

Guidance for Public Accommodations on Equitable Implementation of COVID-19 Vaccine Requirements

The New York City Commission on Human Rights is a resource to help businesses become more inclusive and conform their practices to the New York City Human Rights Law (NYCHRL).

All businesses that offer goods or services to the public in New York City have responsibilities to customers under the NYCHRL. This document provides guidance to businesses on how to ensure equitable implementation of vaccine requirements for their customers.

As a result of the public health crisis posed by COVID-19 and the effectiveness of available vaccines against COVID-19 infection, many businesses in New York City now require their customers to show proof of vaccination against COVID-19 before entering their premises.

Starting December 27, 2021, customers 12 and older will be required to show proof that they have received a full regimen of a COVID-19 vaccine (two doses of a two-dose vaccine or one dose of the Johnson & Johnson vaccine) to participate in indoor dining, indoor fitness, and indoor entertainment.

In addition, starting December 14, 2021, customers 5-11 years of age will be required to show that they have received at least one dose of a COVID-19 vaccine, and beginning January 29, 2022, 5-11 year olds will need to show proof that they have received a full regimen of a COVID-19 vaccine to participate in indoor dining, indoor fitness, and indoor entertainment.

1. PROHIBITION ON DISCRIMINATION

When implementing vaccine requirements for customers, businesses should take care that their policies and practices do not treat customers differently because of their race, national origin, disability, gender, religion/creed, age, or [any other characteristic protected by the NYCHRL](#).

For example, businesses should not:

- Scrutinize proof of vaccination more closely when it is provided by customers of a particular race, national origin, or religion based on the perception that people in those groups are less likely to be vaccinated;
- Require proof of vaccination only for older customers or customers with disabilities based on the belief that COVID-19 is more dangerous for them; or

Refuse to accept certain types of valid proof of vaccination, such as official immunization records from countries outside the United States or photographs of CDC vaccination cards.

2. REASONABLE ACCOMMODATIONS FOR DISABILITY

When applying vaccine requirements, businesses must consider requests for reasonable accommodations from customers who need them because of a disability.¹ If a customer requests an exception to a vaccine requirement due to a disability, the business must engage with them in a cooperative dialogue, or a good faith discussion, to see if a reasonable accommodation is possible.

Reasonable accommodations can take many forms. For example, an unvaccinated customer could order by phone and do a no-contact pick up, participate in virtual programming, or show proof of a recent negative COVID-19 test and wear a face covering while on the premises. Businesses do not have to provide any reasonable accommodation that would cause a direct threat to other customers or employees of the business, or to the requester, or otherwise impose an undue hardship on the business. Examples of accommodations

¹ Note that customers are not entitled to reasonable accommodations, including exceptions to vaccine requirements, for their religious beliefs.

that are likely to pose a direct threat or an undue burden include allowing an unvaccinated customer to eat in the interior portion of a busy restaurant, participate in a group exercise class, or participate in indoor, unmasked contact sports.

3. RETALIATION

Employers are prohibited from retaliating against employees because they requested an accommodation, opposed discrimination, or filed or assisted with a claim under the NYCHRL. Retaliation includes any action that is likely to discourage employees from exercising their rights. It covers not only firing or demoting an employee, but also, for example, assigning them to less favorable shifts or subjecting them to harassment.

For additional information about your responsibilities under the NYCHRL, visit [NYC.gov/HumanRights](https://nyc.gov/HumanRights) to learn more or sign up for a free workshop.