

Puerto Rico: COVID-19 Boosters Required for Workers in Healthcare, Educational Settings

By Juan Felipe Santos & Carlos J. Saavedra-Gutiérrez

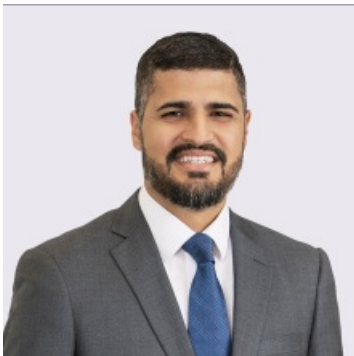
December 27, 2021

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Amidst increasing positive COVID-19 cases in Puerto Rico, Governor Pedro R. Pierluisi has issued an executive order requiring those working in healthcare and education settings to get vaccinated and boosted. Covered individuals must get a COVID-19 booster shot on or before January 15, 2022.

Executive Order 2021-082 applies to “employees or people working on healthcare setting facilities (including, but not limited to hospitals, clinical laboratories, emergency rooms, medical services clinics, health centers, primary care physician and specialists offices, therapy centers, blood banks, pharmacies, nursing homes and medical cannabis dispensaries), regardless of their duties” and “teaching and non-teaching staff, as well as contractors working in schools, educational centers and universities, public or private.”

According to the Executive Order, individuals are eligible for the booster shot, if they were either:

- Vaccinated against COVID-19 using any of the two-dose FDA-approved or authorized vaccines and six months have passed after their last dose
- Vaccinated against COVID-19 using the one-dose FDA-authorized vaccine and two months have passed since their dose

Individuals who are not eligible to get a booster shot as of the issuance of Executive Order 2021-082 (December 22), because of a medical condition or any other reason, must get their booster shot within 30 days after they become eligible to do so.

Exceptions

Exceptions are provided for medical and religious reasons.

Employees (including contractors in the educational settings) qualifying for such exceptions must get tested for COVID-19 at least every seven days using an FDA-approved PCR or antigen test. The FDA-approved PCR or antigen test must be processed by an authorized healthcare provider.

Employees (including contractors in the educational settings) seeking an exception on medical or religious grounds must provide their employer or principal with a negative result at least every seven days.

As an alternative, such individual can submit a positive COVID-19 test result received during the 90 days prior to the submission, along with evidence of recovery, including a letter from a certified healthcare provider or a government health official certifying the individual has fully recovered and is ready to appear in public places.

To qualify for a medical exception, employees (or contractors, when applicable) must demonstrate that their immune system is compromised, that they are allergic to the

vaccine, or that there is another medical contraindication that prevents them from getting the vaccine or booster. A physician duly authorized to practice medicine in Puerto Rico must certify the condition. The physician also must indicate the duration of the medical contraindication and its duration (temporary or permanent). If temporary, the employee must obtain the booster shot once the contraindication ceases to exist.

To qualify for a religious exception, employees (or contractors, when applicable) must submit a certification – their own or along with their religious leader – explaining they may not receive the COVID-19 vaccine because of their sincerely held religious beliefs, practices, or observances. The certification must include: (1) the nature of their objection; (2) an explanation as to how complying with the vaccination requirement creates a substantial burden or conflicts with their sincerely held religious beliefs, practices, or observances; (3) the amount of time they have held their sincerely held religious beliefs, practices, or observances; (4) the types of vaccines they object to; and (5) if they have received any other vaccines recently. The exception will not be provided for personal, social, economic, or political reasons.

Employer Responsibilities

It is the healthcare employer's or educational director's (or their delegated person's) responsibility to request from employees (or contractors, when applicable) a COVID-19 Vaccination Record Card, Vacu-ID, or any other document showing they are fully vaccinated and obtained a booster shot.

When an exception is applicable, the healthcare employer or educational director must request the negative test or positive test results, along with evidence of recovery. Employees (including contractors, when applicable) must submit the required evidence, but may provide a digital copy of their immunization record rather than a physical one.

For requests for a religious exception, employers must presume the employee's request is based on sincerely held beliefs, practices, or observances and may request additional information. The employer, however, may not question the reasonableness of such beliefs, practices, or observances.

Noncompliance

Employees who do not comply with the requirements for vaccination or an exception may not work physically at their place of employment. Employers may allow such employees to take all applicable leaves, if any.

For contractors working in the educational sector, failure to comply with the vaccination or exceptions requirements will prevent them from working physically at the contractor's place of business and, for government contractors, may result in the cancellation of their contract.

Other than establishing these requirements for healthcare and educational settings, Executive Order 2021-082 clarifies that "multitudinous activity" in a [previous executive order](#) means a gathering of at least 500 persons. All outdoor or indoor spaces holding multitudinous activities (including theaters, amphitheaters, stadiums, coliseums, convention, and activity centers) must require all attendees to provide evidence of vaccination *and* a negative COVID-19 test result, as explained in Section 1(a) of EO-2021-81.

Jackson Lewis attorneys are closely monitoring updates and changes to legal requirements and guidance and are available to help employers weed through the complexities.

If you have questions or need assistance, please reach out to the Jackson Lewis attorney with whom you regularly work, or any member of our [COVID-19 team](#).

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