

# Alert

## New Vaccination Requirements for New York City Private Schools

December 8, 2021

On Dec. 2, 2021, the New York City Commissioner of Health and Mental Hygiene issued an emergency [order](#) requiring all staff members of New York City nonpublic schools to be vaccinated against COVID-19, with limited exceptions (“Order”). The Order follows a similar vaccine mandate previously issued for all New York City public school employees.

### Vaccination Reporting and Record-Keeping Requirements

Nonpublic schools are defined as schools that provide instruction or related services to students from preschool through grade 12, or any portion thereof, including private and religious schools. Nonpublic schools do not include charter schools, child care programs or early intervention providers, which are subject to other vaccine mandates. To comply with the Order, all “nonpublic school staff” must provide proof of at least a first dose of a COVID-19 vaccine by Dec. 20, 2021. “Nonpublic school staff” is defined as “staff serving students in nonpublic schools,” including full-time employees, part-time employees, and unpaid adults serving in nonpublic school settings, such as student teachers and volunteers (collectively, “Staff Members”). After Dec. 20, 2021, all nonpublic schools must exclude from school premises any Staff Member who has not provided such proof of vaccination. This Order is subject to reasonable accommodations under applicable laws for individuals with religious or medical exemptions to the COVID-19 vaccines.<sup>1</sup>

Schools must securely maintain a record of each Staff Member’s vaccination status and make such records immediately available to New York City’s Department of Health and Mental Hygiene (“Department”) upon request. Records must include:

- Each Staff Member’s name and start date;
- The date the Staff Member submitted proof of his or her vaccination;
- The type of proof the Staff Member submitted (and a copy of such proof); and
- Whether the Staff Member is fully vaccinated<sup>2</sup>; or

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<sup>1</sup> The U.S. Equal Employment Opportunity Commission has issued [guidance on reasonable accommodations with respect to COVID-19 vaccines](#).

<sup>2</sup> A Staff Member is “fully vaccinated” once at least two weeks have passed after the Staff Member received (i) a second dose of a two-dose vaccine series, such as the Pfizer or Moderna vaccines; or (ii) a single dose of a vaccine that only requires one-dose, such as the Johnson & Johnson vaccine.

- If a Staff Member has only received the first dose of a two-dose vaccine by Dec. 20, 2021, the date by which the Staff Member must submit proof of a second dose, which must be no later than 45 days after the Staff Member submitted proof of the first dose; or
- If a Staff Member is unvaccinated because of a reasonable accommodation, the School must record that it has granted such accommodation, the basis for the accommodation, and supporting documents.

All records related to vaccination and reasonable accommodations must be stored separately from employees' personnel files.

### **Newly Hired Staff Members**

Beginning Dec. 2, 2021, all newly hired Staff Members must submit proof of vaccination to their school on or before their start date. Nonpublic schools that have hired Staff Members on or after Dec. 2, 2021 should promptly collect such Staff Members' vaccination records.

### **Affirmation of Compliance**

All nonpublic schools must electronically submit to the Department an affirmation of compliance in the form prescribed by the Department by Dec. 28, 2021, affirming the schools' compliance with this Order's requirements. Subsequently, by Feb. 17, 2022, all nonpublic schools must also send a follow-up affirmation, demonstrating that all Staff Members are fully vaccinated (or have an applicable exception to the COVID-19 vaccines).

Please contact [Mark E. Brossman](#), [Scott A. Gold](#), [Donna K. Lazarus](#) or [Abdulrahman Alwattar](#) if you have any questions about the order.

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