

## **FAQ regarding New York City Employees and the COVID-19 Vaccine**

### **Definitions**

**Rehire:** Refers to the process to be taken for former employees to become active employees after termination. All former employees referenced in this document are eligible for rehire by a city agency.

**Reinstatement:** Refers to reappointment to the former civil service title held by the employee.

### **Vaccine Mandate Details**

#### **1. What is the Vaccine Mandate?**

Since November 1, 2021, City employees have been required to submit proof that they have received the primary series of the COVID-19 vaccine, per a series of Commissioner of Health Orders. The COVID-19 vaccine requirement applied to current city and DOE employees, nonpublic school staff, early childcare and daycare staff, prospective City employees, as well as visitors to Department of Education (DOE) school buildings.

The Executive Orders 75 and 76 mandating that all new City employees be vaccinated is also rescinded.

On February 6, 2023, Mayor Adams announced the City's decision to rescind its vaccine mandate. As of February 10, 2023, the COVID-19 vaccine is optional for current and prospective City employees.

As of February 10, 2023, agencies should no longer include the vaccination requirement wording in job postings and should no longer ask for proof of vaccination when onboarding. For current open job postings, agencies will receive guidance from DCAS.

### **Employees who Resigned/Retired**

#### **1. Are employees who resigned or retired around the time the vaccine requirement was implemented eligible to be reinstated?**

Agencies should follow the Personnel Rules of the City of New York concerning reinstatement of permanent, competitive or labor class employees who have resigned or retired. Agency personnel officers should work with DCAS to reinstate these employees.

Represented employees who resigned or retired after signing the waiver regarding their return are not eligible for reinstatement.

Employees who executed the Extended LWOP waivers are permitted to seek reinstatement.

## Terminated Employees

### 1. Are employees who were terminated due to their failure to comply with the vaccination mandate eligible to be reinstated?

#### A. Permanent Competitive and Labor Class employees:

- Includes employees who have completed a probationary term in a permanent position in the competitive or labor class, including uniformed employees.
- These employees are **eligible** for reinstatement if the employee submits a request for reinstatement via email or otherwise in writing, within one year of their date of dismissal.
  - Employees who were terminated effective February 11, 2022, may submit requests for reinstatement to their former agency by March 10<sup>th</sup>, 2023. All other requests must be made within one year of the termination date.
  - Agencies may take into consideration if an employee had previously requested reinstatement, prior to the Mayor's February 6, 2023 announcement.
- Process:
  - Former employee requests reinstatement from their agency within the one year timeframe.
  - Agency reviews request and determines if there is a vacancy available and whether to rehire.
    - The decision to reinstate a terminated employee is discretionary.
    - The agency may reinstate the applicant if it determines that the reasons provided have merit.
      - The analysis should involve a review of all relevant, specific facts and circumstances pertaining to the applicant.
      - This may include a review of the applicant's documented work performance, including performance evaluations, disciplinary history, compliance with the agency's time and leave requirements and compliance with the City's EEO policies.
  - If applicable, former employee is instructed to apply for vacant position, following the standard agency hiring process.
  - Former employee must agree to waive back pay, civil service rights, in writing.
  - Former employee is onboarded and agency works with DCAS to reinstate employee to civil service title.

#### B. All other employees:

- Includes probationary, provisional and non-competitive employees.
- These employees are **not eligible** to be reinstated to their former titles. However, as EO75 and 76 have been rescinded, they may apply to any

open City position without needing to show proof of vaccination.

2. **What are the terms of reinstatement?**

A. Permanent Competitive and Labor Class employees:

- These employees are **eligible** for reinstatement if the employee submits a request for reinstatement via email or otherwise in writing, within one year of their date of dismissal.
- No Break in service
- Entitled to full seniority
- No change to salary
- Title entry date: Does not change
- City start date: Does not change

B. Probationary employees:

- These employees are not eligible for reinstatement.
- These employees are eligible to be rehired.
- These employees may request restoration to the civil service list, if still in existence
  - If appointed to the same agency and same title from the list, the previously served probationary term counts towards the completion of the probationary period.
  - If appointed to a new agency, employee will be required to serve the full term probationary period, unless the agency head elects to credit such person with the time therefore served.
  - New title entry date
  - New City start date
  - New seniority

C. All other employees- Includes provisional, non-competitive

- These employees are not eligible for reinstatement.
- These employees are eligible to be rehired:
  - If break in service of more than 31 calendar days:
    - New title entry date: This date would reflect their rehire date in the title they are rehired in.
    - New City start date.

