

New Requirements for NYC Employers as Omicron Spreads

Update

On December 15, 2021, the New York City Health Commissioner issued a Workplace Vaccination Order explaining the City's vaccination mandate for private businesses. Additional information on the new requirements can be found on the NYC Health Department website and in FAQs. The City also posted a Guidance on Accommodations for Workers and Guidance for Employers on Equitable Implementation of COVID-19 Vaccine Requirements.

In addition, the NYC Earned Safe and Sick Time Act amendments providing paid leave for employees to get their children vaccinated went into effect on December 24, 2021, and is available retroactively to November 2, 2021.

The Bottom Line

- NYC employers who have not yet done so should consider how they would implement a mandatory vaccination policy and reasonable accommodation process, while waiting for further guidance from the City.
- NYC employers should also be ready to update their safe/sick leave policies if the mayor signs the Earned Safe and Sick Time Act expansion into law.

As concerns over the Omicron variant grow, New York City officials have taken several actions affecting employers. Below are the latest developments that employers in New York City need to know right now.

Vaccination Mandate for Private Sector NYC Employers

On December 6, 2021, Mayor Bill de Blasio announced a private sector vaccination mandate, which will require all employees in private businesses in New York City to have received at least one dose of the COVID-19 vaccine by December 27, 2021. According to the New York City Health Department, this requirement will not be limited to businesses in certain industries or based on company size.

No specifics regarding this new mandate have been provided, but the City has promised further guidance on enforcement and reasonable accommodations by December 15, 2021 along with additional resources to support small businesses with implementation.

Paid Time Off for Employees to Get Their Children Vaccinated

The New York City Council recently passed a bill amending the NYC Earned Safe and Sick Time Act (ESSTA) to require all private employers to provide their employees with up to four hours of COVID-19 vaccination leave, per child, per injection, to bring their child to get vaccinated and/or to care for them after receiving a shot if they experience temporary side effects.

This law applies to any employee who is a parent of:

- A child under the age of 18, or
- An older child who is incapable of self-care because of a mental or physical disability.

An employer cannot do any of the following:

- Charge this time against an employee's accrual or use of safe/sick time provided under ESSTA.
- Require the employee who takes this leave to work additional hours to make up for the original hours lost.
- Require the employee to find a replacement employee to cover the absence.

The bill would take effect upon Mayor de Blasio's signature and be retroactive to November 2, 2021. The bill would also expire and be deemed repealed on December 31, 2022, unless extended.

Universal Indoor Mask Advisory Issued

The NYC Commissioner of Health & Mental Hygiene recently issued a mask advisory for all individuals in indoor public settings in New York City, regardless of vaccination status or past COVID-19 infection.

The advisory states that all individuals should wear a mask at all times when indoors and in a public setting, including in building lobbies, offices, stores, and other common or shared spaces where individuals may interact such as restrooms, hallways, elevators, and meeting rooms. The advisory does not apply in cases where an individual is actively performing an activity that cannot be done while wearing a face covering, such as actively eating or drinking or delivering a speech to an audience seated at least six feet away, for example. However, the City did not go so far as to mandate masks for all indoor spaces.

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