

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 20-3989 Caption [use short title]

Motion for: Partial Dismissal of Appeal for Mootness Palmer v. Amazon.com, Inc.

Set forth below precise, complete statement of relief sought:
Amazon requests that the Court dismiss the portion of this appeal concerning Counts I and II of Plaintiffs' complaint for lack of subject matter jurisdiction.

MOVING PARTY: Amazon.com, Inc. et al. OPPOSING PARTY: Derrick Palmer et al.

Plaintiff Defendant
Appellant/Petitioner Appellee/Respondent

MOVING ATTORNEY: Gibson, Dunn & Crutcher LLP OPPOSING ATTORNEY: Public Justice

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Court-Judge/Agency appealed from: EDNY-Cogan

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):
Yes No (explain):

Opposing counsel's position on motion:
Unopposed Opposed Don't Know

Does opposing counsel intend to file a response:
Yes No Don't Know

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has request for relief been made below? Yes No
Has this relief been previously sought in this Court? Yes No

Requested return date and explanation of emergency:

Is oral argument on motion requested? Yes No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set? Yes No If yes, enter date: May 19, 2021

Signature of Moving Attorney: /s/ Jason C. Schwartz Date: July 13, 2021 Service by: CM/ECF Other [Attach proof of service]

20-3989

**United States Court of Appeals
for the Second Circuit**

DERRICK PALMER, KENDIA MESIDOR, BENITA ROUSE, ALEXANDER ROUSE,
BARBARA CHANDLER, LUIS PELLOT-CHANDLER, AND DEASAHNI BERNARD,

Plaintiffs-Appellants

v.

AMAZON.COM, INC. AND AMAZON.COM SERVICES LLC,

Defendants-Appellees

On Appeal from the United States District Court
for the Eastern District of New York
No. 20-cv-2468, Judge Brian M. Cogan

**MEMORANDUM IN SUPPORT OF DEFENDANTS-APPELLEES
AMAZON.COM, INC. AND AMAZON.COM SERVICES LLC'S
MOTION FOR PARTIAL DISMISSAL FOR MOOTNESS**

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INTRODUCTION

Defendants-Appellees Amazon.com, Inc. and Amazon.com Services LLC (together, “Amazon”) move, pursuant to Fed. R. App. P. 27 and Local Rule 27.1, for partial dismissal of this appeal on grounds of mootness. In particular, Plaintiffs’ claims for declaratory and injunctive relief under New York Labor Law § 200 (“Section 200”) and public-nuisance common law should be dismissed because improved conditions in the COVID-19 pandemic have rendered those claims moot.

In this case, Plaintiffs appeal the dismissal of their Section 200 and public-nuisance common law claims seeking to compel Amazon to adopt additional workplace-safety measures against the COVID-19 virus. But the state of the COVID-19 pandemic and public health guidance has changed dramatically since this lawsuit was filed. Vaccines are now widely available to anyone who wants one and most adult New Yorkers already have received at least one shot. Businesses in New York have reopened at full capacity, and the Governor recently allowed the State’s official emergency declaration to expire. The State also has withdrawn the New York Forward guidance on which Plaintiffs premised their claims for declaratory and injunctive relief. Plaintiffs expressly relied on that now-withdrawn guidance in asking the district court to “enforce New York’s *minimum requirements* for businesses in the wholesale trade sector,” JA-71 ¶ 2 (emphasis in original), and to order wide-ranging injunctive relief, *see* JA-123–25 ¶ 362(c)(i)–(v), (vii–viii).

These and other developments have rendered Plaintiffs’ Section 200 and public-nuisance claims moot. There is no longer any arguable basis to require Amazon to adopt Plaintiffs’ preferred COVID-19 safety measures when safe and effective vaccines are readily available and employers around the State are operating without restrictions. Because for Plaintiffs’ Section 200 and public-nuisance claims there is no longer a live case or controversy that is suitable for judicial resolution, Amazon respectfully requests that the Court dismiss the portion of this appeal concerning those claims (Counts I and II) for lack of subject-matter jurisdiction.¹

BACKGROUND

I. This Lawsuit

Plaintiffs filed this suit against Amazon in June 2020 alleging that Amazon’s COVID-19 precautions at its JFK8 facility in Staten Island were inadequate. Plaintiffs allege that New York is “the global epicenter of the pandemic,” that “some individuals seeking COVID-19 tests in New York and around the country are experiencing lengthy delays in receiving their test results,” and that “[o]n March 20, 2020, Governor Andrew Cuomo issued the ‘New York State On PAUSE’ Executive Order” closing “all non-essential businesses in the state.” JA-81–82 ¶¶ 56, 58, 60–

¹ Plaintiffs’ claim (Count III) for allegedly underpaid quarantine-leave benefits under New York Labor Law § 191 and New York’s COVID-19 Leave Law seeks damages only. Therefore, that claim is not moot. Amazon also does not at this time move to dismiss Plaintiffs’ appeal as moot with respect to their related claim for injunctive relief (Count IV), because the Leave Law remains in place.

61. According to Plaintiffs, Amazon is an essential business that must comply with “the New York Forward Interim Guidance for the Wholesale Trade Sector.” JA-82–85 ¶¶ 64–70.

Count I of Plaintiffs’ complaint alleges that Amazon is creating a public nuisance by failing to comply with these “New York Forward minimum requirements, [U.S. Centers for Disease Control and Prevention (“CDC”)] guidelines, and other minimum public health standards necessary to stop the spread of COVID-19.” JA-117–18 ¶¶ 325–26. Count II alleges that Amazon violates New York Labor Law § 200 “[b]y failing to adopt and adhere to New York’s minimum requirements and New York’s COVID leave law.” JA-120 ¶ 338. For these two claims, Plaintiffs seek only prospective relief in the form of a declaratory judgment that Amazon’s policies “constitute a public nuisance” and “a violation of the right to a safe workplace under New York law” and an eight-part injunction that would place numerous aspects of JFK8’s operations under judicial supervision. JA-119 ¶ 336, JA-120 ¶ 341, JA-123–25 ¶ 362; *see also* Plaintiffs’ Br. 40 (“Employee Plaintiffs seek a judicial declaration that Amazon *is* breaching its workplace safety duties, as well as injunctive relief to remedy the breach.”) (emphasis added).²

² Counts III and IV concern New York Labor Law § 191, and are not at issue in this motion.

The district court dismissed Plaintiffs’ Section 200 and public-nuisance claims without prejudice under the primary-jurisdiction doctrine. JA-134–38, JA-150. In the alternative, the court held that those claims failed on the merits. JA-138–47. The district court dismissed Plaintiffs’ Section 191 claims on the merits, with prejudice. JA-147–50.

Plaintiffs appealed. This Court heard oral argument on May 19, 2021.

II. Recent Developments In The Pandemic

Since mid-May, conditions in New York and around the country have improved dramatically. The widespread availability of highly effective vaccines has fundamentally changed the need for COVID-19 restrictions, including policies that prevented employees from performing their jobs as they did before the pandemic. On May 13, the CDC released interim guidance stating that a person who is fully vaccinated against COVID-19 and asymptomatic can safely “[r]esume activities without wearing masks or physically distancing” and refrain from testing and quarantining even after known exposure to the virus. Ex. 1 (CDC Interim Guidance).³

On May 17, Governor Cuomo announced that New York would adopt the CDC’s guidance for people who are fully vaccinated. Ex. 2 (May 17, 2021 Press

³ This Court may take judicial notice of official announcements on government websites. *See, e.g., Apotex Inc. v. Acorda Therapeutics, Inc.*, 823 F.3d 51, 60–61 (2d Cir. 2016).

Release). Accordingly, New York eliminated most capacity restrictions at businesses and advised that anyone who is fully vaccinated no longer needs to wear a facemask or maintain six feet of distance from other people who are also vaccinated. *Id.*

On June 15, Governor Cuomo announced that 70% of New Yorkers aged 18 or older had received at least the first dose of a COVID-19 vaccine. Ex. 3 (June 15, 2021 Press Release). Governor Cuomo explained that New York has “the lowest COVID positivity rate in the United States of America,” and has administered “more than 20 million vaccines, more per capita than any big state.” *Id.* Given the State’s success in providing highly effective vaccines to such a large number of its residents, Governor Cuomo informed New Yorkers that:

[t]he State’s health guidance and New York Forward industry specific guidelines—including social gathering limits, capacity restrictions, social distancing, cleaning and disinfection, health screening, and contact information for tracing—are now optional for retail, food services, offices, gyms and fitness centers, amusement and family entertainment, hair salons, barber shops and personal care services, among other commercial settings.

Id. Governor Cuomo’s press release reiterated that “businesses are free to choose to lift all or some restrictions,” *id.*, and he Tweeted that “we can return to life as we know it.” Ex. 4 (June 15, 2021 Cuomo Tweet). This decision lifted virtually all remaining public-health restrictions that New York had previously recommended for employers such as Amazon, including the specific guidance for the wholesale-

trade sector on which Plaintiffs have premised their Section 200 and public-nuisance claims in this case. New York’s COVID-19 website has now archived the New York Forward guidance for the wholesale-trade sector, explaining that it is “no longer in effect.” Ex. 5 (NY Forward Archived Guidance, *available at* <https://forward.ny.gov/archived-industry-guidance>).

On June 23, Governor Cuomo announced yet another milestone. Given the high vaccination rates in New York and declining hospitalization and test-positivity rates, the official emergency that Governor Cuomo had declared in March 2020 would formally expire. Ex. 6 (June 23, 2021 Press Release). In celebration of this achievement, Governor Cuomo Tweeted that “[f]ighting COVID & vaccinating New Yorkers are still top priorities, but the emergency chapter of this fight is over.” Ex. 7 (June 23, 2021 Cuomo Tweet). The emergency officially expired on June 25. Ex. 8 (Executive Order 210).

New developments specific to New York City are similar. Citi Field, the home of the New York Mets, “[i]n cooperation with New York State and the Department of Health,” has returned to full capacity (approximately 42,000) with no social-distancing or mask requirements for vaccinated individuals. Ex. 9 (Safe at Citi). Mayor de Blasio also declared that July 1 would bring a “full reopening of New York City.” Ex. 10 (April 29, 2021 Press Conference). That full reopening has occurred. On July 1, Mayor de Blasio proclaimed: “This year our 4th of July

festivities are back in full force!” Ex. 11 (July 1, 2021 De Blasio Tweet). As of July 13, at least 69% of New York City adults have received at least one shot of a COVID-19 vaccine. *COVID-19 Vaccines*, NYC Health, <https://tinyurl.com/rp4rfavb> (last accessed July 13, 2021).

ARGUMENT

In its appellee brief, Amazon noted that “the evolving nature of the pandemic and the ongoing vaccination efforts could create ... mootness concerns.” Amazon Br. 18 n.5. That prediction has now come to pass. In Plaintiffs’ words, “[t]his case is about Amazon’s failure to comply with New York paid leave law and ‘New York Forward’ minimum requirements for businesses during the COVID-19 pandemic.” Plaintiffs’ Br. 5; *see also* JA-71, Am. Compl. ¶ 2 (same). But the New York Forward guidance on which Plaintiffs based their Section 200 and public-nuisance claims, both of which seek only a forward-looking declaration and injunction, has been rescinded, and the State’s emergency declaration is over. Thus, Plaintiffs’ appeal should be dismissed as moot with respect to those claims. Because the district court dismissed Plaintiffs’ public-nuisance and Section 200 claims without prejudice, there is no need to vacate the district court’s opinion under *United States v. Munsingwear, Inc.*, 340 U.S. 36 (1950).

