



December 11, 2021

NYS Mask or Vaccine Mandate

On December 11, 2021, Governor Hochul announced that masks will be required to be worn in all “indoor public places” unless businesses or venues implement a vaccine requirement. This action was taken to address the winter surge of COVID-19 cases and holiday activities. It is based on a NYS Commissioner of Health Order, and additional details can be found in FAQs issued by the NYS.

The following summarizes the new mandate:

<p>When is the mandate effective?</p>	<p>The new requirements are effective Monday, December 13, 2021, through January 15, 2022.</p> <p>Update: on January 13, 2022, the new requirements were extended through February 1, 2022.</p>
<p>What is an “indoor public space”?</p>	<p>“Indoor public place” is defined as any indoor space that is not a private residence. This includes indoor entertainment venues, concert halls, indoor sports stadiums, recreational spaces, restaurants, office buildings, shopping centers, and common areas in residential buildings.</p>
<p>Does it include offices?</p>	<p>Yes.</p>
<p>What does the new mandate require?</p>	<p>There are two options:</p> <ol style="list-style-type: none"> 1. Option 1: Businesses and venues can choose to implement a vaccination requirement, requiring proof of vaccination as a condition of entry inside the business or venue. <p style="text-align: center;">-OR-</p> <ol style="list-style-type: none"> 2. Option 2: Any person over 2 years old and medically able to tolerate a face covering, must wear a mask, regardless of vaccination status. <p>Whichever option is selected, it must apply to everyone at the business or venue, including staff, patrons, visitors, and guests. There is no vaccine-or-mask option.</p>



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<p>What are the requirements for the vaccination option?</p>	<p>Businesses and venues that implement a proof of vaccination requirement must ensure that anyone 12 years or older is fully vaccinated before entering indoors.</p> <p>Children ages 5 – 11 only have to show proof of having had at least one dose of the COVID-19 vaccination.</p> <p>Businesses/venues can accept Excelsior Pass, Excelsior Pass Plus, SMART Health Cards, NYC COVID Safe app, a CDC Vaccination Card, or other official immunization record.</p> <p>Per the CDC, “fully vaccinated” is defined as 14 days past an individual's last vaccination dose in their initial vaccine series.</p>
<p>What are the requirements for the masking option?</p>	<p>Businesses and venues that implement the mask requirement instead of the vaccination requirement must ensure all patrons, over 2 years old and medically able to tolerate a face covering, wear a mask at all times while indoors, except when physically eating or drinking.</p>
<p>If the business or venue has the mask requirement, how does the eating/drinking exception work?</p>	<p>People can remove their masks only while they are actively eating or drinking, at which time appropriate social distancing measures, proper air ventilation, and filtration methods are highly recommended. Masks should be worn in all other times.</p>
<p>Are there exceptions for bars, restaurants or event spaces under the masking requirements?</p>	<p>No. All public businesses and venues are included without exception. This includes restaurants, bars, and private events at a business or venue. Private residences are not included.</p>
<p>How will these requirements be enforced?</p>	<p>Local health departments can enforce these requirements. Individuals, businesses, or venues that violate the requirements are subject to a maximum fine of \$1,000 for each violation.</p>
<p>Do the state’s prior masking requirements still apply?</p>	<p>Yes, unvaccinated individuals, including those with medical exemptions, are still responsible for wearing masks.</p> <p>The State's masking requirements are still in effect for schools, public transit, homeless shelters, correctional facilities, nursing homes, and health care settings.</p>



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What about children aged 2-5?	Children 2 – 5 who remain ineligible for vaccination must wear a proper-fitting mask.
Should I wear a mask even if it's not required?	NYS strongly recommends mask-wearing in all public indoor settings as an added layer of protection, even when not required.

This alert is for general information purposes and should not be construed as legal advice. If you would like information about this alert, please contact one of the firm's attorneys:

Deborah Buyer, 212-225-8483 x1, deborah@deborahbuyerlaw.com

Lydia Fan Wong, 212-225-8483 x2, lydia@deborahbuyerlaw.com

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