New York City Fire Department
Bureau of EMS

When responding refer to Buckslip No.: ***EMS-21-10-12***

Ref. No:

Buckslip Date: 10/21/2021

Date Logged: 10/21/2021

To: All EMS Commands

Subject: COVID VACCINE MANDATE UPDATE

Action: For Distribution / Posting

Remarks Please Follow The Directions Outlined In The Memo.

cc's:

Due Date:

Lillian Bonsignore
Chief of EMS

Filed: EMS Operations
LB/JP/ja

FDNY
Lillian Bonsignore
Chief of EMS

TO: All Division Commands

FROM: Lillian Bonsignore Chief of EMS

DATE: October 21, 2021 Buckslip No.: **EMS OPS - 21-10-12**

SUBJECT: **COVID Vaccine Mandate Update**

As announced by Mayor De Blasio on Wednesday October 21, 2021, NYC now has a vaccine mandate for City employees and certain contractors. The DOHMH Commissioner's Order, which is attached below, requires City employees to submit proof of vaccination by October 29 at 5 PM.

From October 20-29, 2021, employees will be eligible to receive $500 through payroll, in addition to a $100 gift card available at City operated vaccination sites, if they receive their first vaccine dose during that time period.

Members may be considered for exemption from the COVID-19 vaccine mandate under limited circumstances on the basis of a sincerely held religious belief or a medical contraindication. Requests for exemptions must be submitted by email to the EEO Office at EEORA@fdny.nyc.gov by 10/27 in order for the employee to not be placed on unpaid leave status on 11/1. The forms necessary to file a Reasonable Accommodation Request can be found on the intranet in Administrative Forms under EEO. Note there are separate forms for different types of Reasonable Accommodations.

All members who have been vaccinated outside of the FDNY shall follow procedures in EMS Buckslip 21-10-09 to provide proof of vaccination to the Department. Employees who were not vaccinated through the Department must submit proof of vaccination to HRVaxProof@fdny.nyc.gov.

Any member who wishes to schedule an appointment for COVID-19 Vaccination shall call Bureau of Health Services at 718-999-2683 between hours of 9am – 5pm, Monday through Friday.

With some limited exceptions, the FDNY will be guided by the attached documentation on Vaccine Mandate FAQs and Vaccine Reasonable Accommodation Process.

Fire Department, City of New York
9 MetroTech Center, Brooklyn New York 11201-3857

ORDER OF THE COMMISSIONER
OF HEALTH AND MENTAL HYGIENE
TO REQUIRE COVID-19 VACCINATION FOR
CITY EMPLOYEES AND CERTAIN CITY CONTRACTORS

WHEREAS, on March 12, 2020, Mayor Bill de Blasio issued Emergency Executive Order No. 98 declaring a state of emergency in the City to address the threat posed by COVID-19 to the health and welfare of City residents, and such order remains in effect; and

WHEREAS, on March 25, 2020, the New York City Commissioner of Health and Mental Hygiene declared the existence of a public health emergency within the City to address the continuing threat posed by COVID-19 to the health and welfare of City residents, and such declaration and public health emergency continue to be in effect; and

WHEREAS, pursuant to Section 558 of the New York City Charter (the "Charter"), the Board of Health may embrace in the Health Code all matters and subjects to which the power and authority of the Department of Health and Mental Hygiene (the "Department") extends; and

WHEREAS, pursuant to Section 556 of the Charter and Section 3.01(c) of the Health Code, the Department is authorized to supervise the control of communicable diseases and conditions hazardous to life and health and take such actions as may be necessary to assure the maintenance of the protection of public health; and

WHEREAS, the U.S. Centers for Disease Control and Prevention ("CDC") reports that new variants of COVID-19, identified as "variants of concern" have emerged in the United States, and some of these new variants which currently account for the majority of COVID-19 cases sequenced in New York City, are more transmissible than earlier variants; and

WHEREAS, the CDC has stated that vaccination is an effective tool to prevent the spread of COVID-19 and the development of new variants, and benefits both vaccine recipients and those they come into contact with, including persons who for reasons of age, health, or other conditions cannot themselves be vaccinated; and

WHEREAS, the Department reports that between January 17 and August 7, 2021, people who were unvaccinated or not fully vaccinated accounted for 96.1% of COVID-19 cases, 96.9% of COVID-19 hospitalizations, and 97.3% of COVID-19 deaths in New York City; and

WHEREAS, a study by Yale University demonstrated that the Department's vaccination campaign was estimated to have prevented about 250,000 COVID-19 cases, 44,000 hospitalizations, and 8,300 deaths from COVID-19 infection since the start of vaccination through July 1, 2021, and by information and belief, the number of prevented cases, hospitalizations, and death has risen since then; and

WHEREAS, on August 16, 2021, Mayor de Blasio issued Emergency Executive Order No. 225, the "Key to NYC," requiring that patrons and employees of establishments providing indoor entertainment, dining, and gyms and fitness centers must show proof that they have received at least one dose of an approved COVID-19 vaccine, and such Order, as amended, is still in effect; and

WHEREAS, on August 24, 2021, I issued an Order requiring that Department of Education employees, contractors, and visitors provide proof of COVID-19 vaccination before entering a DOE building or school setting, and such Order was re-issued on September 12 and

15, 2021, and subsequently amended on September 28, 2021, and such Orders and amendment were ratified by the New York City Board of Health on September 17, 2021 and October 18, 2021; and

WHEREAS, on August 26, 2021, the New York State Department of Health adopted emergency regulations requiring staff of inpatient hospitals and nursing homes to receive the first dose of a COVID-19 vaccine by September 27, 2021, and staff of diagnostic and treatment centers, hospices, home care and adult care facilities to receive the first dose of a COVID-19 vaccine by October 7, 2021; and

WHEREAS, on August 31, 2021, Mayor de Blasio issued Executive Order No. 78, requiring that, beginning September 13, 2021, City employees and covered employees of City contractors be vaccinated against COVID-19 or submit on a weekly basis proof of a negative COVID-19 PCR diagnostic test; and

WHEREAS, on September 9, 2021 President Biden issued an Executive Order stating that "It is essential that Federal employees take all available steps to protect themselves and avoid spreading COVID-19 to their co-workers and members of the public," and ordering each federal agency to "implement, to the extent consistent with applicable law, a program to require COVID-19 vaccination for all of its Federal employees, with exceptions only as required by law"; and