I. Plaintiffs' Section 200 And Public-Nuisance Claims Are Now Moot.

It is a fundamental attribute of the Constitution's separation of powers that "federal courts may adjudicate only actual, ongoing cases or controversies." *Lewis v. Cont'l Bank Corp.*, 494 U.S. 472, 477 (1990). The requirement for a live controversy "subsists through all stages of federal judicial proceedings, trial and appellate." *Id.* A claim becomes moot when "as a result of changed circumstances" the claim "ceases to involve [a redressable] injury." *Janakievski v. Exec. Director, Rochester Psychiatric Ctr.*, 955 F.3d 314, 319 (2d Cir. 2020). When a case becomes moot and there is no longer a redressable injury, "the federal courts lack subject matter jurisdiction over the action." *In re Kurtzman*, 194 F.3d 54, 58 (2d Cir. 1999) (quotation marks and alteration omitted).

Recent developments in both public health guidance and pandemic trends demonstrate that Plaintiffs' Section 200 and public-nuisance claims for declaratory and injunctive relief have become moot. Consequently, the federal courts have lost jurisdiction over those claims.

To begin, the State of New York has withdrawn key guidance on which Plaintiffs premise their Section 200 and public-nuisance claims. On June 24, the Governor formally rescinded his prior "'New York State On Pause' Executive Order." *See* Executive Order No. 210, <https://tinyurl.com/bu54cnbn> (June 24, 2021). Plaintiffs cited that shutdown in their Complaint to allege that exempted

essential businesses were subject to additional health and safety guidance. *See* JA-82 ¶¶ 60–63. In addition, on June 15, the State rescinded its New York Forward guidance, and that guidance is “no longer in effect.” Ex. 5 (NY Forward Archived Guidance, *available at* <https://forward.ny.gov/archived-industry-guidance>). Plaintiffs relied extensively on the shutdown order and New York Forward guidance in both their complaint, *see, e.g.*, JA-117 ¶ 325, and their appellate briefing, *see* Plaintiffs’ Br. 5, 7, 13, 16, 20, 23, 24, 27, 31, 39; *see also, e.g.*, Reply Br. 18 (asserting that “Amazon’s failure to abide by the public health requirements set out in New York Forward ... exposes Plaintiffs” to unique harms). With the emergency over and the New York Forward guidance withdrawn, Plaintiffs have lost the foundation of their claims for declaratory and injunctive relief, as well as the remedial framework that they have asked the federal judiciary to impose on Amazon and its employees.

Further, New York is no longer the “global epicenter of the pandemic,” JA-81 ¶ 56, and it is no longer continuing to suffer from “illness and death on a massive scale,” JA-82 ¶ 59. To the contrary, New York has largely returned to its pre-pandemic status. More than 70% of the State’s adult population has now received at least one shot of a vaccine—protection that was unavailable when Plaintiffs filed this lawsuit. *See supra* at 4–7. The CDC has declared that the blanket restrictions that the agency recommended at the height of the pandemic are no longer necessary

for vaccinated workers. Ex. 1 (CDC Interim Guidance). The Occupational Health and Safety Administration also has announced that “most employers no longer need to take steps to protect their fully vaccinated workers who are not otherwise at-risk from COVID-19 exposure.” Ex. 12 (OSHA Guidance).

For similar reasons, courts around the country have begun to recognize that many COVID-19 safety claims that were premised on allegations dating to the beginning of the pandemic no longer present a justiciable controversy. For example, a federal district court in California recently dismissed a similar COVID-safety claim for injunctive relief because “[m]uch of the complaint describes Defendant’s immediate response to the COVID-19 pandemic in March and April 2020.” *Sprewell v. Federal Express Corp.*, No. 2:20-cv-11612-SVW-AGR (C.D. Cal. May 19, 2021), ECF No. 27 at 5. Another district court in New Mexico held that the “availability of the vaccine” at a state prison “moots this action (and strips standing from all detainees for all future risk-based coronavirus actions), given that this lawsuit is premised entirely on COVID-19 exposure.” *Martinez v. CoreCivic*, 2021 WL 2550319, at *7 (D.N.M. June 22, 2021) (footnote omitted).

Accordingly, there is no longer any basis to require Amazon to comply with emergency COVID-19 guidance that public-health officials have now withdrawn in light of the indisputable change in circumstances since Plaintiffs initiated this lawsuit. Because “the issues presented” by Plaintiffs’ appeal “are no longer live”

with respect to their claims for declaratory and injunctive relief under Section 200 and public-nuisance law, their appeal is moot with respect to those claims. *N.Y.C. Emps.’ Ret. Sys. v. Dole Food Co.*, 969 F.2d 1430, 1433 (2d Cir. 1992) (quotation marks omitted).⁴

II. Vacatur Is Unnecessary And Unwarranted.

Under the *Munsingwear* doctrine, when a case becomes moot on appeal an appellate court may in certain circumstances vacate the lower court’s opinions. *See United States v. Munsingwear, Inc.*, 340 U.S. 36, 40–41 (1950). A court’s decision whether to vacate the decision below “depends on the equities of the case; the appellant has no automatic right to vacatur.” *Russman v. Bd. of Educ. of Enlarged City Sch. Dist. of City of Watervliet*, 260 F.3d 114, 121 (2d Cir. 2001). Rather, the decision “is a discretionary one.” *Oneida Indian Nation of N.Y. v. Madison Cty.*, 665 F.3d 408, 426 (2d Cir. 2011). “The point of vacatur is to prevent an unreviewable decision from spawning any legal consequences.” *Camreta v. Greene*, 563 U.S. 692, 713 (2011) (quotation marks omitted). “Otherwise, the party who lost

⁴ As Amazon explained in its brief, Plaintiffs lacked standing to bring their Section 200 and public-nuisance claims from the moment they filed this lawsuit because their alleged injury—increased risk of exposure to COVID-19—is generalized, speculative, and not traceable to the specific human-resources policies that Plaintiffs challenge in the Complaint. *See* Amazon Br. 13–17. Those arguments apply with even more force now that the emergency in New York is over, public-health officials have rescinded COVID-19 guidance for employers such as Amazon, and life in New York has largely returned to normal. *See City of Los Angeles v. Lyons*, 461 U.S. 95, 105 (1983).

in the district court, who cannot gain direct review on appeal because of mootness, might be precluded from relitigating the issues in a future proceeding.” *Columbian Rope Co. v. West*, 142 F.3d 1313, 1318 (D.C. Cir. 1998). “The rationale” for *Munsingwear* vacatur is that “[a] party should not suffer the adverse *res judicata* effects of a district court judgment when it is denied the benefit of appellate review through no fault of its own.” *Associated Gen. Contractors of Conn., Inc. v. City of New Haven*, 41 F.3d 62, 67 (2d Cir. 1994).

The district court below dismissed Plaintiffs’ Section 200 and public-nuisance claims without prejudice, *see* JA-150, which means that the *Munsingwear* doctrine’s concern—the preclusive effect of an unreviewed lower-court opinion—is inapplicable. “Dismissal without prejudice is a dismissal that does not operate as an adjudication upon the merits.” *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 396 (1990) (quotation marks and alterations omitted). A dismissal without prejudice, therefore, “does not have a *res judicata* effect.” *Id.*; *see also Semtek Int’l Inc. v. Lockheed Martin Corp.*, 531 U.S. 497, 505 (2001) (“The primary meaning of ‘dismissal without prejudice,’ we think, is dismissal without barring the plaintiff from returning later, to the same court, with the same underlying claim.”). Nor does a dismissal without prejudice have issue-preclusive effect. *See, e.g., Lynk v. LaPorte Super. Ct. No. 2*, 789 F.2d 554, 566 (7th Cir. 1986) (plaintiff “will not be met by any defense of *res judicata* or collateral estoppel” because “dismissal without prejudice

has, by definition, no preclusive effect” and “[i]t will be as if the first ... action had never been filed”); *Dove v. CODESCO*, 569 F.2d 807, 809 n.3 (4th Cir. 1978) (a dismissal without prejudice “operates to leave the parties as if no action had been brought at all”).

Because the district court’s opinion does not have preclusive effect, the rationale for *Munsingwear* vacatur does not apply. *See, e.g., Hand v. DeSantis*, 946 F.3d 1272, 1275 n.5 (11th Cir. 2020) (declining to vacate earlier opinion because it “ha[d] no res judicata effect and the rationale of the *Munsingwear* doctrine thus [was] inapplicable”); *Mitchell v. Wall*, 808 F.3d 1174, 1176 (7th Cir. 2015) (same). For similar reasons, in the analogous context of interlocutory appeals “the usual practice is just to dismiss the appeal as moot and not vacate the order appealed from.” *In re Tax Refund Litig.*, 915 F.2d 58, 59 (2d Cir. 1990) (per curiam) (quotation marks omitted).

Moreover, “the public interest” “demands” that appellate courts leave lower-court opinions undisturbed “when they can.” *U.S. Bancorp Mortg. Co. v. Bonner Mall P’ship*, 513 U.S. 18, 27 (1994); *see also id.* at 26 (judicial opinions “should stand unless a court concludes that the public interest would be served by a vacatur”). Judicial opinions “are presumptively correct” and are “valuable to the legal community as a whole.” *Id.* Given the lack of prejudice to Plaintiffs from leaving the district court’s opinion intact, and the value that judicial opinions provide the

public, the Court should exercise its discretion to decline to vacate the district court's opinion.

CONCLUSION

For the foregoing reasons, this Court should dismiss as moot Plaintiffs' appeal of the district court's dismissal of their Section 200 and public-nuisance claims.

STATEMENT OF OPPOSITION TO THE MOTION

Amazon has contacted counsel for Plaintiffs regarding the content of this motion. Counsel for Plaintiffs has indicated that Plaintiffs refuse to consent to the relief requested and will file a response to this motion.

Dated: July 13, 2021

Respectfully submitted,

/s/ Jason C. Schwartz

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CERTIFICATE OF COMPLIANCE

I certify that:

1. This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2), because, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f), it contains 3,173 words, as determined by the word-count function of Microsoft Word.

2. This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared in a proportionately spaced typeface using Microsoft Word in 14-point Times New Roman font.

Dated: July 13, 2021

/s/ Jason C. Schwartz

Jason C. Schwartz

20-3989

**United States Court of Appeals
for the Second Circuit**

DERRICK PALMER, KENDIA MESIDOR, BENITA ROUSE, ALEXANDER ROUSE,
BARBARA CHANDLER, LUIS PELLOT-CHANDLER, AND DEASAHNI BERNARD,

Plaintiffs-Appellants

v.

AMAZON.COM, INC. AND AMAZON.COM SERVICES LLC,

Defendants-Appellees

On Appeal from the United States District Court
for the Eastern District of New York
No. 20-cv-2468, Judge Brian M. Cogan

**DECLARATION OF JASON C. SCHWARTZ
IN SUPPORT OF DEFENDANTS-APPELLEES
AMAZON.COM, INC. AND AMAZON.COM SERVICES LLC'S
MOTION FOR PARTIAL DISMISSAL FOR MOOTNESS**

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Counsel for Defendants-Appellees

I, Jason C. Schwartz, upon my personal knowledge and in accordance with 28 U.S.C. § 1746, hereby declare and state as follows:

1. I am a partner at the law firm Gibson, Dunn & Crutcher LLP, counsel to Defendants-Appellees in the above-captioned action. I am licensed to practice law in the Commonwealth of Virginia, the State of Maryland, and the District of Columbia, and am admitted to practice in this Court.

2. I submit this affidavit in support of Defendants-Appellees' Motion for Partial Dismissal for Mootness, dated July 13, 2021.

3. Attached as Exhibit 1 is a true and correct copy of the U.S. Centers for Disease Control and Prevention's May 13, 2021 Guidance, with updates added on May 28, 2021, entitled, "Interim Public Health Recommendations for Fully Vaccinated People," *available at* <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html>.

4. Attached as Exhibit 2 is a true and correct copy of a May 17, 2021 press release by New York Governor Andrew Cuomo entitled, "Governor Cuomo Announces New York State to Adopt New CDC Guidance on Mask Use and Social Distancing for Fully Vaccinated Individuals," *available at* <https://www.governor.ny.gov/news/governor-cuomo-announces-new-york-state-adopt-new-cdc-guidance-mask-use-and-social-distancing>.

