



August 2021

Update to ‘Key to NYC’ Vaccine Mandate: Nonresident Contractors Must Now Be Vaccinated

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Yet again, New York City has updated the requirements of the Key to NYC vaccination mandate for indoor dining, fitness and entertainment venues.

On August 20, 2021, Mayor Bill de Blasio issued [Emergency Executive Order No. 226](#), which supersedes in its entirety the August 16, 2021 Executive Order that created the Key to NYC program. The updated Executive Order removes some of the exceptions for nonresident contractors and athletes in the original Order. The Counsel to the Mayor also updated the [Frequently Asked Questions](#) to address these changes.

Nonresident Contractors Must be Vaccinated

Nonresident contractors who perform work in covered premises must now show proof of receiving at least one dose of a COVID-19 vaccine to enter such premises. Under the initial Executive Order, owners or employees of contractors who were nonresidents of New York City were excluded from these requirements. This exception has now been removed. All contractors, including both residents and nonresidents of New York City, must now show proof of vaccination to enter a covered business.

An additional Frequently Asked Question has been added to address this change:

Do I need to verify proof of vaccination for contractors who do not live in New York City?

Yes.

NYC Indoor Sports Teams Must be Vaccinated

Executive Order 226 also revises the vaccination requirements for athletes who enter a covered premises – *e.g.*, an indoor sports arena – as part of their regular employment for a competition. Previously, all nonresident athletes were excluded from the Key to NYC requirements. Now, the exclusion applies only to “nonresident professional athlete/sports team that is not based in New York City (i.e., not a New York City ‘home team’), or a nonresident individual accompanying such professional athlete/sports team.”

Thus, athletes who are on a New York City-based sports team that plays in an indoor arena or stadium must receive at least one dose of an approved COVID-19 vaccine, even if the athletes themselves are not residents of New York City.

A Frequently Asked Question has been updated to address this change in the Executive Order:

What about professional athletes who are appearing at an indoor area of a sports stadium or arena and any individuals accompanying them as part of their regular employment —do I need to verify proof of vaccination for them?

Yes, covered entities need to verify proof of vaccination for professional athletes and any individuals accompanying them as part of their regular employment **unless** these individuals do not live in New York City and are only visiting New York City for the

purpose of competing against a professional sports team geographically based in New York City.

The prior answer to this Frequently Asked Question had stated: "Only if they are residents of New York City. Any other professional athlete, or person accompanying that athlete, does not need to provide proof of vaccination."

Purely Retail Stores Not Covered by Key to NYC

The Frequently Asked Questions have also been updated to clarify that they Key to NYC requirements do not apply to retail stores that do not otherwise contain an indoor dining area:

Does Key to NYC apply to purely retail establishments that does not have indoor dining, such as clothing and toy stores?

No. If an establishment is purely retail, then the establishment is not required to check for proof of vaccination.

Protocol Template and Conflict Resolution Webinar

New York City also published a template for the written implementation protocol that businesses must maintain to show compliance with the Key to NYC program. Download the template [here](#).

The Center for Creative Conflict Resolution of the Office of Administrative Trials and Hearings has also published a [Vaccination Mandate Conflict Resolution Training for Businesses](#) webinar discussing approaches businesses can take when guests voice objections to the vaccination requirements.

The Key to NYC requirements continue to evolve and the most recent changes have not been well-publicized. Businesses must keep aware of these changes and consult with counsel on any developments to ensure compliance with the mandate.

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