WHEREAS, on September 12, 2021, I issued an Order requiring that staff of early childhood programs or services provided under contract with the Department of Education or the Department of Youth and Community Development provide proof of COVID-19 vaccination; and

WHEREAS, Section 17-104 of the Administrative Code of the City of New York directs the Department to adopt prompt and effective measures to prevent the communication of infectious diseases such as COVID-19, and in accordance with Section 17-109(b), the Department may adopt vaccination measures to effectively prevent the spread of communicable diseases; and

WHEREAS, City employees and City contractors provide services to all New Yorkers that are critical to the health, safety, and well-being of City residents, and the City should take reasonable measures to reduce the transmission of COVID-19 when providing such services; and

WHEREAS, a system of vaccination for individuals providing City services and working in City offices will potentially save lives, protect public health, and promote public safety; and

WHEREAS, there is a staff shortage at Department of Corrections ("DOC") facilities, and in consideration of potential effects on the health and safety of inmates in such facilities, and of the benefit to public health and employee health of a fully vaccinated correctional staff, it is necessary that the requirements of this Order for DOC uniformed personnel not assigned to posts in healthcare settings be delayed; and

WHEREAS, pursuant to Section 3.01(d) of the Health Code, I am authorized to issue orders and take actions that I deem necessary for the health and safety of the City and its residents when urgent public health action is necessary to protect the public health against an existing threat and a public health emergency has been declared pursuant to such Section;

NOW THEREFORE I, Dave A. Chokshi, MD, MSc, Commissioner of Health and Mental Hygiene, finding that a public health emergency within New York City continues, and that it is

necessary for the health and safety of the City and its residents, do hereby exercise the power of the Board of Health to prevent, mitigate, control and abate the current emergency, and order that:

1. My Order of August 10, 2021, relating to a vaccination or testing requirement for staff in City operated or contracted residential and congregate settings, shall be **RESCINDED** as of November 1, 2021. Such staff are subject to the requirements of this Order.

2. No later than 5pm on October 29, 2021, all City employees, except those employees described in Paragraph 5, must provide proof to the agency or office where they work that:

    a. they have been fully vaccinated against COVID-19; or
    b. they have received a single-dose COVID-19 vaccine, even if two weeks have not passed since they received the vaccine; or
    c. they have received the first dose of a two-dose COVID-19 vaccine

    Any employee who received only the first dose of a two-dose vaccine at the time they provided the proof described in this Paragraph shall, within 45 days after receipt of the first dose, provide proof that they have received the second dose of vaccine.

3. Any City employee who has not provided the proof described in Paragraph 2 must be excluded from the premises at which they work beginning on November 1, 2021.

4. No later than 5pm on October 29, 2021, City agencies that contract for human services contracts must take all necessary actions to require that those human services contractors require their covered employees to provide proof that:

    a. they have been fully vaccinated against COVID-19; or
    b. they have received a single-dose COVID-19 vaccine, even if two weeks have not passed since they received the vaccine; or
    c. they have received the first dose of a two-dose COVID-19 vaccine.

    Any covered employee of a human service contractor who received only the first dose of a two-dose vaccine at the time they provided the proof described in this Paragraph shall, within 45 days after receipt of the first dose, provide proof that they have received the second dose of vaccine.

    All such contractors shall submit a certification to their contracting agency confirming that they are requiring their covered employees to provide such proof. If contractors are non-compliant, the contracting City agencies may exercise any rights they may have under their contract.

5. Notwithstanding Paragraphs 3 and 4 of this Order, until November 30, 2021, the provisions of this Order shall not apply to uniformed Department of Corrections ("DOC") employees, including staff serving in Warden and Chief titles, unless such uniformed employee is assigned for any time to any of the following locations: Bellevue Hospital; Elmhurst Hospital; the DOC

infirmary in North Infirmary Command; the DOC West Facility; or any clinic staffed by Correctional Health Services.

Uniformed employees not assigned to such locations, to whom this Order does not apply until November 30, 2021, must, until such date, either:

a. Provide DOC with proof that:
    i. they have been fully vaccinated against COVID-19; or
    ii. they have received a single-dose COVID-19 vaccine, even if two weeks have not passed since they received the vaccine; or
    iii. they have received the first dose of a two-dose COVID-19 vaccine, provided that they must additionally provide proof that they have received the second dose of vaccine within 45 days after receipt of the first dose; or

b. On a weekly basis until the employee submits the proof described in this Paragraph, provide DOC with proof of a negative COVID-19 PCR diagnostic test (not an antibody test).

6. For the purposes of this Order:

"City employee" means a full- or part-time employee, intern, or volunteer of a New York City agency.

"Contract" means a contract awarded by the City, and any subcontract under such a contract, for work: (i) to be performed within the City of New York; and (ii) where employees can be expected to physically interact with City employees or members of the public in the course of performing work under the contract.

"Contractor" means a person or entity that has a City contract, including a subcontract as described in the definition of "contract."

"Covered employee" means a person: (i) employed by a contractor or subcontractor holding a contract; (ii) whose salary is paid in whole or in part from funds provided under a City contract; and (iii) who performs any part of the work under the contract within the City of New York. However, a person whose work under the contract does not include physical interaction with City employees or members of the public shall not be deemed to be a covered employee.

"Fully vaccinated" means at least two weeks have passed after an individual received a single dose of a COVID-19 vaccine that only requires one dose, or the second dose of a two-dose series of a COVID-19 vaccine as approved or authorized for use by the Food and Drug Administration or World Health Organization.

"Human services contract" means social services contracted by an agency on behalf of third-party clients including but not limited to day care, foster care, home care, health or medical services, housing and shelter assistance, preventive services, youth services, the operation of

senior centers, employment training and assistance, vocational and educational programs, legal services and recreation programs.

7. Each City agency shall send each of its human services contractors notice that covered employees of such contractors must comply with the requirement of Paragraph 4 of this Order and request a response from each such contractor, as soon as possible, with regard to the contractor's intent to follow this Order.

