 to provide more data concerning implementation and enforcement of the NYC Mandate. We anticipate that such guidance will likely address potential exemptions to the NYC Mandate for medical or religious reasons, and provide guidance to employers with respect to handling such accommodation requests. The December 15th guidance will likely also set forth the penalties for violating the NYC Mandate and the enforcement parameters related thereto.

Mayor de Blasio’s announcement of the NYC Mandate comes on the heels of the Biden Administration being forced to halt implementation and enforcement of its national vaccine and testing mandates for businesses with 100 or more employees. The NYC Mandate is expected to face similar legal challenges in the days ahead. The potential success of such challenges is unknown, however, and employers should prepare to comply with the NYC Mandate despite the anticipated opposition.

¹ Implementation of the federal Emergency Temporary Standard is currently suspended due to challenges to its enforceability in pending litigation.

Next steps for employers

Employers must assume that the NYC Mandate will take effect on December 27, 2021. Therefore, until further notice, employers should await further guidance from the City on December 15, 2021; notify their workforces of the existence of the NYC Mandate so that employees can schedule their vaccinations (or know when they will be in jeopardy for failing to do so); gather any missing proof of vaccination information from employees already vaccinated; and review their cooperative dialogue policies to ensure that any requests for reasonable accommodations are handled in accordance with applicable law.

New “Key to NYC” Restrictions

Our previous alert concerning the “Key to NYC” program, found [here](#), addressed the New York City requirement for individuals age 12 and older to provide proof of at least 1 dose of the COVID-19 vaccine in order to take advantage of indoor dining, entertainment, and gyms in New York City, beginning September 13, 2021.

On Monday, Mayor Bill de Blasio expanded the Key to NYC vaccine requirements to cover children aged 5 to 11, and toughened the program requirements for individuals aged 12 and older. Effective December 14, 2021, children aged 5 and older must be vaccinated in order to enter indoor dining and recreation areas throughout the City. Children covered under the new requirement only need to show proof of one dose by December 14th, as they only first became eligible for the COVID-19 vaccine in early November and must wait at least 21 days before receiving their second dose. In addition, starting December 27th, New Yorkers aged 12 and older will be required to show proof of 2 vaccine doses, instead of a single dose, except for those who have received the Johnson & Johnson vaccine.

New York City employers covered by the Key to NYC program should take note of the effective dates of these new requirements, and ensure that public-facing staff are aware of their responsibilities to ensure that patrons and visitors have provided valid proof of vaccination before entering the business.

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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.