5. Attached as Exhibit 3 is a true and correct copy of a June 15, 2021 press release by New York Governor Andrew Cuomo entitled, “Governor Cuomo Announces COVID-19 Restrictions Lifted as 70% of Adult New Yorkers Have Received First Dose of COVID-19 Vaccine,” *available at* <https://www.governor.ny.gov/news/governor-cuomo-announces-covid-19-restrictions-lifted-70-adult-new-yorkers-have-received-first>.

6. Attached as Exhibit 4 is a true and correct copy of a Tweet posted to New York Governor Andrew Cuomo’s official Twitter account on June 15, 2021, *available at* <https://twitter.com/NYGovCuomo/status/1404838602509590538>.

7. Attached as Exhibit 5 is a true and correct copy of New York State’s list of rescinded COVID-19 industry guidance, entitled “Archived Industry Guidance: NY Forward Reopening Guidance That Is No Longer in Effect,” *available at* <https://forward.ny.gov/archived-industry-guidance>.

8. Attached as Exhibit 6 is a true and correct copy of a June 23, 2021 press release by New York Governor Andrew Cuomo entitled, “Governor Cuomo Announces New York Ending COVID-19 State Disaster Emergency on June 24,” *available at* <https://www.governor.ny.gov/news/governor-cuomo-announces-new-york-ending-covid-19-state-disaster-emergency-june-24>.

9. Attached as Exhibit 7 is a true and correct copy of a Tweet posted to New York Governor Andrew Cuomo's official Twitter account on June 23, 2021, *available at* <https://twitter.com/NYGovCuomo/status/1407727472301510656>.

10. Attached as Exhibit 8 is a true and correct copy of Executive Order No. 210, issued by New York Governor Andrew Cuomo on June 24, 2021, *available at* https://www.governor.ny.gov/sites/default/files/2021-06/EO_210.pdf.

11. Attached as Exhibit 9 is a true and correct copy of the New York Mets's webpage entitled, "Safe at Citi: For When We Welcome You Back," *available at* <https://www.mlb.com/mets/fans/safe-at-citi>.

12. Attached as Exhibit 10 is a true and correct copy of a transcript of an April 29, 2021 press conference held by New York City Mayor Bill de Blasio entitled, "Transcript: Mayor de Blasio Holds Media Availability," *available at* <https://www1.nyc.gov/office-of-the-mayor/news/322-21/transcript-mayor-de-blasio-holds-media-availability>.

13. Attached as Exhibit 11 is a true and correct copy of a Tweet posted to New York City Mayor Bill de Blasio's official Twitter account on July 1, 2021, *available at* <https://twitter.com/NYCMayor/status/1410696088567357455>.

14. Attached as Exhibit 12 is a true and correct copy of the Occupational Safety and Health Administration's January 29, 2021 guidance, with updates added June 10, 2021, entitled, "Protecting Workers: Guidance on Mitigating and

Preventing the Spread of COVID-19 in the Workplace,” *available at*
<https://www.osha.gov/coronavirus/safework>.

I declare under penalty of perjury under the laws of the United States that these facts are true and correct and that this declaration is executed on July 13, 2021, in Washington, District of Columbia.

Dated: July 13, 2021

/s/ Jason C. Schwartz
Jason C. Schwartz

EXHIBIT 1



COVID-19

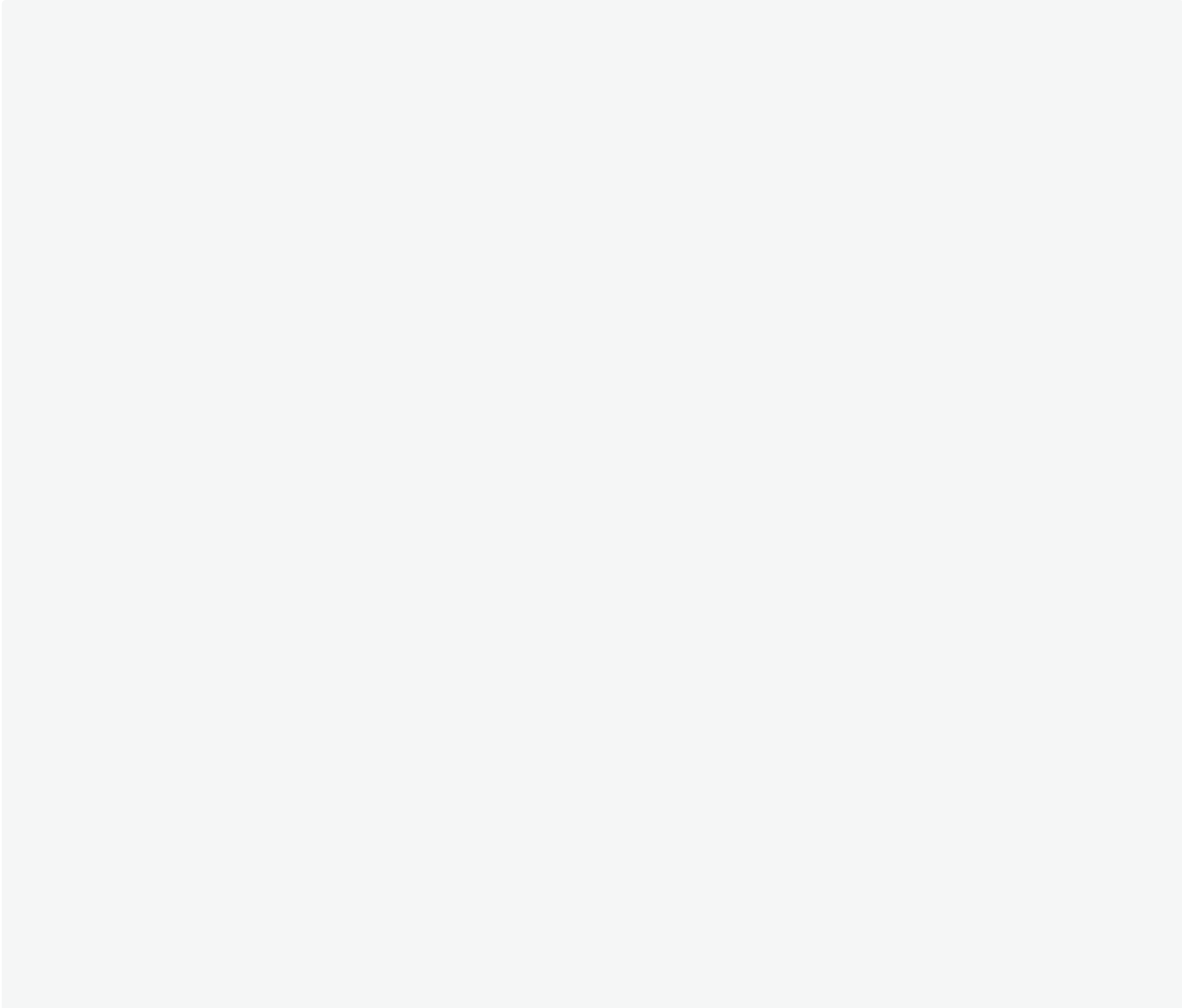
Interim Public Health Recommendations for Fully Vaccinated People

Updated May 28, 2021 [Print](#)

Summary of Recent Changes



























Updates as of May 28, 2021 ^

- Updated Choosing Safer Activities infographic with new considerations for the example activity for outdoor gatherings with fully vaccinated and unvaccinated people.



Choosing Safer Activities

Accessible link: <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/participate-in-activities.html>

	Unvaccinated People	Examples of Activities	Fully Vaccinated People
		Outdoor	
Safest		Walk, run, wheelchair roll, or bike outdoors with members of your household	
		Attend a small, outdoor gathering with fully vaccinated family and friends	
		Attend a small, outdoor gathering with fully vaccinated and unvaccinated people, particularly in areas of substantial to high transmission	
Less Safe		Dine at an outdoor restaurant with friends from multiple households	
Least Safe		Attend a crowded, outdoor event, like a live performance, parade, or sports event	
		Indoor	
Less Safe		Visit a barber or hair salon	
		Go to an uncrowded, indoor shopping center or museum	
		Attend a small, indoor gathering of fully vaccinated and unvaccinated people from multiple households	
Least Safe		Go to an indoor movie theater	
		Attend a full-capacity worship service	
		Sing in an indoor chorus	
		Eat at an indoor restaurant or bar	
		Participate in an indoor, high intensity exercise class	

Get a COVID-19 vaccine



Prevention measures not needed



Take prevention measures

Wear a mask, stay 6 feet apart, and wash your hands.

- Safety levels assume the recommended prevention measures are followed, both by the individual and the venue (if applicable).
- CDC cannot provide the specific risk level for every activity in every community. It is important to consider your own personal situation and the risk to you, your family, and your community before venturing out.



[cdc.gov/coronavirus](https://www.cdc.gov/coronavirus)

CS324153K

INFOGRAPHIC

If you are fully vaccinated you can start doing many things that you had stopped doing because of the pandemic.

[Text Version](#)

Key Points

The following recommendations apply to non-healthcare settings. For related information for healthcare settings, visit [Updated Healthcare Infection Prevention and Control Recommendations in Response to COVID-19 Vaccination](#).

Fully vaccinated people can:

- Resume activities without wearing masks or physically distancing, except where required by federal, state, local, tribal, or territorial laws, rules and regulations, including local business and workplace guidance
- Resume domestic travel and refrain from testing before or after travel or self-quarantine after travel
- Refrain from testing before leaving the United States for international travel (unless required by the destination) and refrain from self-quarantine after arriving back in the United States
- Refrain from testing following a known exposure, if asymptomatic, with some exceptions for specific settings
- Refrain from quarantine following a known exposure if asymptomatic
- Refrain from routine screening testing if feasible

For now, fully vaccinated people should continue to:

- Get tested if experiencing [COVID-19 symptoms](#)
- Follow CDC and health department travel requirements and recommendations

Overview

Currently authorized vaccines in the United States are highly effective at protecting vaccinated people against symptomatic and severe COVID-19. Additionally, a [growing body of evidence](#) suggests that fully vaccinated people are less likely to have asymptomatic infection or transmit SARS-CoV-2 to others. How long vaccine protection lasts and how much vaccines protect against emerging SARS-CoV-2 variants are still under investigation.

For the purposes of this guidance, people are considered fully vaccinated for COVID-19 ≥ 2 weeks after they have received the second dose in a 2-dose series (Pfizer-BioNTech or Moderna), or ≥ 2 weeks after they have received a single-dose vaccine (Johnson & Johnson [J&J]/Janssen)[†]; there is currently no post-vaccination time limit on fully vaccinated status. Unvaccinated people refers to individuals of all ages, including children, that have not completed a vaccination series or received a single-dose vaccine.

At this time, there are limited data on vaccine protection in people who are immunocompromised. People with immunocompromising conditions, including those taking immunosuppressive medications (for instance drugs, such as mycophenolate and rituximab, to suppress rejection of transplanted organs or to treat rheumatologic conditions), should discuss the need for personal protective measures with their healthcare provider after vaccination.

This guidance provides recommendations for fully vaccinated people, including:

- How fully vaccinated people can safely resume activities
- How fully vaccinated people should approach domestic and international travel
- How fully vaccinated people should approach isolation, quarantine, and testing

CDC will continue to evaluate and update public health recommendations for fully vaccinated people as more information, including on new variants, becomes available. Further information on evidence and considerations related to these recommendations is available in the [Science Brief](#).

Guiding Principles for Fully Vaccinated People

- Indoor and outdoor activities pose minimal risk to fully vaccinated people.
- Fully vaccinated people have a reduced risk of transmitting SARS-CoV-2 to unvaccinated people.
- Fully vaccinated people should still get tested if experiencing [COVID-19 symptoms](#).
- Fully vaccinated people should not visit private or public settings if they have tested positive for COVID-19 in the prior 10 days or are experiencing [COVID-19 symptoms](#).
- Fully vaccinated people should continue to follow any applicable federal, state, local, tribal, or territorial laws, rules, and regulations.