8. Nothing in this Order shall be construed to prohibit any reasonable accommodation otherwise required by law.

9. This Order shall not apply to individuals who already are subject to another Order of the Commissioner of Health and Mental Hygiene, Board of Health, the Mayor, or a State or federal entity that requires them to provide proof of full vaccination and have been granted a reasonable accommodation to such requirement.

10. This Order shall not apply to per diem poll workers hired by the New York City Board of Elections to conduct the election scheduled for November 2, 2021.

11. Subject to the authority of the Board of Health to continue, rescind, alter or modify this Order pursuant to Section 3.01(d) of the Health Code, this Order shall be effective immediately and remain in effect until rescinded, except that Paragraph 5 of this Order will be deemed repealed on December 1, 2021.

Dated: October 20, 2021

Dave A. Chokshi, M.D., MSc
Commissioner

FAQ on New York City Employees Vaccine Mandate

Policy Details

1. What is the Vaccine Mandate?

Per DOHMH Commissioner's Order to Require COVID-19 Vaccination for City Employees and Certain City Contractors, the New York City Vaccine Mandate requires that all City employees must provide verification that they are vaccinated against COVID-19 by October 29, 2021 at 5 PM.

City employees or covered employees of a human services contractor who provide documentation of having received one dose of any COVID-19 vaccine before 5 PM on October 29, 2021 will be considered fully vaccinated even though two weeks have not passed since their final dose, so long as, for employees who received a two-dose vaccine, they provide documentation that that they have received the second dose of that vaccine within 45 days after receipt of the first dose.

"Full vaccinated" means at least two weeks have passed after a person received a single-dose of an FDA- or WHO- approved COVID-19 vaccine or the second dose of an FDA- or WHO- approved two-dose COVID-19 vaccine.

Weekly testing in lieu of vaccination is only allowed if an employer has granted an employee a reasonable accommodation allowing for testing in lieu of vaccination.

Beginning November 1, City staff who are not in compliance with the vaccine mandate and have not applied for a reasonable accommodation will be placed on Leave Without Pay (LWOP). An employee may arrive at work with proof of one dose of vaccine in order to be removed from LWOP and if applicable, must submit proof of second dose within 45 days of the first shot.

2. Which employees must be vaccinated under the Vaccine Mandate?

All City employees, including interns, aides, fellows and volunteers: The DOHMH Order (10/20) requires that proof of vaccination must be submitted by October 29, 2021 at 5 PM.

DOC Employees: Civilian employees and uniformed members assigned to healthcare settings are also immediately subject to the mandate and must submit proof of vaccination by 5 PM on October 29. Healthcare settings include: Bellevue Hospital; Elmhurst Hospital; the DOC infirmary in North Infirmary Command; the DOC West Facility; and/or any clinic staffed by Correctional Health Services.

Other uniformed members at DOC, including Wardens and Chief titles, will be subject to the mandate effective December 1st, as the City works diligently to address the ongoing staffing situation at Rikers Island.

Employees, including subcontracted employees, of human service contracts: The DOHMH Commissioner's Order requires individuals whose salary is paid in whole or in part from funds provided under a City human services contract to be vaccinated. Contractors must certify they have received proof of vaccination from all employees no later than November 15, 2021.

Certain Employees in Public Health and Educational Settings are already required to be vaccinated:

- **Hospital Employees:** Per State Department of Health regulation 10 NYCRR 2.61, employees of any facility or institution included in the definition of "hospital" in section 2801 of the Public Health Law, including but not limited to general hospitals, nursing homes, and diagnostic and treatment centers must be fully vaccinated, and must have received at least the first dose by September 27, 2021.
- **Other Public Health Settings:** Per State Department of Health regulation 10 NYCRR 2.61, employees of (i) any agency established pursuant to Article 36 of the Public Health Law, including but not limited to certified home health agencies, long term home health care programs, acquired immune deficiency syndrome (AIDS) home care programs, licensed home care service agencies, and limited licensed home care service agencies; (ii) hospices as defined in section 4002 of the Public Health Law; and (iii) adult care facility under the regulatory authority of the State Department of Health, as set forth in Article 7 of the Social Services Law: must be fully vaccinated, and must have received at least the first dose by October 7, 2021.
- **All DOE employees:** DOHMH Commissioner's Order related to DOE Employees, Contractors, and Others (9/15/21—effective date amended 9/28/21). Proof of vaccination was required as of October 1, 2021. Weekly testing is not an alternative for these employees, except where allowed as a reasonable accommodation. This DOHMH Commissioner's Order also applies to:
    - City employees who work in DOE settings or DOE buildings
    - Staff of any Charter school serving students up to grade 12
    - Employees of contractors hired by the City, the DOE, or a charter school to work in DOE settings or DOE buildings.
    - In addition, on September 2, 2021, the State Commissioner of Health issued a Determination on COVID Testing pursuant to 10 NYCRR 2.62 that requires all unvaccinated school staff in P-12 schools to be tested at least once a week. For DOE employees and others covered by the DOHMH Commissioner's Order, this will effectively apply only to those who have been excused from vaccination as a reasonable accommodation.
- **Childcare Providers:** DOHMH Commissioner Order (9/12/2021). Proof of vaccination was required as of September 27, 2021 for staff of early childhood programs or services provided under contract with DOE for Birth-to-5 and Head Start services for infants, toddlers, and preschoolers including 3-k and pre-k services as well as early education programs serving young children with disabilities, Early Learn, pre-school special education pursuant to section 4410 of the Education Law, or by family home-based family child care providers contracted through family child care networks, or programs under contract with DYCD for after school, Beacon, and Cornerstone.

3. **Which employees of covered contractors may continue to submit proof of vaccination OR submit weekly negative test results?**

Per Executive Order 83 and Executive Order 78, City contractors' and subcontractors' employees may continue to submit one-time proof of vaccination OR test weekly if

- Their salary is paid in whole or in part from funds provided under a City contract;
- Their work includes physical interaction with City employees or members of the public; and
- They are not otherwise covered by a vaccine mandate because they work in a covered healthcare, educational, or human services setting.

Contractors were required to certify they have received proof of full vaccination or weekly negative test from all employees and subcontractor employees by October 1, 2021.