3. **Are employees who were terminated for failure to comply with the vaccine mandate eligible for rehire?**

Yes, employees who were terminated due to the vaccine mandate are eligible for rehire by any City agency, with the understanding they meet all conditions for employment in the rehire position and haven't otherwise signed a waiver indicating they will not return. However, any rehire of any former employee is up to the discretion of the agency head.

**Face Coverings**

**1. Do all employees and visitors have to wear a face covering?**

Every City employee and visitor able to medically tolerate a face covering still must wear a face covering that covers the employee's mouth and nose in the following circumstances:

- When interacting with members of the public in an indoor setting;
- during days 6 to 10 after infection with COVID-19 upon returning to the work site; and
- if the employee is employed at a state-regulated health care setting, adult care facility or nursing home; correctional facility; or homeless or domestic violence shelter.

**2. Do employees with shortened quarantine periods have to increase their mask protection?**

Yes. The employee must be able to consistently and correctly wear a well-fitting face mask, a higher-level mask such as a KN95, or a fit-tested N95 respirator while at work from day 6 to day 10. The mask should fit with no air gaps around the edges.

**3. If an employee has a Reasonable Accommodation because they are medically unable to tolerate a face covering, are they subject to a shortened quarantine period?**

Employees with a Reasonable Accommodation because they are unable to medically tolerate a face covering are subject to the 10 day quarantine period.

**Reasonable Accommodations**

**1. What if an employee has been granted a reasonable accommodation to be exempt from the COVID-19 vaccine mandate?**

Effective February 10, 2023, unvaccinated employees are no longer required to submit to weekly PCR testing or wear a face mask, except in circumstances outlined in the Commissioner's Directive 2020-1. EEO Officers should notify individuals who have a vaccine exemption reasonable accommodation that the accommodation is no longer necessary and ends effective February 10, 2023.

**2. What if a current or prospective employee has a pending reasonable accommodation request seeking to be exempt from the COVID-19 vaccine requirement?**

Effective February 10, 2023, agency EEO Offices will deny these reasonable accommodation requests as moot since the COVID-19 vaccination is no longer required.

**3. Some employees with serious health issues are working from home as a reasonable accommodation because of a high-risk workplace environment due to COVID-19. Do their reasonable accommodations end?**

No, their reasonable accommodations do not automatically end as a result of the new policy. Their reasonable accommodations will continue to be evaluated and reassessed on a case-by-case basis.

**4. What happens to employees who do not currently have reasonable accommodations or their reasonable accommodations were declined because it was assumed that everyone at the office was vaccinated?**

Employees are able to apply for a reasonable accommodation with their EEO Office at any time and they will be assessed on a case-by-case basis.

**5. What if employees resigned because their reasonable accommodations were denied? What should they do if they want to work for the city again?**

These employees will be subject to the same policy as any other employees who resigned from city employment or were terminated as a result of their failure to comply with the vaccine mandated.

**Policies Still in Effect**

**1. What other COVID-19 related policies are still in effect?**

- The COVID-19 Leave Policy is still in effect.
- Leave Policy for Employees to Get Vaccinated is still in effect.
- Leave Policy to Accompany Children to Get Vaccinated is still in effect.
- Commissioner's Directive 2020-1 on Face Coverings.
- The City's COVID-19 Emergency Order (Emergency Executive Order 323) is still in effect, governing the City's authority to maintain open meeting laws, and open restaurants, and apply for COVID-19 FEMA reimbursement.

**Where can I find...**

- Vaccination sites: [www.nyc.gov/vaccinefinder](http://www.nyc.gov/vaccinefinder)
- Vaccination appointments: <https://vax4nyc.nyc.gov/patient/s/> and 877-VAX-4-NYC
- How to schedule an at home vaccine appointment: [www.nyc.gov/homevaccine](http://www.nyc.gov/homevaccine) and 877-VAX-4-NYC
- Free COVID-19 Testing and Treatment: [www.nyc.gov/covidtest](http://www.nyc.gov/covidtest)
- COVID-19 Test Site Finder: <https://maps.nyc.gov/covid-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](http://www.nyc.gov/aftercare)