Recommendations for Indoor and Outdoor Settings

Risk of SARS-CoV-2 infection is minimal for fully vaccinated people. The risk of SARS-CoV-2 transmission from fully vaccinated people to unvaccinated people is also reduced. Therefore, fully vaccinated people can resume activities without wearing a mask or physically distancing, except where required by federal, state, local, tribal, or territorial laws, rules, and regulations, including local business and workplace guidance. Fully vaccinated people should also continue to wear a well-fitted mask in correctional facilities and homeless shelters. [Prevention measures](#) are still recommended for unvaccinated people.

Travel

Fully vaccinated travelers are less likely to get and spread SARS-CoV-2 and can now travel at low risk to themselves within the United States. International travelers need to pay close attention to the [situation at their international destinations](#) before traveling due to the spread of new variants and because the burden of COVID-19 varies globally.

Masks are required on planes, buses, trains, and other forms of public transportation traveling into, within, or out of the United States and in U.S. transportation hubs such as airports and stations. Travelers are not required to wear a mask in outdoor areas of a conveyance (like on a ferry or the top deck of a bus). CDC recommends that travelers who are not [fully vaccinated](#) continue to wear a mask and maintain physical distance when traveling.

Domestic travel (within the United States or to a U.S. territory)

- Fully vaccinated travelers do not need to get a SARS-CoV-2 viral test before or after domestic travel, unless testing is required by local, state, or territorial health authorities.
- Fully vaccinated travelers do not need to self-quarantine following domestic travel.
- For more information, see [Domestic Travel During COVID-19](#).

International travel

- Fully vaccinated travelers do not need to get tested before leaving the United States unless required by their destination.
- Fully vaccinated air travelers coming to the United States from abroad, including U.S. citizens, are still [required](#) to have a negative SARS-CoV-2 viral test result or documentation of recovery from COVID-19 before they board a flight to the United States.
- International travelers arriving in the United States are still recommended to get a SARS-CoV-2 viral test 3-5 days after travel regardless of vaccination status.
- Fully vaccinated travelers do not need to self-quarantine in the United States following international travel.
- For more information, see [International Travel During COVID-19](#).

Recommendations for Isolation, Quarantine and Testing

The following recommendations apply to non-healthcare settings. Guidance for residents and staff of healthcare settings can be found in the Updated Healthcare [Infection Prevention Control Recommendations in Response to COVID-19 Vaccination](#).

Fully vaccinated people with COVID-19 symptoms

Although the risk that fully vaccinated people could become infected with COVID-19 is low, any fully vaccinated person who experiences [symptoms consistent with COVID-19](#) should [isolate themselves from others](#), be clinically evaluated for COVID-19, and tested for SARS-CoV-2 if indicated. The symptomatic fully vaccinated person should inform their healthcare provider of their vaccination status at the time of presentation to care.

Fully vaccinated people with no COVID-like symptoms following an exposure to someone with suspected or confirmed COVID-19

Most fully vaccinated people with no COVID-like symptoms do not need to [quarantine](#), be restricted from work, or be tested following an exposure to someone with suspected or confirmed COVID-19 as their risk of infection is low.

Following an exposure to someone with suspected or confirmed COVID-19, as their risk of infection is low.

However, they should still monitor for symptoms of COVID-19 for 14 days following an exposure.

Exceptions where testing (but not quarantine) is still recommended following an exposure to someone with suspected or confirmed COVID-19 include:

- Fully vaccinated residents and employees of correctional and detention facilities and homeless shelters.

Fully vaccinated people with no COVID-19-like symptoms and no known exposure to someone with suspected or confirmed COVID-19

It is recommended that fully vaccinated people with no COVID-19-like symptoms and no known exposure should be exempted from routine screening testing programs, if feasible.



For Healthcare Professionals

[COVID-19 Clinical Resources](#)

*This guidance applies to COVID-19 vaccines currently authorized for emergency use by the U.S. Food and Drug Administration: Pfizer-BioNTech, Moderna, and Johnson & Johnson (J&J)/Janssen COVID-19 vaccines. This guidance can also be applied to COVID-19 vaccines that have been authorized for emergency use by the World Health Organization (e.g. AstraZeneca/Oxford).

Previous Updates

[Updates from Previous Content](#)



As of May 13, 2021

- Update that fully vaccinated people no longer need to wear a mask or physically distance in any setting, except where required by federal, state, local, tribal, or territorial laws, rules, and regulations, including local business and workplace guidance
- Update that fully vaccinated people can refrain from testing following a known exposure unless they are residents or employees of a correctional or detention facility or a homeless shelter

Last Updated May 28, 2021

EXHIBIT 2

July 8, 2021 | 1:52 pm

COVID-19 Updates

The COVID-19 vaccine is here. It is safe, effective and free. Walk in to get vaccinated at sites across the state. Continue to mask up and stay distant where directed.

GET THE FACTS >



GOVERNOR
ANDREW M. CUOMO

MAY 17, 2021 | Albany, NY

Governor Cuomo Announces New York State to Adopt New CDC Guidance on Mask Use and Social Distancing for Fully Vaccinated Individuals

COVID-19 VACCINE

(/K)

CORONAVIRUS

(/K)

HEALTH

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19-

VACCINE)

Effective May 19, New York Adopts CDC's "[Interim Public Health Recommendations for Fully Vaccinated People](#)" for Most Businesses and Public Settings

Pre-K to 12 Schools, Public Transit, Homeless Shelters, Correctional Facilities, Nursing Homes, and Healthcare Settings will be Exempt Until More New Yorkers are Fully Vaccinated

Governor Andrew M. Cuomo today announced that beginning May 19, New York State will adopt the CDC's "[Interim Public Health Recommendations for Fully Vaccinated People](https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html)" for most business and public settings. Consistent with the CDC guidance, Pre-K to 12 schools, public transit, homeless shelters, correctional facilities, nursing homes, and healthcare settings will continue to follow State's existing COVID-19 health guidelines until more New Yorkers are fully vaccinated.

"New Yorkers have worked hard over the last year to prevent the spread of COVID and keep each other safe," **Governor Cuomo said.** "That work has paid off and we are ecstatic to take this next step in the reopening of our beautiful state. The people of New York and visitors alike should take solace in the lifting of mask requirements, but be respectful of those who may still feel safest wearing their mask in public and business owners who may still ask patrons to don their mask. We are ever closer to our better, safer New York. We are New York tough and we have proven it."

To implement the CDC's guidance, New York State will be revising the following reopening guidelines to take effect on May 19:

Business Mask Rules

Given that the CDC has advised that fully vaccinated individuals do not need to wear masks and over 52 percent of New Yorkers over the age of 18 are fully vaccinated, the State will authorize businesses to continue to require masks for all in their establishments, consistent with the CDC guidance. In most settings, vaccinated individuals will not be required to wear a mask. Unvaccinated individuals, under both CDC and state guidance must wear masks in all public settings.

The Department of Health strongly recommends masks in indoor settings where vaccination status of individuals is unknown. Mask requirements by businesses must adhere to all applicable federal and state laws and regulations.

This recommendation will apply across commercial settings, including retail, food services, offices, gyms and fitness centers, amusement and family entertainment, hair salons, barber shops and other personal care services, among other settings.

Business Capacity Rules

As previously [announced](https://www.governor.ny.gov/news/governor-cuomo-governor-murphy-and-governor-lamont-announce-significant-easing-covid-19) (<https://www.governor.ny.gov/news/governor-cuomo-governor-murphy-and-governor-lamont-announce-significant-easing-covid-19>), most business capacities — which are currently based upon percentage of maximum occupancy — will be removed on May 19. Businesses will only be limited by the space available for patrons or parties of patrons to maintain the required social distance of 6 feet.

However, given that the CDC has advised that fully vaccinated individuals do not need to maintain social distance, businesses may eliminate the 6 feet of required social distancing, and therefore increase capacity, only if all patrons within the establishment -- or a separate designated part of the establishment -- present proof of full vaccination status. Proof of full vaccination status can be provided by patrons through paper form, digital application, or the State's [Excelsior Pass](https://covid19vaccine.health.ny.gov/excelsior-pass) (<https://covid19vaccine.health.ny.gov/excelsior-pass>).

For areas where vaccination status of individuals is unknown and for patrons who do not present proof of full vaccination status, the required social distance of 6 feet still applies until more New Yorkers are fully vaccinated. This change will apply across all commercial settings, except the exempt settings outlined by the CDC.

Small- and Large-Scale Event Rules

Small-scale events will be able to apply the revised business mask and capacity rules. Specifically, for events below the State's social gathering limit of 250 indoors or 500 outdoors, event venues will be able to require masks for all patrons -- and DOH strongly recommends masks in indoor settings where vaccination status is unknown -- and social distancing of 6 feet will be required between parties of attendees, unless all attendees present proof of full vaccination status. Unvaccinated people should still wear masks.

For large-scale events that exceed the State's social gathering limits, event venues will only be limited by the space available for patrons or parties of patrons to maintain the required distance, as follows:

- Unvaccinated attendees and attendees who have an unknown vaccination status must be spaced 6 feet apart in assigned sections. Masks will be required in indoor event settings, except while seated and eating or drinking.
- Fully vaccinated attendees may be spaced directly next to one another at 100 percent capacity instead of 6 feet apart in assigned sections that are designated solely for fully vaccinated individuals. Masks are optional. Venues must verify vaccination status to take advantage of reduced social distancing requirements.
 - Children under the age of 12 who are not yet vaccine eligible, and under the age of 16 who have not yet been able to be vaccinated, may accompany and be seated with a vaccinated adult in a fully vaccinated section.
 - Proof of full vaccination status can be provided by attendees through paper form, digital application, or the State's [Excelsior Pass](https://excelsiorpass.ny.gov) (<https://covid19vaccine.health.ny.gov/excelsior-pass>).

For large-scale events, proof of recent negative COVID-19 test result for attendees who are over the age of four remains required for unvaccinated attendees in indoor event settings above the State's social gathering limit but will become optional in outdoor event settings.


Today's announcement builds on Governor Cuomo's recent measures to further reopen the economy given significant progress in vaccinations and sustained reduction in COVID-19 cases and hospitalizations. As of yesterday, 62 percent of New York's adults had received at least one vaccine dose and 52 percent had completed their vaccine series.

Additional details on the State's New York Forward reopening guidance updates will be available [here \(https://forward.ny.gov/\)](https://forward.ny.gov/).

Contact the Governor's Press Office

 **Contact us by phone:**

Albany: [\(518\) 474-8418](tel:5184748418)
New York City: [\(212\) 681-4640](tel:2126814640)

 **Contact us by email:**

Press.Office@exec.ny.gov

Translations

<p>Arabic Translation الترجمة إلى العربية</p>	<p>(https://www.governor.ny.gov/sites/default/files/2021-05/05.17.21.rel_VACCINATED_Arabic.pdf)</p>
<p>Bengali Translation বাংলা অনুবাদ</p>	<p>(https://www.governor.ny.gov/sites/default/files/2021-05/05.17.21.rel_VACCINATED_Bengali.pdf)</p>
<p>Chinese Translation 中文翻譯</p>	<p>(https://www.governor.ny.gov/sites/default/files/2021-05/05.17.21.rel_VACCINATED_Chinese.pdf)</p>
<p>Haitian-Creole Translation Tradiksyon kreyòl ayisyen</p>	<p>(https://www.governor.ny.gov/sites/default/files/2021-05/05.17.21.rel_VACCINATED_HaitianCreole.pdf)</p>
<p>Italian Translation Traduzione italiana</p>	<p>(https://www.governor.ny.gov/sites/default/files/2021-05/05.17.21.rel_VACCINATED_Italian.pdf)</p>
<p>Korean Translation 한국어 번역</p>	<p>(https://www.governor.ny.gov/sites/default/files/2021-05/05.17.21.rel_VACCINATED_Korean.pdf)</p>

한국어 번역

(https://www.governor.ny.gov/sites/default/files/2021-05/05.17.21.rel_VACCINATED_Korean.pdf)

Polish Translation

Polskie tłumaczenie

(https://www.governor.ny.gov/sites/default/files/2021-05/05.17.21.rel_VACCINATED_Polish.pdf)

Russian Translation

Перевод на русский язык

(https://www.governor.ny.gov/sites/default/files/2021-05/05.17.21.rel_VACCINATED_Russian.pdf)

Spanish Translation

Traducción al español

(https://www.governor.ny.gov/sites/default/files/2021-05/05.17.21.rel_VACCINATED_Spanish.pdf)

Yiddish Translation

אידישע איבערטייטשונג

(https://www.governor.ny.gov/sites/default/files/2021-05/05.17.21.rel_VACCINATED_Yiddish.pdf)

EXHIBIT 3

July 8, 2021 | 1:52 pm

COVID-19 Updates

The COVID-19 vaccine is here. It is safe, effective and free. Walk in to get vaccinated at sites across the state. Continue to mask up and stay distant where directed.