School bus drivers: Although they are not covered by orders issued by the City, on September 2, 2021, the State Commissioner of Health issued a Determination on COVID Testing pursuant to 10 NYCRR 2.62 that requires all unvaccinated school bus drivers to be tested at least once a week.

4. **For the purpose of this vaccine mandate, how are you defining "contracted employee" and "City contractor"?**
   For the purposes of this policy, a contracted employee and City contractor are, respectively, an individual or entity whose salary or funding is paid, in whole or part, by a human services contract with a New York City agency to perform work within New York City.

   Other contractors not otherwise listed in Questions 2 or 3 must still adhere to the COVID-Safe Vaccine or testing requirement detailed in Executive Order 83 and Executive Order 78.

   The City strongly urges organizations to adopt this policy as broadly as possible and cover all of their employees, as the City has done. This policy is intended to keep your employees and the clients they serve safe.

5. **Does the vaccine mandate apply to the clients served by the City or its contractors?**
   No. This policy is specific to City employees and City contractors including their staff, volunteers and interns. City contractors should integrate this policy into their own COVID-19 return to office and health and safety policies. Clients must wear face coverings at all times.

6. **Does the vaccine mandate cover interns?**
   Yes, interns, aides, and fellows are covered by this policy. All agencies should update their policies to include this requirement.

7. **Does the vaccine mandate cover volunteers?**
   Yes, volunteers are covered by this policy. All agencies should update their volunteer policies to include this requirement.

8. **Does this mandate extend to subcontractors?**
   Yes, this policy extends to subcontractors including building security, food service employees, and other subcontractors.

9. **Do these contractor requirements apply to micropurchase vendors?**
   Yes, micropurchase vendors are subject to this Commissioner's Order, however due to the small size of their contract and how difficult it would be to track compliance for so many small and short-term vendors, they do not need to submit a certification and policy. Agencies should check such contactors for proof of vaccination or a negative test (if a reasonable accommodation) prior to their entry to a job site. For example, a photographer who comes to the office for half a day would need to show proof of full vaccination or a negative test.

10. **Will the City be providing on-site vaccination at City worksites?**
    Vaccination is widely available and convenient for all New Yorkers. The City will continue to bring mobile vaccination clinics to select worksites, including certain City worksites.

Vaccination

11. If an employee, intern, or volunteer gets their first dose prior to when they are subject to this requirement will they be required to provide weekly test results?

A City employee who provides documentation of having received one dose of any COVID-19 vaccine on or before October 29, 2021 at 5 PM will not be required to undergo weekly testing.

An employee who receives the first dose of any COVID vaccine after October 29, 2021 will be required to undergo weekly testing until they have submitted proof of full vaccination.

Regardless of date of vaccine, if the City employee received a two-dose vaccine, the employee must provide documentation that the second dose has been administered within 45 days of the first dose.

12. Where can people be vaccinated?

Vaccination is free and convenient across the five boroughs and in bordering counties. Over 95% of all NYC residents live within half a mile of a public vaccination site. Convenient vaccination sites can be found via https://www.nyc.gov/vaccinefinder or by calling 877-VAX-4-NYC. For anyone who lives within the five boroughs (including City employees and contractors' employees), the City is also making at-home vaccination free and available; call 877-VAX-4-NYC or visit https://www.nyc.gov/homevaccine to sign up to have a team member come to your home to vaccinate you and any other household members, with any of the three FDA-authorized vaccines you choose.

13. Which vaccines count? What if the employee has been vaccinated with a non-FDA approved vaccine?

Only FDA-authorized and WHO-approved vaccines will be accepted.[1] As of the date of this FAQ, FDA-authorized vaccines include the Pfizer, Moderna, and Johnson & Johnson vaccines.

It is possible that someone was vaccinated outside of the country with a non-FDA approved vaccine. Only vaccines listed for emergency use by the World Health Organization (WHO) are acceptable and the person needs to have received a complete vaccine series. The current list of vaccines authorized by the WHO for emergency use is here.

People who have started, but not completed, a full series of a vaccine that is approved by the WHO, but not by the FDA, should receive a complete vaccine series with a U.S. FDA-authorized vaccine.

Employees, interns and volunteers who have been vaccinated outside the U.S. may submit their vaccine record from the place where it was administered.

[1] Exception: clinical trial participants who received two doses of Novavax are considered fully vaccinated although not authorized by FDA or WHO.

14. What counts as proof of vaccination?

Employees, interns, and volunteers may submit, using secure means, proof of vaccination directly to their own agency or contract organization. Employers should maintain a confidential record of the employees who have demonstrated proof of vaccination.

Proof must be:

- An official CDC card or other official immunization card bearing the employee's name and date(s) of vaccine administration. The employer must see this document or a photograph of it;
- An Excelsior Pass issued by the State of New York; or
- The NYC COVID SAFE app that clearly displays an image of the CDC card or other official immunization card with the above noted requirements. The NYC COVID SAFE app can be downloaded for Apple or Android (or by searching "NYC COVID Safe" on Apple app store or Google Play store).

Proof of vaccination for vaccines administered outside the U.S. must be an official immunization record and will include all of the following:

- First name and last name
- Date of birth
- Vaccine product name (ex: Moderna)
- Lot number (note: lot number may not be included on all official cards)
- Date(s) administered
- Site where the vaccine was administered or person who administered the vaccine or the country where the vaccine was administered.

15. How will City agencies use the proof of vaccination?

Agencies will collect vaccination proof from City employees using secure means. This information will be used to identify employees who have not submitted proof of full vaccination and to compile a list of employees who have not submitted proof of vaccination and must wear a face covering in both shared and non-shared spaces and must submit weekly negative COVID-19 test results until their vaccine series is complete.

See information below under "Enforcement and Compliance" regarding consequences for failure to comply.

16. What if an employee, intern, or volunteer is vaccinated, but lost their CDC vaccination card?

Employees, interns, and volunteers who lost their CDC vaccination card should contact the medical provider where they got vaccinated to get an official record of vaccination. If an employee, intern or volunteer was vaccinated in New York City, they can request their immunization record through the DOHMH self-service portal My Vaccine Record.

