

# MSF CLIENT ALERT

Meister Seelig & Fein LLP | 125 Park Avenue New York, NY 10017 | 212.655.3500 | meisterseelig.com

## New York Requires All Persons to Wear Masks Indoors in Public Places (Including Offices) Unless There is a Vaccination Requirement for Entry

*Effective December 13, 2021, masks are required to be worn by all individuals in any indoor public place (including offices) in New York State unless the business or venue implements a vaccine requirement for entry.*

*December 13, 2021 (Updated January 6, 2022)*

On December 10, 2021, Governor Hochul announced that masks would be required for all persons in all indoor public places that do not require proof of vaccination for entry. Per guidelines issued by the New York's State Health Commissioner, this requirement went into effect on December 13, 2021, and will remain in effect through February 1, 2022, at which time the State will re-evaluate the necessity of the requirement. This requirement supersedes and expands upon the existing regulations requiring face masks in certain settings, such as healthcare settings, schools, correctional facilities and on public transportation.

### What is the Requirement?

Any person, including children over the age of 2 years old, who is medically able to tolerate a face covering, must wear a mask while in any indoor place regardless of vaccination status, unless the indoor place requires proof of vaccination for entry. Masks are not required to be worn when a person is actively eating or drinking, or when alone in an enclosed room. Enforcement of this requirement will be done by local health departments with a maximum civil penalty of \$1,000.

### What Places Are Covered?

All indoor public places in New York State are subject to this requirement. Indoor public place is defined as any indoor space that is not a private residence. This includes office buildings/spaces, indoor entertainment venues, concert halls, indoor sports stadiums, restaurants, retail stores, houses of worship and common areas in residen-

tial buildings. Private events that are held outside a private residence, such as in a privately owned restaurant or venue, are subject to this requirement as well.

### How Does the Vaccination Exception Work?

Businesses or venues that implement a proof of vaccination policy for entry to an indoor place are not required to comply with the mask requirement. To implement a proof of vaccination policy, businesses or venues must require proof of full vaccination for individuals 12 years old and older, and proof that children ages 5-11 have received at least one dose of the COVID-19 vaccine.

Full vaccination is defined as having received two doses of either the Pfizer/BioNTech or Moderna COVID-19 vaccines, or one dose of the Janssen/Johnson & Johnson vaccine, with at least 14 days having passed since the final dose. Other WHO-Approved vaccines also may be accepted. While the state recommends that eligible individuals obtain booster doses in light of current circumstances, boosters are not required to qualify as "fully vaccinated" at this time.

Notably, businesses and venues cannot combine masking and proof of vaccination requirements. A business or venue must choose whether it will implement a vaccine requirement – and thereby not admit anyone over the age of 12 who is not fully vaccinated or over the age of 5 who has not received at least one dose – or implement a mask requirement applicable to all persons indoors that are not actively eating or drinking, or alone in an enclosed space. If employers have anyone in the workplace who is not vaccinated based on accommodations provided, the

# MSF CLIENT ALERT

Meister Seelig & Fein LLP | 125 Park Avenue New York, NY 10017 | 212.655.3500 | [meisterseelig.com](http://meisterseelig.com)

mask requirement must be implemented regardless of vaccination status.

## What Should Employers Do?

New York employers must decide whether to implement a vaccination requirement or mask requirement for all who enter indoors and implement the decision immediately.

New York City's "Key to NYC" program and workplace mandate requiring private sector businesses to [implement mandatory vaccine policies](#) went into effect on December 27, 2021. The state guidance allows for mask policies in covered New York City businesses until that time or for businesses to implement a full vaccination policy effective December 13<sup>th</sup>. We will continue to provide updates as more information is issued.

Please contact an attorney in MSF's Employment Group if you need assistance with respect to this information.



**Andrea B. Neuman**  
Partner | Chair, Employment  
(212) 655-3513 | [abn@msf-law.com](mailto:abn@msf-law.com)



**Gregg M. Kligman**  
Counsel | Employment  
(646) 273-8209 | [gmk@msf-law.com](mailto:gmk@msf-law.com)



**Samantha Frenchman**  
Associate | Employment  
(212) 655-3580 | [sfl@msf-law.com](mailto:sf@msf-law.com)

*The information contained in this publication should not be construed as legal advice. The invitation to contact is not a solicitation for legal work under the laws of any jurisdiction in which Meister Seelig & Fein LLP are not authorized to practice.*

# MSF CLIENT ALERT

Meister Seelig & Fein LLP | 125 Park Avenue New York, NY 10017 | 212.655.3500 | [meisterseelig.com](http://meisterseelig.com)