GET THE FACTS >



GOVERNOR
ANDREW M. CUOMO

JUNE 15, 2021 | Albany, NY

Governor Cuomo Announces COVID-19 Restrictions Lifted as 70% of Adult New Yorkers Have Received First Dose of COVID-19 Vaccine

COVID-19 VACCINE

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PUBLIC SAFETY

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HEALTH

BLICKEYWORDS/HEALTH)

19-

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State's COVID-19 Restrictions and New York Forward Industry Guidance Lifted Across Commercial Settings, including Retail, Food Services, Offices, Gyms and Fitness Centers, Amusement and Family Entertainment, Hair Salons, Barber Shops, Personal Care Services, Among Others

Unvaccinated Individuals Responsible for Continuing to Wear a Mask, Per Federal CDC Guidance

Large-Scale Indoor Events Venues, Pre-K to 12 Schools, Public Transit, Homeless Shelters, Correctional Facilities, Nursing Homes and Health Care Settings Must Still Adhere to Existing COVID-19 Health Protocols Per CDC Guidelines

Governor Andrew M. Cuomo today announced that COVID-19 restrictions are lifted immediately as 70 percent of New Yorkers aged 18 or older have received the first dose of their COVID-19 vaccination series. The State's health guidance and New York Forward industry specific guidelines—including social gathering limits, capacity restrictions, social distancing, cleaning and disinfection, health screening, and contact information for tracing—are now optional for retail, food services, offices, gyms and fitness centers, amusement and family entertainment, hair salons, barber shops and personal care services, among other commercial settings.

Unvaccinated individuals continue to be responsible for wearing masks, in accordance with federal CDC [guidance \(https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html\)](https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html). Consistent with the State's [implementation \(https://www.governor.ny.gov/sites/default/files/2021-05/NYS_CDCGuidance_Summary.pdf\)](https://www.governor.ny.gov/sites/default/files/2021-05/NYS_CDCGuidance_Summary.pdf) of the recent CDC guidance, masks are still required for unvaccinated individuals. Further, the State's health guidelines continue to be in effect for large-scale indoor event venues, pre-K to grade 12 schools, public transit, homeless shelters, correctional facilities, nursing homes, and health care settings per CDC guidelines.

https://www.youtube.com/embed/A_uGmX2KKGw



"What New York has done is extraordinary. Not only do we have the lowest COVID positivity rate in the United States of America, we have hit 70 percent vaccination ahead of schedule. We successfully deployed the weapon that will win the war, and New York led the nation," **Governor Cuomo said.** "We led with nurse Sandra Lindsay, who was the first at Northwell to take that vaccine and to assure people it was safe. We've gone on to do more than 20 million vaccines, more per capita than any big state in the United States of America. Congratulations to New

Yorkers because they are the ones who did it. We're no longer just surviving—we're thriving. The state mandates that have proven right and brought us through this pandemic are relaxed as of today, effective immediately."

White House COVID-19 Response Coordinator Jeffrey D. Zients said, "In communities across New York, the deadly Coronavirus is in retreat thanks to the state's progress on vaccinations. New York went from being one of the hardest-hit states in the country to being one of the leading states in its effort to combat the virus because of a vaccination program that made it easy and convenient for New Yorkers to get vaccinated, state and community leaders who worked hard at the local level, and millions of New Yorkers who rolled up their sleeves to get vaccinated."



Not only do we have the lowest COVID positivity rate in the United States of America, we have hit 70 percent vaccination ahead of schedule.

Governor Andrew M. Cuomo

The State's COVID restrictions remain in effect for large-scale indoor event venues—now defined as indoor venues that hold more than 5,000 attendees. Consistent with the State's [implementation \(https://www.governor.ny.gov/sites/default/files/2021-05/NYS_CDCGuidance_Summary.pdf\)](https://www.governor.ny.gov/sites/default/files/2021-05/NYS_CDCGuidance_Summary.pdf) of the CDC guidelines, proof of vaccination can be used to eliminate social distancing and remove masks for fully vaccinated individuals. Unvaccinated or unknown vaccination status individuals who are over the age of four must continue to present proof of a recent negative diagnostic COVID-19 test result and wear masks within the venue. However, social distancing can be reduced or eliminated between tested attendees, allowing venues to reach 100 percent capacity in all sections.

As of today, over 70 percent of adult New Yorkers have received at least the first dose of the COVID-19 vaccine and the rate of new COVID-19 cases has plummeted to the lowest levels in the nation. Given New York's progress and the diminished risk of COVID-19 within the community, the State is lifting COVID-19 restrictions effective immediately, except for the mask requirement for unvaccinated individuals and in certain settings (e.g., large-scale indoor event venues, pre-K to grade 12 schools, public transit, homeless shelters, correctional facilities, nursing homes and health care settings per CDC guidance). While New York Forward industry reopening guidance is no longer mandatory for most industries, these documents will be archived and made available as a public reference.

With the removal of the State's minimum standard for reopening, businesses are free to choose to lift all or some restrictions, continue to adhere to the State's archived guidance, or implement other health precautions for their employees and patrons. Businesses are also authorized to require masks and six feet of social distancing for employees and patrons within their establishments, regardless of vaccination status. Any mask requirements that businesses choose to implement must adhere to applicable federal and state laws and regulations, such as the Americans with Disabilities Act.

Contact the Governor's Press Office






Contact us by phone:

Albany: (518) 474 - 8418
New York City: (212) 681 - 4640

Contact us by email:

Press.Office@exec.ny.gov

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EXHIBIT 4



← Tweet

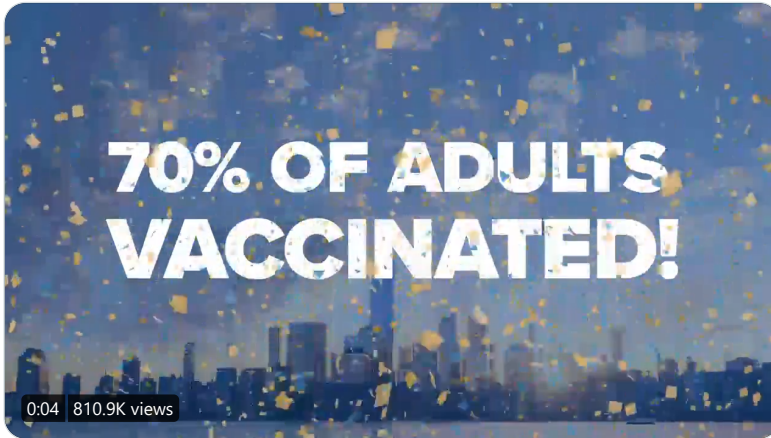


Andrew Cuomo ✓
@NYGovCuomo

Today New York State reached our goal of 70% adult vaccination.

That means we can return to life as we know it.

Effective immediately, state-mandated COVID restrictions are lifted across commercial and social settings.



12:29 PM · Jun 15, 2021 · Twitter Media Studio

3,827 Retweets 2,186 Quote Tweets 17K Likes



happylife1 @cloudsandgrapes · Jun 15
Replying to @NYGovCuomo

🎉🎉🎉 whooooo we did it!!!!



Angela Belcamino @AngelaBelcamino · Jun 15
Replying to @NYGovCuomo

The roaring 20's are here! Let's PARTY! 🎉



Warren Nebe @WarrenNebe · Jun 15
Just don't forget about Africa, please.



This Tweet was deleted by the Tweet author. [Learn more](#)



@grilledcheez · Jun 15
Yawn. Go to parler.



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Andrew Cuomo ✓
@NYGovCuomo

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Father, fisherman, motorcycle enthusiast, 56th Governor of New York

What's happening

COVID-19 · Last night

Pfizer says it will seek FDA approval for a COVID-19 vaccine booster dose



Trending with [Pfizer](#)

K-pop · Trending

Spring Day

138K Tweets

Entertainment · Trending

Erin

28.6K Tweets

Politics · Yesterday

President Biden says US military mission in Afghanistan to end on August 31



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Los Angeles Times ✓ · Yesterday

Racist 'iCarly' viewers came for its new star. What Hollywood should learn from her response



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
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Replying to [@NYGovCuomo](#)

You will own the illnesses and deaths of children who cannot be vaccinated, especially in light of the Delta variant. Shame on you.

🗨️ 129
↻ 17
❤️ 117
📤




Fly Jackson @FlightYears · Jun 15

Replying to [@NYGovCuomo](#)

so are vax cards still needed to get into bars? and hopefully this means no more capacity limits...

🗨️ 14
↻
❤️ 19
📤




Casey @KCNep95 · Jun 15

It's up to the bar. Also, that wasn't ever really a government-mandated thing if that was happening anywhere

🗨️ 1
↻
❤️ 54
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Casey @KCNep95 · Jun 15

In school, which you may need more of

🗨️ 2
↻
❤️ 3
📤

EXHIBIT 5



New York Forward (/)

[NY Forward \(/ny-forward\)](#)

Archived Industry Guidance

NY Forward reopening guidance that is no longer in effect.



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(#overview)

Agriculture, Forestry, Fishing
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Arts & Entertainment, Sports, Recreation
(#arts-entertainment-sports-recreation)

Overview

As of June 15, 2021, over 70 percent of adult New Yorkers had received at least the first dose of the COVID-19 vaccination and the rate of new COVID-19 cases had plummeted to the lowest levels in the nation. Given New York’s progress and the diminished risk of COVID-19 within the community, the State lifted most COVID-19 restrictions, except the mask requirement for unvaccinated individuals and in certain settings (e.g., health care) as advised by the CDC.

These archived *New York Forward* industry reopening guidance documents are no longer mandatory. The below archived documents are made available as a public reference and resource only.

As a reminder for New Yorkers, businesses are free to choose to lift all or some restrictions, continue to adhere to the State's archived guidance, or implement other health precautions for their employees and patrons. Businesses are also authorized to require masks

-sports--
recreation)

Construction,
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-

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(#food-

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and six feet of social distancing for employees and patrons within their establishments, regardless of vaccination status.

Any mask requirements that businesses choose to implement must adhere to applicable federal and state laws and regulations, such as the Americans with Disabilities Act.