17. Can employees take time from their shift to get vaccinated?

All employees are allowed to take up to four hours to get vaccinated during their workday. Employees who get a vaccine may take up to four hours on each of the days they receive a vaccination. Please see PSB 600-4 Temporary Citywide Policy for Vaccination of City Employees against SARS-CoV-2 for more information. In addition, all employees may be entitled to paid excused leave for any side effects experienced due to the vaccination. Please see Updated

Guidance for City Agencies on Leave Policy Applicable During the Outbreak of Coronavirus Disease 2019 (COVID-19) for more information.

It is suggested that City contractors adopt the same or similar policy. The City will reimburse contractors for costs associated with providing time off to employees getting vaccinated.

18. **Will the City be offering excused time off to get a booster dose? Will there be additional benefits (additional comp time) for employees that receive a booster shot?**
Time off to get a booster shot is covered under PSB 600-4 Temporary Citywide Policy for Vaccination of City Employees against SARS-CoV-2, but additional compensatory time is not offered for the booster.

19. **Will employees, interns, and volunteers be expected to pay out of pocket for vaccine?**
No. Vaccination is free to all New Yorkers including City and contracted employees; the majority of City employees have chosen to protect themselves and their community by getting vaccinated.

20. **What incentives are available for vaccination?**
From October 20-29, 2021, employees will be eligible to receive $500 through payroll, in addition to a $100 gift card available at City operated vaccination sites, if they receive their first vaccine dose during that time period.

FISA-OPA will provide agencies with a new PMS pay event code to enter when proof of vaccination is provided by an employee to their agency for the period of October 20-29, 2021.

Please visit https://www1.nyc.gov/site/coronavirus/vaccines/vaccine-incentives.page for a full list of incentives offered for vaccination.

In addition, City employees are eligible to receive up to three hours of compensatory time under PSB 600-4 Temporary Citywide Policy for Vaccination of City Employees against SARS-CoV-2.

Reasonable Accommodations

21. **Will there be any medical or religious accommodations?**
Medical or religious accommodations will only be granted in limited circumstances. If the employee, volunteer, or intern has medical or religious concerns that prevent them from complying with the vaccine mandate, they should speak to their EEO officer regarding a potential reasonable accommodation. Any employee who is awaiting a reasonable accommodation determination from their agency must continue to submit a negative test result within every seven day period.

23. **On what basis can an employee apply for a reasonable accommodation if they have reason not to be vaccinated?**
Reasonable accommodations may be granted only for documented medical or religious reasons.

The NYC Department of Health has indicated that the *medical basis* for a *permanent* medical exemption includes:

- Documented contraindication such that an employee cannot receive any FDA-authorized vaccines, with contraindications delineated in CDC clinical considerations for COVID-19 vaccine.
- Limited cases in which, despite seeking vaccination, an individual is unable to mount an immune response due to preexisting immune conditions.

The NYC Department of Health has indicated that the *medical basis* for a temporary medical exemption includes:

- An employee who is within the isolation period after COVID-19 infection
- An employee who is within 90 days of monoclonal antibody or convalescent plasma treatment of COVID-19
- Treatments for conditions as delineated in CDC clinical considerations, with the understanding that CDC guidance can be updated to modify considerations over time, and/or determined by a treating physician with a valid medical license responsible for immunosuppressive therapy, including full and appropriate documentation that may warrant temporary medical exemption for some period of time because of active therapy or treatment (e.g. stem cell transplant, CAR T-cell therapy) that would temporarily interfere with the patient's ability to respond adequately to vaccination
- Pericarditis or myocarditis not associated with COVID-19 vaccination or pericarditis or myocarditis associated with COVID-19 vaccination

Note: The length of *temporary* medical exemption will be determined on a case-by-case basis and with consideration for provided medical documentation. An employee will be required to be vaccinated at the end of the temporary period.

A sincerely held *religious, moral or ethical belief may be a basis* for a religious accommodation. A request based solely on a personal, political, or philosophical preference does not qualify for a religious accommodation.

24. What alternative to vaccination is allowed if an employee is granted a reasonable accommodation?

For requests filed after October 27, 2021, the only allowable accommodation from vaccination without causing an undue hardship and/or disruption is submission of a weekly negative test result.

25. Is there a deadline for a City employee apply for a reasonable accommodation from being vaccinated?

Yes, there is a deadline to apply:

- Existing City employees must apply for a reasonable accommodation with their agency EEO officer for this vaccine requirement no later than October 27, 2021 in order to avoid Leave without Pay (LWOP) on November 1, 2021. Employees who seek reasonable accommodations from their agencies after October 27, 2021 will be place on LWOP until the reasonable accommodation is decided, included any appeals.
- New hires must apply for a reasonable accommodation before the start date of their new position.

26. How should an employee apply for a reasonable accommodation from being vaccinated?
An employee seeking a reasonable accommodation from vaccination should apply to their EEO Office (although some agencies designate a different entity to handle these requests). Any employee who requests a reasonable accommodation from their agency on or before October 27, 2021 and is awaiting a reasonable accommodation determination from their agency or an appeal decision must continue to submit a negative test result within every seven day period.

27. Can an employee appeal the reasonable accommodation of their agency?
Yes. An agency that denies a reasonable accommodation request must provide written information to the employee whose request has been denied on the appeals process, including a link to the City's online appeals request portal (to be distributed to APOs).

If an employee is denied a reasonable accommodation by their agency, they may appeal the decision **within 3 business days**.

An employee may submit an appeal via the online review request portal (to be distributed to EEOs and APOs), which will automatically notify their agency EEO Officer of the appeal. The request for review must include a reason for the appeal. Upon notification of the appeal, the Agency EEO Officer will upload all records concerning the Agency determination of the reasonable accommodation request within **one business day.** Supplemental material may be requested to make a determination on appeal.

An agency must issue a written determination. If the accommodation is denied or the employee disagrees with the accommodation granted, the written determination must also include information about the appeals process.

Review of all appeals will be completed before November 25, 2021.

28. What is required of an employee while awaiting the determination of their reasonable accommodation and/or reasonable accommodation appeal?

An employee who requested a reasonable accommodation from their agency on or before October 27, 2021 and is awaiting a reasonable accommodation appeal determination must continue to submit a weekly negative test result within every seven day period, as previously required. Employees who seek reasonable accommodations from their agencies after October 27, 2021 will be place on Leave Without Pay (LWOP) until the reasonable accommodation is decided, included any appeals.

