

FAQ on COVID-Safe Requirement (Executive Order 78)

Policy Details

1. What is the COVID-Safe Requirement?

The “COVID-Safe” Requirement, which applies to most employees, requires that they either:

- provide one-time verification that they are fully vaccinated; OR
- provide a weekly record of a negative COVID-19 PCR test as evidence that they are in compliance with the mandate.

Certain other groups of employees are subject to mandates that are stricter than the COVID-Safe Requirement. They must submit proof of vaccination, and do not have the option of providing a weekly record of testing unless their employer has allowed it as a reasonable accommodation.

2. Which employees are covered by the COVID-Safe Requirement?

NYC Health + Hospitals: All H+H staff; [DOHMH Commissioner’s Order related to Staff in Public Health Care Settings](#) (7/21). Proof of full vaccination or weekly negative test required beginning August 2. Also pursuant to 10 NYCRR 2.61, these staff are required to be fully vaccinated, and to have received the first dose by September 27, 2021.

Department of Health and Mental Hygiene: Any DOHMH staff working in a clinical setting; [DOHMH Commissioner’s Order related to Staff in Public Health Care Settings](#) (7/21). Proof of full vaccination or weekly negative test required beginning August 2, 2021. Also pursuant to 10 NYCRR 2.61, these staff are required to be fully vaccinated, and to have received the first dose by September 27, 2021. All other DOHMH staff are subject to Executive Order 78.

Residential and congregate settings (see appendix): All staff and contractors; [DOHMH Commissioner’s Order related to Staff in Residential or Congregate Settings](#) (8/10). Proof of full vaccination or weekly negative test required beginning August 16, 2021.

City employees, including interns, aides, fellows and volunteers: [Executive Order 78](#) (8/31). Proof of full vaccination or weekly negative test beginning September 13, 2021.

City contractors’ and subcontractors’ employees: individuals whose salary is paid in whole or in part from funds provided under a City contract, and whose work under the contract includes physical interaction with City employees or members of the public. Contractors must certify they have received proof of full vaccination or weekly negative test from all employees and subcontractor employees beginning September 13, 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.

3. Which employees must be vaccinated, unless they have been granted a reasonable accommodation?

New Hires: All City employees hired on or after August 2, 2021; [Executive Order 75](#) (8/2), revised by [Executive Order 76](#) (8/17). Proof of at least one dose of a vaccine is required within a reasonable time of receiving a conditional offer, with proof of second dose (when the vaccine requires two doses) within 45 days of the first dose. Weekly testing is not an alternative for these employees, except when allowed as a reasonable accommodation.

Certain Employees in Public Health Settings:

- **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.
- **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.

All DOE employees; [DOHMH Commissioner’s Order related to DOE Employees, Contractors, and Others](#) (8/24). Proof of vaccination is required as of September 27, 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
- Charter school, UPK3, and UPK4 employees who work in DOE settings or DOE buildings.
- 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.

4. For the purpose of this policy, 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 contract with a New York City agency to perform work within New York City, and who interacts with City employees or members of the public.

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 this policy 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 this policy cover interns?

Yes, interns, aides, and fellows are covered by this policy. All agencies should update their policies to include this requirement.

7. Does this policy cover volunteers?

Yes, volunteers are covered by this policy. All agencies should update their volunteer policies to include this requirement.

8. Does this policy extend to subcontractors?

Yes, this policy extends to subcontractors including building security, food service employees, and other subcontractors.

9. EO 78 requires City agencies to have their contractors submit a certification confirming that they are requiring their covered employees to provide proof of vaccination or testing. Does this apply to micropurchase vendors?

Yes, micropurchase vendors are subject to EO 78, 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 contractor's for proof of vaccination or a negative test 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 there be any medical or religious accommodations?

If an employee, volunteer, or intern chooses not to be vaccinated, they will have to submit evidence of a weekly negative COVID-19 test. If an employee, volunteer, or intern does not want to undergo weekly testing, they must get fully vaccinated.

If the employee, volunteer, or intern has medical or religious concerns that prevent them from complying, they should speak to their EEO officer regarding a potential reasonable accommodation.

11. Will the City be providing on-site vaccination and testing at City worksites?

Testing and vaccination are both widely available and convenient for all New Yorkers.

The City will continue to bring mobile vaccination clinics to select worksites, including certain City worksites. The City will bring mobile testing to City worksites that previously receiving regular testing, specifically for schools, corrections facilities, and some congregate settings.