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Agriculture, Forestry, Fishing

Agriculture, Forestry, Fishing

Fishing

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Arts & Entertainment, Sports, Recreation

Arts & Entertainment, Sports, Recreation

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Indoor events over 5K follow event guidance

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Indoor events over 5K follow event guidance

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Construction, Manufacturing, Trade

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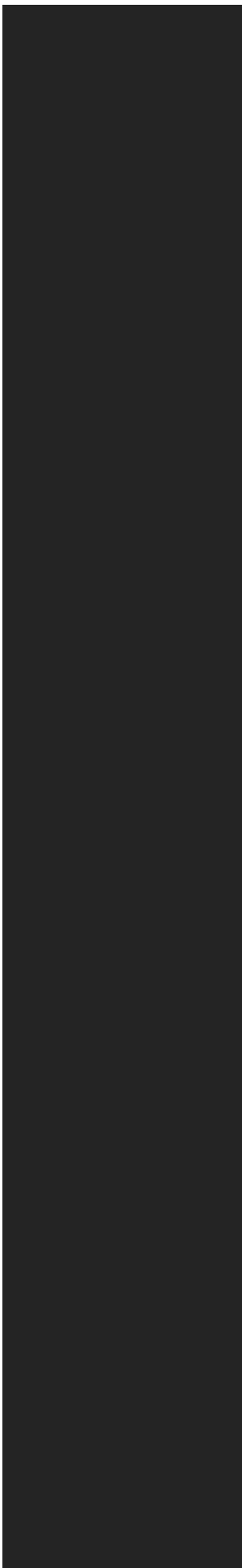
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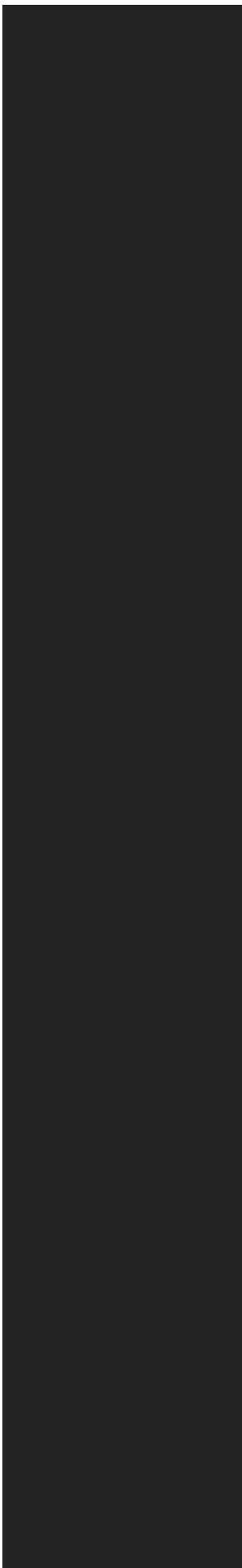
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EXHIBIT 6

July 8, 2021 | 1:52 pm

COVID-19 Updates

The COVID-19 vaccine is here. It is safe, effective and free. Walk in to get vaccinated at sites across the state. Continue to mask up and stay distant where directed.

GET THE FACTS >



GOVERNOR
ANDREW M. CUOMO

JUNE 23, 2021 | Albany, NY

Governor Cuomo Announces New York Ending COVID-19 State Disaster Emergency on June 24

CORONAVIRUS

(/K)

HEALTH

ORONKI

PUBLIC SAFETY

(/KEYWORDS/PUBLIC-

SAFETY)

Statewide 7-Day Average Positivity is 0.36%—
Record Low for 26 Consecutive Days, Has Declined
for 79 Consecutive Days

52,526 Vaccine Doses Administered Over Last 24
Hours

6 COVID-19 Deaths Statewide Yesterday

Governor Andrew M. Cuomo today announced that New York will end the state disaster emergency [declared on March 7, 2020 \(https://www.governor.ny.gov/news/novel-coronavirus-briefing-governor-cuomo-declares-state-emergency-contain-spread-virus\)](https://www.governor.ny.gov/news/novel-coronavirus-briefing-governor-cuomo-declares-state-emergency-contain-spread-virus) to fight COVID-19. Given New York's dramatic progress against COVID-19, with the success in vaccination rates, and declining hospitalization and positivity statewide the state of emergency will expire after Thursday, June 24.

Federal CDC guidance will remain in effect, which includes masks for unvaccinated individuals, as well as all riders on public transit and in certain settings, such as health care, nursing homes, correctional facilities, and homeless shelters. State and local government health departments will still be able to ensure mask rules and other health precautions are adhered to in those settings.

Since March of 2020, a variety of actions had been taken by executive order to assist in the rapid response to the pandemic by state agencies, local governments, hospitals, and businesses by both temporarily suspending or modifying laws as well as utilizing temporary directives. Hospitals were able to add space and staffing, meetings were authorized to occur virtually, and various deadlines were extended to accommodate a changed landscape.

"New York went from one of the worst infection rates to the lowest infection rate in the country, and it was all because of the efforts of New Yorkers who were smart, united and did what they needed to do throughout this entire pandemic," **Governor Cuomo said**. "Now we're starting to write a new chapter for a post-COVID New York--the state disaster emergency is ending and we can focus on reimagining, rebuilding and renewing our state. This doesn't mean COVID is gone, we still have to get more New Yorkers vaccinated, but we are getting back on track and starting to live life once again."

Today's data is summarized briefly below:

- **Test Results Reported** - 90,350
- **Total Positive** - 310
- **Percent Positive** - 0.34%
- **7-Day Average Percent Positive** - 0.36%
- **Patient Hospitalization** - 474 (-12)
- **Patients Newly Admitted** - 64
- **Patients in ICU** - 104 (-3)
- **Patients in ICU with Intubation** - 60 (-2)
- **Total Discharges** - 184,386 (+68)
- **Deaths** - 6
- **Total Deaths** - 42,942
- **Total vaccine doses administered** - 20,702,818
- **Total vaccine doses administered over past 24 hours** - 52,526
- **Total vaccine doses administered over past 7 days** - 406,783

- **Percent of New Yorkers ages 18 and older with at least one vaccine dose - 68.6%**
- **Percent of New Yorkers ages 18 and older with completed vaccine series - 62.2%**
- **Percent of New Yorkers ages 18 and older with at least one vaccine dose (CDC) - 71.2%**
- **Percent of New Yorkers ages 18 and older with completed vaccine series (CDC) - 63.5%**
- **Percent of all New Yorkers with at least one vaccine dose - 56.9%**
- **Percent of all New Yorkers with completed vaccine series - 51.2%**
- **Percent of all New Yorkers with at least one vaccine dose (CDC) - 59.1%**
- **Percent of all New Yorkers with completed vaccine series (CDC) - 52.3%**

Each region's 7-day average percentage of positive test results reported over the last three days is as follows:

Region	Sunday, June 20, 2021	Monday, June 21, 2021	Tuesday, June 22, 2021
Capital Region	0.42%	0.40%	0.44%
Central New York	0.40%	0.49%	0.49%
Finger Lakes	0.46%	0.46%	0.48%
Long Island	0.41%	0.40%	0.38%
Mid-Hudson	0.33%	0.34%	0.33%
Mohawk Valley	0.37%	0.33%	0.28%
New York City	0.36%	0.35%	0.35%

North Country	0.58%	0.52%	0.58%
Southern Tier	0.42%	0.40%	0.40%
Western New York	0.27%	0.27%	0.25%
Statewide	0.37%	0.36%	0.36%

Each New York City borough's 7-day average percentage of positive test results reported over the last three days is as follows:

Borough in NYC	Sunday, June 20, 2021	Monday, June 21, 2021	Tuesday, June 22, 2021
Bronx	0.40%	0.38%	0.38%
Kings	0.32%	0.31%	0.31%
New York	0.29%	0.28%	0.28%
Queens	0.37%	0.34%	0.35%
Richmond	0.60%	0.61%	0.63%

Yesterday, 310 New Yorkers tested positive for COVID-19 in New York State, bringing the total to 2,095,233. A geographic breakdown is as follows:

County	Total Positive	New Positive
Albany	24,722	3
Allegany	3,561	0
Broome	18,641	3
Cattaraugus	5,723	0
Cayuga	6,338	0
Chautauqua	8,959	0
Chemung	7,776	0
Chenango	3,507	2
Clinton	4,839	0
Columbia	4,068	0

Cortland	3,931	1
Delaware	2,388	2
Dutchess	29,493	2
Erie	89,620	3
Essex	1,593	0
Franklin	2,563	0
Fulton	4,425	1
Genesee	5,439	0
Greene	3,405	0
Hamilton	315	2
Herkimer	5,196	0
Jefferson	6,159	2

Lewis	2,811	0
Livingston	4,527	2
Madison	4,567	1
Monroe	69,090	11
Montgomery	4,254	0
Nassau	183,825	16
Niagara	20,051	1
NYC	938,747	178
Oneida	22,644	0
Onondaga	38,998	8
Ontario	7,410	2
Orange	48,365	5

Orleans	3,121	0
Oswego	7,633	1
Otsego	3,465	1
Putnam	10,623	0
Rensselaer	11,242	3
Rockland	46,986	5
Saratoga	15,398	2
Schenectady	13,213	3
Schoharie	1,694	0
Schuyler	1,081	0
Seneca	2,011	0
St. Lawrence	6,654	3

Steuben	6,961	1
Suffolk	201,261	24
Sullivan	6,686	2
Tioga	3,838	1
Tompkins	4,353	1
Ulster	13,918	1
Warren	3,668	1
Washington	3,165	1
Wayne	5,791	4
Westchester	129,757	11
Wyoming	3,585	0
Yates	1,179	0

Yesterday, 6 New Yorkers died due to COVID-19, bringing the total to 42,942. A geographic breakdown is as follows, by county of residence:

County	New Deaths
Erie	1
Monroe	1
Rockland	1
Seneca	1
Steuben	1
Westchester	1

All New York State mass vaccination sites are now open to eligible New Yorkers for walk-in vaccination on a first-come, first-serve basis. People who would prefer to schedule an appointment at a state-run mass vaccination site can do so on the [Am I Eligible App \(https://am-i-eligible.covid19vaccine.health.ny.gov/#_blank\)](https://am-i-eligible.covid19vaccine.health.ny.gov/#_blank) or by calling 1-833-NYS-4-VAX. People may also contact their local health department, pharmacy, doctor or hospital to schedule appointments where vaccines are available, or visit [vaccines.gov \(https://www.vaccines.gov/\)](https://www.vaccines.gov/) to find information on vaccine appointments near them.

Yesterday, 23,674 New Yorkers received their first vaccine dose, and 32,174 completed their vaccine series. A geographic breakdown of New Yorkers who have been vaccinated by region is as follows:

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	People with at least one vaccine dose		People with complete vaccine series	
Region	Cumulative Total	Increase over past 24 hours	Cumulative Total	Increase over past 24 hours
Capital Region	661610	889	608123	1397
Central New York	524373	663	483405	903
Finger Lakes	671199	877	620976	1420
Long Island	1494063	3482	1339880	6000
Mid-Hudson	1209337	2653	1081267	3971
Mohawk Valley	258795	377	238482	415
New York City	5244937	12781	4642820	14785

North Country	236127	311	219732	588
Southern Tier	343447	548	316779	626
Western New York	725844	1093	653163	2069
Statewide	11369732	23674	10204627	32174

The [COVID-19 Vaccine Tracker Dashboard \(https://covid19vaccine.health.ny.gov/covid-19-vaccine-tracker\)](https://covid19vaccine.health.ny.gov/covid-19-vaccine-tracker) is available to update New Yorkers on the distribution of the COVID-19 vaccine. The New York State Department of Health requires vaccinating facilities to report all COVID-19 vaccine administration data within 24 hours; the vaccine administration data on the dashboard is updated daily to reflect the most up-to-date metrics in the state's vaccination effort. New York State Department of Health-reported data from NYSIS and CIR differs slightly from federally-reported data, which is inclusive of federally-administered doses and other minor differences. Both numbers are included in the release above.

Contact the Governor's Press Office

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New York City: (212) 681 - 4640

Contact us by email:

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Andrew Cuomo ✓
@NYGovCuomo

#BREAKING: New York's COVID-19 State of Emergency will end tomorrow.

Fighting COVID & vaccinating New Yorkers are still top priorities, but the emergency chapter of this fight is over. All thanks to New Yorkers who were [#NewYorkTough](#).