29. What is required of an employee if their appeal is denied?
If an employee's appeal is denied, they must submit proof of the first dose of a vaccination **within 3 business days**, and if required, of a second dose within 45 days thereafter. If an employee refuses to be vaccinated within this timeframe after an appeal is denied, they will be placed on Leave Without Pay.

Testing

30. **Who must submit to testing?**
    Employees who are awaiting a determination on a reasonable accommodation request submitted on or before October 27 or who were granted a reasonable accommodation will be required to submit to weekly testing. An employee who receives the first dose of any COVID after October 29, 2021 will be required to undergo weekly testing until they have submitted proof of full vaccination.

    All contractors that are not covered by a vaccine mandate must continue to comply with the COVID-Safe vaccine or testing requirement.

31. **Where can people find testing?**
    If an employee is seeking testing, the City of New York offers free COVID-19 testing in convenient locations across the five boroughs and will continue to do so, but employees may go to their trusted medical professionals as well. There are hundreds of PCR testing locations in the five boroughs; the list can be found at http://www.nyc.gov/covidtest. If employees prefer to receive a test specifically at a City-sponsored site, that list can be found here: https://www.nychealthandhospitals.org/test-and-trace/testing.

32. **When must employees who have been granted a reasonable accommodation submit a weekly test?**
    Beginning November 1, for employees with a reasonable accommodation to submit a weekly negative test instead of submitting proof of vaccination, for each day that an employee reports to work onsite, they must have had a negative COVID-19 PCR test taken within the preceding seven days. This test result, which must be submitted to HR, must be negative. An employee who has been tested within the preceding seven days but is still waiting for the result may report to work with a pending test result as long as they meet the criteria of the health screening, and provided that the test result is submitted to HR as soon as it becomes available.

    Ordinarily, results should be submitted within two to three days of specimen collection and an agency may follow up with an employee who has not yet submitted results to ensure compliance.

33. **For employees, interns, and volunteers who have a reasonable accommodation to do weekly testing, which tests qualify?**
    Only polymerase chain reaction (PCR) tests processed by medical professionals qualify. These tests usually take one-two days to process at a lab, but some PCR tests are rapid tests. Both rapid and non-rapid PCR tests can be used. An employee may request a reasonable accommodation for a different type of test.

34. **For employees, interns, and volunteers who have a reasonable accommodation to do weekly testing, do rapid tests qualify?**
    Rapid PCR tests will qualify for this requirement.

35. **For employees, interns, and volunteers who have a reasonable accommodation to do weekly testing, do at-home tests qualify?**
    At-home tests will not be accepted at this time.

36. **What happens if an employee, intern, or volunteer tests positive?**
    An employee, intern or volunteer who tests positive must not report to work until they meet all the criteria of the health screening and all of these conditions are met:
    a. It has been at least 10 days since their symptoms began or, if asymptomatic, since a positive test result;
    b. They have not had a fever for at least 24 hours without the use of a fever reducer; and
    c. Other respiratory symptoms (cough, shortness of breath) have improved.

    An employee must also notify HR if they develop symptoms of COVID-19 while in the office or if they test positive for COVID-19 and were in the office during their infectious period. HR will then activate the Rapid Response Team, as detailed in Managing the Office in the Age of COVID-19.

    For information on the City's Leave Policy during COVID-19, please see: Updated Guidance for City Agencies on Leave Policy Applicable During the Outbreak of Coronavirus Disease 2019 (COVID-19).

37. **Can an employee who is not vaccinated, has received a reasonable accommodation, and has tested positive for COVID-19 be exempt from the weekly testing requirement?**
    Per the NYC Department of Health, unvaccinated staff who test positive should not get tested again until at least 90 days after their initial positive test and will need to be exempt from weekly testing during that time. However, they should be strongly encouraged to get vaccinated.

    Employees who are subject to the weekly testing requirement because they have been granted a Reasonable Accommodation should seek a modification of their Reasonable Accommodation to be exempt from testing in these circumstances, and must provide appropriate documentation. They should get tested during this time if they develop new symptoms that are consistent with COVID-19.

    See DOHMH guidance: https://www1.nyc.gov/assets/doh/downloads/pdf/covid/covid-19-testing-recommendations.pdf.

38. **What happens if an employee continues to test positive within three months of recovering from COVID-19?**
    Employees who test positive within three months after recovering from the first COVID infection will not receive COVID-19 excused leave during that three-month period unless they have new COVID-19 symptoms.

39. **What happens if an employee is supposed to come in, but says their test results are pending? Do we track how many times someone does this?**
    Employees who have been tested, but whose test results are pending should come to work as long as they meet the criteria of the health screening. They must provide proof of test collection while they await the result. Repeated delays in compliance should be reviewed by applicable HR staff, with disciplinary action taken, as necessary.

40. **Can City and contracted employees take time from their shift to get tested?**
    City employees subject to weekly testing under an approved reasonable accommodation may be tested during their work hours, but some restrictions apply:
    - Employees should work with their supervisors to schedule a time for testing.
    - Employees may be required to get tested at the beginning or end of their shift.
    - If testing is offered at an employee's place of work, they may not use work hours to be tested off-site.
    - If testing is not onsite at the workplace, employees should get tested in a place close to their home or work.
    - Employees will be required to document time taken to seek testing and will be required to seek the fastest option available.
    - Testing time should be scheduled so that it does not have any detrimental impact on operations.

    Contracted organizations may develop their own policies and procedures with regards to testing. However, no additional funding will be provided associated with time off for testing.

41. **Are employees required to be tested at an onsite location?**
    No, employees may choose where to be tested, but if testing is offered at an employee's place of work, they may not use work hours to be tested off-site.

42. **May employees use overtime to get tested?**
    No, City employees may not use overtime to get tested.

43. **Will tests at City sites be billed to employees' insurance (which the City pays)?**
    For many of the tests conducted, employee insurance will be billed. At City-run sites, FEMA requires that the City attempt to bill for all tests in order to seek federal reimbursement for any costs not covered by insurance. For this reason, the City will attempt to bill for most tests performed by a City provider regardless of the fact that the City pays for the insurance coverage. The City does provide some testing without billing for it because the testing is funded by sources of federal funds that are not subject to FEMA rules and regulations.

