

New York Health Commissioner Issues Order, Guidance on New State COVID-19 Mask Mandate

By Jenifer M. Bologna, Richard I. Greenberg & Henry S. Shapiro

December 14, 2021

Meet the Authors



Jenifer M. Bologna

Principal
(914) 872-6869
Jenifer.Bologna@jacksonlewis.com



Richard I. Greenberg

(Rich)
Principal
(212) 545-4080
Richard.Greenberg@jacksonlewis.com



Henry S. Shapiro

Following her announcement of a broad COVID-19 mask mandate for New York businesses effective December 13, 2021, Health Commissioner Mary Bassett has published an order and frequently asked questions clarifying certain issues.

Under the new [requirement](#), masks must be worn in all indoor public areas at all times. It does not apply if the business has a vaccination policy that requires proof of vaccination as a condition of entry inside the business.

Spaces Covered

“Indoor public place” is defined as any indoor space that is not a private residence, including, but not limited to, entertainment venues, recreational spaces, office buildings, business stores, houses of worship, and common areas in residential buildings.

Businesses or venues that host private events are still required to implement the mask mandate or have a vaccine requirement. For food service businesses with outdoor dining spaces that have at least two open sides for airflow, mask wearing is not required, but strongly recommended.

Businesses that operate under the “Key to NYC” requirements, which currently allows entry for patrons with one dose of the COVID-19 vaccine, must require masks to be worn by all individuals or implement a two-dose vaccination requirement. Nevertheless, establishments covered by “Key to NYC” will be required to allow entry only to those with two doses (or one dose of a single-dose vaccine) as of December 27.

The Order reiterates existing mask requirements for all public transportation, nursing homes, healthcare, childcare, and other sensitive settings.

Individuals Required to Wear Masks

Subject to the vaccination policy exception noted above, individuals covered under this mask mandate include all employees, patrons, visitors, and guests to the business or venue. This applies to any person past their second birthday and medically able to tolerate a face covering, regardless of their vaccination status.

Where the nature of a business’s services requires removal of the mask, patrons may do so for the brief amount of time necessary to perform the services or to eat and drink.

Enforcement

Local health departments can enforce this mandate. Individuals, businesses, and venues that violate this mandate and the related guidance are subject to a maximum fine of \$1,000 per violation.

Principal
(631) 247-4651
Henry.Shapiro@jacksonlewis.com

New York City employers await guidance on the new local vaccination mandate that is due to go into effect on December 27. This guidance is expected on December 15.

Please call your Jackson Lewis attorney with any questions.

Related Services

Accommodations

COVID-19

Disability, Leave and Health

Management

Workplace Safety and Health

©2021 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on labor and employment law since 1958, Jackson Lewis P.C.'s 1000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged, stable and diverse, and share our clients' goals to emphasize inclusivity and respect for the contribution of every employee. For more information, visit <https://www.jacksonlewis.com>.