11:49 AM · Jun 23, 2021 · Twitter Web App

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Steve Demain @woodsidewildman · Jun 23
Replying to @NYGovCuomo
The CDC disagrees but go off 🙄

7 2 23



Vaxxed But Still Masking @innerspacegirl · Jun 23
Replying to @NYGovCuomo
Here's hoping the variants don't make that a sad joke.

14 3 58



Braden @631Braden · Jun 23
it's looking like it especially with delta and delta plus, it keeps getting worse

1 1



.@_steve2_ · Jun 23
Replying to @NYGovCuomo
😄

1 1



maria c @icelily20 · Jun 23
Replying to @NYGovCuomo
Delta variant

38 4 33



Ryan @yahas9797 · Jun 23
British variant, South African variant, Indian variant, New York City variant, California variant....should I continue?

2 26

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DogMomInNC @Susan_M65 · Jun 23
Replying to @NYGovCuomo
[#DemocratsDeliver](#) 🌞🌞🌞

2

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Father, fisherman, motorcycle enthusiast, 56th Governor of New York

What's happening

COVID-19 · This morning
Pfizer says it will seek FDA approval for a COVID-19 vaccine booster dose
Trending with Pfizer

Entertainment · Trending
Erin
28.6K Tweets

Entertainment · Trending
Wendy Williams
Viewers react to comments made by Wendy Williams on the death of TikTok star Sway during a segment on her show
16.3K Tweets

Los Angeles Times ✓ · Yesterday
Racist 'iCarly' viewers came for its new star. What Hollywood should learn from her response

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President Biden says US military mission in Afghanistan to end on August 31
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Bellichka @bellichka · Jun 23

The vaccines are good for more than 6 months, there was only data for 6 months. High antibodies still found after 6 mos.

9

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EXHIBIT 8



State of New York
Executive Chamber

No. 210

EXECUTIVE ORDER

Expiration of Executive Orders 202 and 205

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a disaster emergency in the State of New York in response to the COVID-19 pandemic;

WHEREAS, on June 25, 2020, I issued Executive Order Number 205, requiring the Commissioner of Health to issue a travel advisory implementing quarantine restrictions on travelers arriving in the State of New York;

WHEREAS, the State of New York successfully flattened the curve of COVID-19 cases in New York; and has undertaken a cautious, incremental, and evidence-based approach to reopening the State of New York;

WHEREAS, the State of New York successfully slowed the transmission of COVID-19 from almost 11,000 new cases a day, at the peak of the pandemic, to less than 300 new cases a day;

WHEREAS, the State of New York administered more than 20,650,000 doses of COVID-19 vaccine, and more than 71% of adults in the State have received at least one dose of the vaccine;

WHEREAS, the State of New York went from having the highest infection rate in the Country to one of the lowest, with a current seven-day rolling average positivity rate below 0.4%;

WHEREAS, the Declarations of the Secretary of the United States Department Health and Human Services issued pursuant to the federal Public Readiness and Emergency Preparedness (PREP) Act remain in effect and continue to provide authorizations and exemptions for many professions and activities related to the ongoing COVID-19 emergency response including, allowing an expanded list of professionals to administer vaccine or to administer COVID-19 testing;

WHEREAS, the Centers for Disease Control continue their guidance for unvaccinated individuals to wear masks, and for all rider on public transit and in other sensitive settings; and

WHEREAS, it has been determined that Executive Orders 202 through 202.111 and Executive Orders 205 through 205.3 are no longer necessary.

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and laws of the State of New York, do hereby order that upon due consideration, deliberation and review, Executive Orders 202 through 202.111 and Executive Orders 205 through 205.3 are hereby rescinded effective June 25, 2021.

GIVEN under my hand and the Privy Seal of the State in the City of Albany this twenty-fourth day of June the year two thousand twenty-one.



BY THE GOVERNOR

Secretary to the Governor

EXHIBIT 9



In cooperation with New York State and the Department of Health, Citi Field has returned to full capacity. Social distancing and mask requirements at the ballpark have been eased effective immediately. Unvaccinated individuals continue to be responsible for wearing masks, in accordance with federal CDC guidance. Consistent with the State's implementation of the recent CDC guidance, masks are still required for unvaccinated individuals. Fans no longer need to show proof of a negative COVID test and/or vaccination to enter the ballpark with a valid ticket.

With anticipated increases in attendance, the Mets encourage fans to take mass transit and arrive early to enter the ballpark.

EXHIBIT 10

[Menu](#)

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MayorFirst LadyNewsOfficials

Transcript: Mayor de Blasio Holds Media Availability

April 29, 2021

Mayor Bill de Blasio: Good morning, everyone. Well, good news today. As we move forward with a recovery for all of us, it's time to set a goal for a full reopening of New York City. And that goal is July 1st. We are ready to bring New York City back fully on July 1st, all systems go, because you've earned it. We're going to keep working hard every day to make this city safer and safer. But what you have done – every day New Yorkers, what you have done is the reason I can make this announcement today, because you've gone out, you've gotten vaccinated, you've done so much to fight through this crisis. Now, we can see that light at the end of the tunnel. What does it mean? It means we get to go back to so many of the things we love. It means so many jobs get to come back. And, soon, it means that the things that make New York City special will be clearer than ever this summer. This is going to be the summer of New York City. We're all going to get to enjoy the city again and people are going to flock here from all over the country to be a part of this amazing moment in New York City.

It means going to stores – and anyone who wants to shop at a store, can go to a store again. It means bars and restaurants being able to come back, bring back so many of their employees, serve so many more customers. It means so many of our cultural events being open again, theaters coming back, so many of the things that we cherish. And what it means for every-day working people, for all those cooks, and waiters, and bartenders, and folks that work in the kitchen – for the small business owners, the folks who built up their businesses for years and years and have fought to survive. For every-day people, for our artists and our performers, it means a chance to do what you are so great at again, and a chance to bring joy to so many other New Yorkers. So, this is going to be an amazing summer. And I can't tell you – I just – I am so excited. I don't have words to say it enough. I am so excited that we'll be able to come back strong.

Now, what do we have to do? We have to keep getting vaccinated. The reason I'm able to make this announcement today – and we have poured over the data. We have, as always, focused on the data and the science. And we now can set this goal because we've been moving forward constantly – more and more vaccinations, fewer and fewer infections, thank God. But we've got to keep doing that, everyone. Everyone who hasn't yet been vaccinated, come forward now. This is the time. This is the right moment. It's easier than ever. It's simple. It's convenient. Let's keep moving with vaccinations. Let's keep being smart about all those basic, smart health care measures we've been taught by our health care heroes. We can do this. July 1st – we've all got a little bit of work to do, but we can get there together.

Now, this is all about a recovery for all of us. And we have been building up our recovery effort in so many ways, and that includes bringing together extraordinarily talented people to help us with our recovery. A recovery means so many things. One of the things certainly includes is bringing back jobs, bringing back businesses, making New York City vibrant as it was before the pandemic, and then going even farther than that. I want to emphasize, we want to get as vibrant as we were before the pandemic, and then go even farther – even more jobs, even stronger economy, an even better life, even more equality. That's the goal.

To help us lead this effort, I'm so excited to bring on a new member of this extraordinary recovery team. And he is a New York City legend, one of the greatest entrepreneurs in New York City history. He has done things that people see as definitional of what's great about New York City. His sensibilities, I've always admired. He believes in equality. He believes in inclusion. He believes in an economy that works for every-day working people. And he's brought so much joy to New Yorkers and he's helped in the revitalization of the city, going back to the 1980s, when he created the iconic Union Square Café. At a time when Union Square was a place that was struggling, Danny Meyer was one of the people that turned it around and that started a lot of other turnarounds in New York City that helped to make us strong. He went on to remake the New York City dining scene – Gramercy Tavern, The Modern, and, of course, Shake Shack – beloved by all. And so, we need that spirit. We need that innovation. We need that energy. We need that sense of hope. So, I'm so happy to announce that Danny Meyer will be the new chair for the New York City Economic Development Corporation board. The EDC, we depend on to spark economic activity and growth and create jobs, and Danny Meyer will provide a lot of the vision and the energy to get us there. And I want to now bring them to you with a lot of joy that he is going to help us lead the way back. My pleasure to introduce Danny Meyer.

Chairman Danny Meyer, Board of Directors, Economic Development Corporation: Thank you so much, Mayor de Blasio. This is – it's a big honor, it's a big responsibility, and I've pledge to bring every ounce of care to the task of doing everything we can to help bring back New York. The recovery is happening. It's amazing confluence that I get to have the opportunity to be presented by you on the very day that you announced this morning that New York would be open on July 1. We could not be more excited and grateful. And I share your sentiment that New Yorkers are really the ones to thank. People have been so incredibly careful and thoughtful over this past year, and we deserve this moment. Now, I've made a career out of trying to turn challenges into opportunities, and we have a big challenge right now. New York is a city that thrives when people are together. This is a city that is built on people wanting to live closely together, to work closely together, to be live audiences, to be performers, and those are the very things that have been unsafe to do during the pandemic. But now, we're going to be able to bring that back.

It will be a big challenge. It'll especially be a big challenge, because we need to hire a lot of people very, very quickly in the city. There are also a lot of people who are seeking jobs at this moment in history. So, one of my hopes is that the city can be an agent to help connect job seekers with those who want to hire, because we are in for one of the biggest recoveries ever. And I truly believe that hospitality, the way we make people feel in the city, is what's going to lead the way. So, thank you for this appointment. And I will do the very, very best I can with the EDC.

Mayor: Well, Danny, thank you so much. I have total confidence in you. I've watched your work. I've enjoyed the benefits of what you have done by going to some of your amazing restaurants. I've seen the ethic you have created, the atmosphere you've created, the approach – it's positive, it's hopeful, always – and that's exactly what we need now. And I love what you said, turning challenges into opportunities. This is an extraordinary opportunity moment for New York City. So, we need your leadership. We need

your strong voice. And I think your point about how the city can help connect those looking for jobs to all the jobs that are about to blossom now, that's a great initiative that we'll work on together. We believe there'll be at least 400,000 jobs coming back this calendar year and we need to connect great people to great jobs. So, thank you. Thank you for your leadership. It's really important to New York City that you're giving of yourself at this moment. And I can't thank you enough.

All right. Now, guess what? How do we move forward? I think you know where I'm going – vaccines. Vaccinate, vaccinate, vaccinate. We have been getting to where we are today, this amazing moment, because everyone's been doing what they needed to do. What's the number today? 6,427,404 vaccinations to-date. A number – it's just constantly growing. People are showing up. They're showing up for their second appointments or they're showing up for their first appointments. We need to keep the momentum going. This is exactly how we get to the full reopening we're all looking forward to. So, remember, every one, if you have not gotten vaccinated, today is the perfect day. Go to nyc.gov/vaccinefinder, or call 877-VAX-4NYC. And listen, it let's make it personal, it really matters what each person does. So, if you're watching right now and you just haven't gotten around to it, make an appointment right now, or just walk in at dozens and dozens of City sites all over the city. Let's get this done today, because that's, what's going to help us get to this amazing opportunity July 1st.

All right. Now, this is about a recovery for all of us. Everything we're talking about now is about a recovery for all of us. That means bringing the city back strong, of course, economically, but it also means bringing back the city strong humanly. We have got to be a city, going forward, that really responds to the immense challenges that people have been through. And we can do that, because we've learned in this city how to reach people in ways far beyond what we ever imagined. Now, here in this city, we did something very different years ago. We started an open and honest conversation about mental health, a focused effort to de-stigmatize an area that, unfortunately, had always been treated with kid gloves. So many people suffered in silence. So many families didn't want to come forward and talk about the problem, because they'd been told there was something wrong with them if one of the members of their family had a mental health challenge. It was never fair that anyone felt that way or was treated that way, but that's the reality. We decided we had to change that. And our first lady, Chirlane McCray – you'll hear from her in a moment – led that conversation and it made such a difference. And I've got to tell you about the times – the many times, Chirlane and I would be out on the street somewhere, walking around and someone would come to us and say, thank you. But then, inevitably, they would start to tell their own family story of a mental health challenge. And, as they did, they would start to draw closer and they'd whisper. And it was so ironic to me that even as it was clear that efforts to de-stigmatize had helped, so many people to feel it was time to now address the issue, they still had that sense that they had to be quiet, they had to be careful. And we've got to do away with that once and for all. We've got to make clear that mental health care is a human right, that mental health challenges are part of the human experience. And everyone has a right to help and care.