44. **Who is responsible for paying for tests at non-City sites (to the extent it isn't covered)?**
    Tests are widely available at no cost to individuals across dozens of City-sponsored test sites. Private providers may charge for testing or charge a co-pay and all New Yorkers are strongly encouraged to ask about associated costs before being tested. Most providers across the City will attempt to bill insurance for test collection.

Face Coverings

45. **Do all employees and visitors have to wear a face covering, even if fully vaccinated?**
    Yes. Anyone in a shared indoor City workspace able to medically tolerate a face covering must wear a face covering that covers their mouth and nose at all times (except when eating or drinking). A shared indoor City workspace is a communal or open office setting in which individuals cannot be separated by a closed door.

An employee who has provided proof of full vaccination may remove their face covering when in an unshared indoor City workspace.

Any City employees and contractors conducting City business outside, who are able to medically tolerate a face covering, must wear a face covering at all times (except when eating and drinking) when interacting with members of the public. See Executive Order 79.

Further, a face covering is required for all individuals (including those who are fully vaccinated) at all times when interacting with the public or present in a pre-kindergarten to twelfth grade school, public transit, homeless shelter, correctional facility, nursing home, or health care setting.

46. **What additional face covering requirements apply to employees, volunteers and interns who are not fully vaccinated?**
Employees, interns, and volunteers who have not provided proof of full vaccination must wear a face covering at all times, even when alone in a non-shared space, unless they have an approved reasonable accommodation.

Agency HR staff will generate a list of employees, volunteers, and interns required to wear a face covering in non-shared spaces because they have not submitted proof of vaccination. The list will be securely shared with designated supervisors and other designated agency personnel who will conduct audits of face covering compliance. Agencies should proactively audit for compliance on a regular basis. In the compliance support role, designated agency staff must never inquire about an employee's medical condition; such inquiries may be a violation of federal law. Refer to the guidance issued by the City's Chief Privacy Officer on 7/30/21 for further information about handling individuals' confidential vaccination status and related information, or email PrivacyOfficer@cityhall.nyc.gov.

Enforcement and Compliance

47. **Do staff have to tell the City whether or not they are vaccinated?**
Yes. Vaccination is required for all City employees covered by the DOHMH Order as a term of employment.

48. **How will City agencies track compliance?**
Each agency will track compliance for their employees, interns, and volunteers. Agencies are responsible for verifying individual vaccination status of each employee, intern, and volunteer, and monitoring compliance with vaccine and face covering requirements, and where applicable, with weekly testing.

49. **Are there privacy concerns with handling employee vaccination information, documents, and COVID-19 test results?**
Employee vaccination information and COVID-19 test results are considered confidential medical information under the federal Americans with Disabilities Act and are also types of identifying information that are protected under the City's privacy law. This information must be kept private and secure and may only be shared with designated agency staff and City officials. Refer to guidance issued by the City's Chief Privacy Officer on July 30, 2021 for further information on handling this information, or email PrivacyOfficer@cityhall.nyc.gov.

50. What tools can an agency use to collect and store vaccination or testing proof?

Agencies developing or utilizing a survey tool to collect proof of employee vaccination status or COVID-19 test results, because it is confidential medical information, must only use tools that have successfully completed the citywide application security review and have the appropriate controls to support the storage, transmission, and handling of information classified as "Restricted" information under the NYC Cyber Command Policies & Standards. If an agency procures a vendor to develop its survey tool, the contract should include NYC3 security provisions and be reviewed by the Chief Privacy Officer to ensure appropriate privacy protections are included. For further information, contact PrivacyOfficer@cityhall.nyc.gov or legal@cyber.nyc.gov.

51. What is the penalty for non-compliance? Will non-compliant employees be subject to termination?

Beginning November 1, City staff who are not in compliance with the vaccine mandate and have not applied for a reasonable accommodation will be placed on Leave Without Pay (LWOP). An employee may arrive at work with proof of one dose of vaccine in order to be removed from LWOP and if applicable, must submit proof of second dose within 45 days of the first shot. Employees who refuse to comply will be terminated in accordance with procedures required by the Civil Service Law or applicable collective bargaining agreement.

It is important for agencies to establish a system to ensure that no employee who has been notified of non-compliance and Leave Without Pay returns to the worksite until they have submitted required proof of compliance.

It is suggested that contracted organizations adopt a similar policy. If providers are non-compliant, contracting agencies will exercise any rights they may have under their contract.

52. How long should an employee be on Leave Without Pay (LWOP) before termination proceedings begin?

Absent any collective bargaining agreement providing for other procedures, employees should be placed on LWOP effective November 1 and may be subject to discipline or other adverse employment action. Further guidance will be forthcoming.

53. How will the Vaccine Mandate be enforced for contracted organizations?

Except for micropurchase vendors, all City contractors with covered contracts must submit a certification signed by the organization's Executive Director or equivalent that they are complying with the City's Vaccine Mandate by uploading it directly to their PASSPort vendor profile or sending it to their contracting agency if they do not have a PASSPort account. Organizations must also submit their updated internal policies that reflect the mandate.

The Certification of Vaccine Mandate should be uploaded to the Miscellaneous Documents section of the Documentation tab in your PASSPort vendor profile, under the label "Vaccine Mandate." Vendor Policies Establishing Vaccine Mandate should be uploaded to PASSPort with Executive Order 78 (/Executive Order 83) and Executive Order 79 policies under the label "Vendor Vaccine and Face Covering Policies"

If an agency does not manage contracts via PASSPort, it must independently collect contractor certifications and policies and monitor them in an ongoing manner.

Note: this certification is in addition to the certification that they are complying with Executive Order 78 (/Executive Order 83) and Executive Order 79, which requires face coverings for unvaccinated employees and compliance with the COVID-Safe vaccine or test requirement.

Contractors are subject to reviews for compliance. Like all other contract provisions, if providers are non-compliant, contracting agencies will exercise any rights they may have under the contract.

54. **In City agencies, do staff have to show proof of vaccination or testing multiple times a day every time someone comes in and out of the workplace?**
No. HR will be responsible for monitoring proof of vaccination, or weekly test compliance for those who have a reasonable accommodation.