Vaccination

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.

14. 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?

An employee who receives the first dose of any COVID vaccine on or after September 13, 2021 will be required to undergo weekly testing until they have submitted proof of full vaccination.

A City employee who provides documentation of having received one dose of any COVID-19 vaccine before September 13, 2021 will not be required to undergo weekly testing. However, 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 (at the latest by October 28, 2021). If the employee does not provide proof of a second dose in a two-dose vaccine series within that time, a weekly negative test is required until the employee submits proof of full vaccination.

Employees, interns, and volunteers covered by the DOHMH Commissioner's Orders related to Staff in Public Health Care Settings or Residential and Congregate Settings, and new hires, must have their first dose by the date specified in those orders.

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

15. 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.

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

Agencies will collect vaccination proof from City employees using secure means. This information will also be used 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. HR must ensure that these employees submit negative test results weekly, as a term of their employment. See information below regarding consequences for failure to comply.

17. 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](#).

18. 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 that requires two doses or a booster 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.

19. Will the City be offering excused time off to get a booster dose (does PSB 600-4 apply also to the booster for time off)? 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.

20. 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.

21. What incentives are available for vaccination?

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](#).

Testing

22. Where can people find 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 opt to 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 or contractors would 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>.

23. When must employees submit a weekly test?

For employees subject to EO 78, beginning September 13, 2021, 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.

24. For employees, interns, and volunteers who opt to do weekly testing, which tests qualify?

Only polymerase chain reaction (PCR) tests processed by medical professionals qualify for the City's COVID-Safe Requirement. 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.

25. Do rapid tests qualify?

Rapid PCR tests will qualify for this requirement.

26. Do at-home tests qualify?

At-home tests will not be accepted at this time.

27. 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 \(COVID-19\)](#).

28. 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.

29. Can City and contracted employees take time from their shift to get tested?

City employees may use City time to be tested, 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.

30. 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.

31. May employees use overtime to get tested?

No, City employees may not use overtime to get tested.

32. 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.

33. 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.

34. Will the City reopen its employee testing sites?

Testing is now widely available and convenient for all New Yorkers. The Test & Trace Corps will continue to deploy City resources to ensure all geographies have access and to respond to case rates, outbreaks, and demand.

Face Coverings

35. 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.

36. 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

37. 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 weekly testing and face covering requirements.

38. 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.

39. Do staff have to tell the City whether or not they are vaccinated?

No. Any employee who prefers to keep their vaccination status private can do so by providing a weekly negative COVID-19 PCR test result and wear a face covering at all times (unless when eating or drinking).

40. 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.

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

City staff who are in violation of the COVID-Safe Requirement to be vaccinated or complete weekly testing will be placed on Leave Without Pay until they are in compliance. 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.

42. How will the COVID-Safe Requirement 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 COVID-Safe Requirements 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 COVID-Safe Requirement Certification should be uploaded to the Miscellaneous Documents section of the Documentation tab in your PASSPort vendor profile, under the label "COVID-Safe Requirement." COVID-Safe Requirement Policies should be uploaded to PASSPort with [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 79](#), which requires face coverings for unvaccinated employees.

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.

43. 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 weekly test compliance for those who have not submitted the required proof of vaccination.

44. 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.

45. 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

Appendix: COVID Safe Vaccine or Test Requirement Phases

On August 2nd: Clinical settings

- **Health + Hospitals**
 - All employees and contractors
- **DOHMH**
 - All clinic-based employees and contractors

On August 16th: Residential and Congregate Programs, including the following agencies and their contractors.

- ACS
 - Residential juvenile justice programs (Secure and nonsecure detention, close to home)
 - Residential foster care
 - The Children’s Center
- DFTA
 - Senior Centers
 - NORCS
 - Social Adult Day Cares
- DHS
 - Shelter (family, adult, safe havens, etc.)
 - Drop in Centers
- DOC
 - Jails
- DOHMH
 - Supportive housing
- DYCD
 - RHY Shelter
 - Drop in center
- HRA
 - DV Shelter
 - HASA shelter/supportive housing
- MOCJ
 - Transitional housing sites

On September 13th: ALL City Workforce and Certain Contracted Employees

- All City employees
- All City interns and volunteers.
- All contracted employees interacting with members of the public or City employees