55. **Does a test have to be within the previous seven days or in the same calendar week?**
The test must be within the previous seven days and does not need to be in the same calendar week.

56. **Will employees be required to use the City's NYC COVID Safe application?**
No. The NYC COVID Safe application should be on every phone issued by the City of New York, if an employee wishes to use it. However, employees may choose to provide one-time documentation of vaccination or provide weekly documentation of a test via any proof acceptable to the employer and consistent with guidance provided above.

Where can I find…

- Vaccination sites: www.nyc.gov/vaccinefinder
- Vaccination appointments: www.vax4nyc.nyc.gov and 877-VAX-4-NYC
- How to schedule an at home vaccine appointment: www.nyc.gov/homevaccine and 877-VAX-4-NYC
- A testing site: www.nyc.gov/covidtest
- A City-run testing site: www.nychealthandhospitals.org/test-and-trace/testing/
- A doctor or nurse to talk with about my vaccination concerns: call 311 and ask to talk to a clinician about COVID-19 vaccination
- Assistance for New Yorkers experiencing Long COVID: www.nyc.gov/aftercare
- CPO Privacy Guidance dated 7/30/21 contact PrivacyOfficer@cityhall.nyc.gov

Vaccine Mandate Timeline:

- **10/20-10/29:** City employees may receive $500 incentive via payroll to receive first vaccine dose
- **10/27:** Last day to submit reasonable accommodation request to avoid being placed on Leave Without Pay (LWOP) on 11/1/2021.
- **10/29 at 5 PM:** Deadline to submit proof of vaccination to avoid being placed on LWOP 11/1/21.
- **11/1:** Employees placed on LWOP who have not submitted proof of at least one dose of vaccine.
- **11/25:** Final determinations of appeals

Applying for a Reasonable Accommodation from the COVID-19 Vaccine Mandate

Per DOHMH Commissioner's Order to Require COVID-19 Vaccination for City Employees and Certain City Contractors, City employees are required to be vaccinated against COVID-19 by October 29, 2021 at 5 PM, or by their employment start date. Employees may apply for a Reasonable Accommodation to be exempt from this requirement.

Reasonable accommodations may be granted only for documented medical or religious reasons.

The New York City Department of Health has indicated that the *medical basis* for a *permanent* medical exemption includes:

- Documented contraindication such that an employee cannot receive any FDA-authorized vaccines, with contraindications delineated in CDC clinical considerations for COVID-19 vaccine.
- Limited cases in which, despite seeking vaccination, an individual is unable to mount an immune response due to preexisting immune conditions.

The New York City Department of Health has indicated that the *medical basis* for a *temporary* medical exemption includes:

- An employee who is within the isolation period after COVID-19 infection
- An employee who is within 90 days of monoclonal antibody or convalescent plasma treatment of COVID-19
- Treatments for conditions as delineated in CDC clinical considerations, with the understanding that CDC guidance can be updated to modify considerations over time, and/or determined by a treating physician with a valid medical license responsible for immunosuppressive therapy, including full and appropriate documentation that may warrant temporary medical exemption for some period of time because of active therapy or treatment (e.g. stem cell transplant, CAR T-cell therapy) that would temporarily interfere with the patient's ability to respond adequately to vaccination.
- Pericarditis or myocarditis not associated with COVID-19 vaccination or pericarditis or myocarditis associated with COVID-19 vaccination.

Note: The length of *temporary* medical exemption will be determined on a case-by-case basis and with consideration for provided medical documentation. An employee will be required to be vaccinated at the end of the temporary period.

A sincerely held *religious, moral or ethical belief may be a basis* for a religious accommodation. A request based solely on a personal, political, or philosophical preference does not qualify for a religious accommodation.

Deadline to apply:

- Existing City employees who opt to file a reasonable accommodation request must apply with their agency EEO Officer for an exemption from this vaccine requirement no later than October 27, 2021 to avoid being placed on Leave Without Pay (LWOP) on November 1, 2021. Employees who seek reasonable accommodations from their agencies after October 27, 2021 will be placed on LWOP until the reasonable accommodation is decided, including any appeals.
- For reasonable accommodation requests filed on or before October 27, 2021, employees will be permitted to continue to submit weekly negative PCR test results while their accommodation request is under consideration or on appeal.

- New hires must apply for a reasonable accommodation before the start date of their new position.
- The only allowable accommodation from the vaccination mandate that will not cause undue hardship and/or disruption is weekly testing and submission of negative PCR results.

Appeals Process:

An agency that denies a reasonable accommodation request must provide written information to the employee whose request has been denied and include a link to an City's online appeals request portal (to be distributed to EEO Officers and APOs).

If an employee is denied a reasonable accommodation by their agency, they may appeal the decision **within 3 business days.**

An employee may submit an appeal via the online review request portal (to be distributed to EEO Officers and APOs), which will automatically notify their agency EEO Officer of the appeal. Agencies must also facilitate submission via paper form for any employee who does not have access to a computer. The request for review must include a reason for the appeal. Upon notification of the appeal, the agency EEO Officer will upload all records concerning the agency determination of the reasonable accommodation request within **one business day.** Additional supplemental material to make a determination may be requested from the employee, including a release to permit contact with the employee's medical provider.

Review of all appeals will be completed before November 25, 2021. A written determination will be provided to the employee and the Agency EEO Officer. There is no further appeals process.

Any employee who requests a reasonable accommodation from their agency on or before October 27, 2021 and is awaiting a reasonable accommodation determination from their agency or on any appeal must continue to submit a negative test result within every seven day period, as previously required.

If an employee's appeal is denied, they must submit proof of the first dose of a vaccination **within 3 business days**, and if required, of a second dose within 45 days thereafter. If an employee refuses to be vaccinated within this timeframe after an appeal is denied, they will be placed on Leave Without Pay immediately and may be subject to termination.

Timeline:

- **10/20-10/29:** City employees may receive $500 incentive via payroll to receive first vaccine dose
- **10/27:** Last day to submit reasonable accommodation request to avoid being placed on LWOP 11/1/2021.
- **10/29 at 5 PM:** Deadline to submit proof of vaccination to avoid being placed on LWOP 11/1/21.
- **11/1:** Employees placed on LWOP who have not submitted proof of at least one dose of vaccine.
- **11/25:** Final determinations of appeals