So, today, we're going to take a big step forward towards a more universal approach to serving those with mental health challenges. And it means not simply half measures, but actually a universal approach to make sure that whatever people need it's there for them. We've been talking about this throughout the week. The beginning of week, we talked about making those crisis calls citywide – anyone who's in mental health distress, wherever possible, civilians, responding, health care workers responding, getting help to people in a new and better way. We talked about universal screening for our school children. This is something that's beyond anything that's been imagined before – every child getting screening and then the support they need. Mental health services in every single school, that's what we're going to have, starting in September. And then, yesterday, we talked about addressing serious mental illness with

a variety of strategies – mobile intensive treatment teams, clubhouses, supportive facilities for folks with serious mental illness – a variety of tools to give people continuity and support.

Today, we announce the full vision – Mental Health for All. Today, we announce a vision of a city that does everything and anything to get people the help that they need. And a new announcement today, for all City-sponsored vaccination sites, we will be providing mental health check-ins for everyone who's been vaccinated. If you go to a City-sponsored site after you've gotten your shot, there'll be outreach workers there to check in with you to see if you have any mental health concerns you want to talk about. If you need any mental health support, if you want to get more information, or if you need a follow-up appointment, we're going to be at our City-sponsored vaccination sites, helping hundreds of thousands of New Yorkers in the coming weeks by giving them a free vaccination. Let's go the extra mile – let's check in, let's see how they're doing. And if they are going through mental health challenges, as so many people are in this crisis, let's make sure that they get that next step, that they get the help they need, that they get connected to it right then and there. That'll be happening at all City-sponsored vaccination sites.

Second, a huge outreach effort to let New Yorkers know, after everything they've been through a COVID, that help is there for them. We're going to be using all the tools we have in multiple languages in all communities to let people know that mental health services are there for them, and whenever they need it to be free, it will be there for them for free.

And third, we want this work to deepen and we want to make sure it's community focused. So, our establishing a permanent Mayor's Office of Community Mental Health. In the end, the way to reach people with mental health challenges is early and often – it's schools, it's at community-based organizations, it's in shelters, it's in so places where people need help, but, historically, have not had a place to turn. This vision and this office will ensure that mental health services are available at the grassroots all over the city.

That's the vision, and I want you to hear now from the visionary, because she has continued to push the spectrum year after year, and say to people from all City agencies, we can do more, we can reach more people, we can do better, what's the next thing we need to do? And this Mental Health for All vision comes from her hard work. My pleasure to introduce our first lady, Chirlane McCray.

First Lady Chirlane McCray: Thank you, Bill. And, good morning, everyone. This is a special day and a really special week for our city. It's a huge leap forward, increasing mental health support for all New Yorkers. In the early days of this administration, we held mental health town halls across every borough. And I still remember standing outside of the first one at Brooklyn Borough Hall not really knowing what to expect. We weren't sure how many people would show up. But when we walked in, let me tell you, that room was packed. And town hall after town hall was the same. I began asking people, can you please put your hand up if you or someone you care about has a mental health challenge. And, every time, almost every hand would go up. I would joke and say, if your hand is not up, then you probably don't know your friends or your family as well as you think you do. And people would laugh, and it helped get the point across that, despite the stigma, and the stereotypes, and the lack of awareness that make it so hard for us to talk openly about this subject – that mental health challenges and substance misuse are part of the human condition. They touch all of us. At that first town hall, we listened intently to people as New Yorkers from every walk of life told us their personal stories, bravely bearing their souls.

I remember there was a young African-American man who would leave work, dropping everything that he was doing to tell us – to rush to his sister's side and help her while she was in crisis at a hospital. He would do this over and over again, because she wasn't getting the constant care that she needed. A

father who yearned to get his daughter the ongoing support that she needed for substance misuse also talked about his pain and his shame. He loved her, but he didn't know how to get her help. Every story we heard was different, but so many people who spoke ended their story by saying, I didn't know who to call. And I didn't know what to say. We had tapped into a deep hunger and a very deep need, and we started a public conversation, a difficult conversation that New York City had really never had before.

Every program from ThriveNYC and City agencies, every expansion of existing services over the past seven years is a direct response to what we heard in those rooms and from New Yorkers all over the city. People wanted easier access to care. They wanted culturally competent counselors who speak their language. They wanted services in their communities, more coordination across government agencies and community organizations. Since 2015, we have connected hundreds of thousands of people to care. And now, as we emerge from COVID-19, we are building on that foundation in a very big way. Every new program announced this week is designed to bring more help to New Yorkers, wherever they live, by placing services in schools, at our vaccination sites, and communities of color and more. We stand ready to help with new efficient practices like telemedicine, which has helped Health + Hospitals host more than 200,000 virtual mental health resources – mental health sessions this year. That's pretty amazing. And with this executive order and the creation of the Mayor's Office of Community Mental Health, we ensure these innovations will serve New Yorkers for years to come.

Mental health is part of all of our lives. And so, mental health support should be part of our lives too. Today is a promise to all New Yorkers – no matter who you are, no matter what you need, New York City – your city – is here for you.

Mayor: Thank you so much, Chirlane. And you can hear the passion in Chirlane's voice, the fervent belief that we can, and we must reach everyone who needs help. I want to bring another person forward who has been one of the most passionate voices in the City Council fighting for the residents of her district in East Harlem and the Bronx, but, also, for the whole people of New York City. She's spoken up about the need to do something even more in the area of mental health. And the need to make permanent a community-based approach to mental health. I really appreciate her advocacy and her leadership. My pleasure to introduce Council Member Diana Ayala.

[...]

Thank you so much Council Member. And your – what you said is so powerful. And you've really been a very, very honest voice. I want to thank you for that because people have to hear that so many families have their own stories. We've got to bring them out in the open and we got to demand that people get the help they need. And you've been outspoken. I want to really thank you for that. And I want to join you in thanking everyone who did this extraordinary work, our First Lady, and as you mentioned, Susan Herman, who's been doing amazing work with a whole team of committed people on Thrive and building it out into this new vision. Everyone I've met who works on mental health issues does it as a labor of love. And that's going to be clear in this, in this effort going forward and this larger vision of Mental Health for All. So, thank you Council Member. And everyone, I want you to get a look at the full sweep of Mental Health for All, what it means for people in this city and how we are building this out. So, we have a video that gives you a sense of just how important this is going to be.

[...]

Well, that's just beautiful. And it says it all. And that is so crucial to a recovery for all of us. So, this is going to be how we come back together. And that is a perfect segue to our indicators for today. And this

is one of the best we have seen in months and months. So, a good day and further proof why we are now poised for a full reopening of New York City. Indicator number one, daily number of people admitted to New York City hospitals for suspected COVID-19, look with your own eyes. Today's report, 97 patients. Look at that line go down and down. Confirmed positivity level 53.06 percent. Hospitalization rate, we are on the verge of going below the threshold at 2.1 per 100,000. We want to get below two and it looks very, very good at this moment. We just all got to keep doing what we know what to do. Number two, new reported cases on a seven-day average. Today's report, and again, look at that downward slope – today's report 1,354 cases. And number three, percentage of people testing positive citywide for COVID-19, today's report on a seven-day rolling average, 3.18 percent and declining.

And I will say, keep it declining because what is 100 percent clear is vaccination has worked. Let's get out there and keep it going. Every single day, tens of thousands of people are going out and getting vaccinated, getting their first shots, getting their second shots. If you have not yet done so you should be one of them today. And help move us forward. Few words in Spanish, and I want to talk about what we just discussed Mental Health for All, which is of such concern to the community.

[Mayor de Blasio speaks in Spanish]

With that, let's turn to our colleagues in the media. And please let me know the name and outlet of each journalist.

Moderator: Good morning. We will now begin our Q and A. As a reminder we are joined by the First Lady of New York City Chirlane McCray; Susan Herman, Director of ThriveNYC; Dr. Dave Chokshi, Commissioner of Health; Dr. Mitch Katz, President and CEO of Health + Hospitals; and Dr. Jay Varma, Senior Advisor on public health. We will begin with Hazel from CBS New York.

Question: Good morning, Mr. Mayor. How are you?

Mayor: Good, Hazel. How are you doing today?

Question: Good. This is very good news to hear, the city opening up. That being said though, will there be any kind of vaccination requirements or proof of vaccination before you enter restaurants, bars, theaters? Because obviously not everybody will be vaccinated, so obviously there'll be concerns of still a virus spread?

Mayor: Yeah. Hazel look, first the big picture here is the work we'll do over the next two months to get so many more New Yorkers vaccinated. The best thing we can do is build that strong foundation and the numbers keep coming in strong. We got to keep doing that. As Dr Varma said yesterday, there certainly will be particular institutions that may choose to have rules around vaccination or testing or rapid testing. That's to me obvious, but I think the big picture point here is to build up a situation over the next two months, where we're coming into the reopening as strongly as possible, as many people vaccinated as possible. And then constantly watch the data as we always do, make adjustments, and just be smart. There's still going to be plenty of people, for example, who will choose to wear a mask in certain situations. That's a great choice. I think New Yorkers will make the adjustment as we go along. Go ahead, Hazel.

Question: What kind of conversations have you had with the Governor about the City's plans to fully reopen in July?

Mayor: I have not. And I think the best way to proceed here is to set out the City's vision. We're going to work with the federal government. We're going to work with the State government, but it's quite clear. You just saw the indicators. You've seen the numbers of vaccination. It's quite clear it's time to set a goal and move on that goal. So, we'll work with all the other levels of government, but we've got to keep moving toward a goal at this point.

Moderator: Next we have Shant from the Daily News.

Question: Good morning, Mr. Mayor. Definitely big news today. I guess I just wanted to ask you know, if I'm understanding correctly, basically all businesses and other kinds of – basically every part of life, you want to have reopened 100 percent capacity starting in July. But can you say what kind of safety measures will still be in place? For instance, will the City still advise people to observe social distancing, that kind of thing?

Mayor: Shant, it's obviously two months away and we're going to be led by the data and the science. So, this decision after weeks of discussions with the health care team, we decided this is the right goal. We have the evidence now that really makes clear this is the right goal. We will make adjustments as we go along. If we, you know, think it's important to advise people to carry on certain practices, we will. I am convinced bluntly that many New Yorkers will still want to use their mask at a lot of times, just on a voluntary basis. But this is the right goal. Now job one, get people vaccinated. And then second, as we see more and more data, we'll make adjustments as we get closer. Go ahead, Shant.

Question: Yeah. So, and given that, you know, things are still in the works, can you say what at this point you and your team are doing to, I don't know, I guess, you know, queuing off of Hazel's question – give New Yorkers peace of mind when they go for indoor dining, to a gym, what have you, are you thinking of things like utilizing the State vaccine passport? Any thoughts at all about, you know, some kind of certification system?

Mayor: We're looking at that for sure. And again, I think some institutions are going to choose to do that. I think it'll make sense in some places, certainly some private businesses may do that. Other places that may not make as much sense. The key is to get people vaccinated. So really, you know, when you think about today, 6.4 million vaccinations, growing all the time. This is the single most important thing for all of us to do. And what we need to do – and we've signaled this, but we'll have a lot more to say in the next few days, Shant – is create more incentives for vaccination, make it even more convenient for people, reach even deeper into the grassroots. That's the best way to set up a very positive experience for July 1st. But in terms of how different institutions may approach it, we've got plenty of time to work with them on what makes sense for them.

Moderator: Next. We have Marla from WCBS 880.

Question: Good morning, Mayor and everyone else on the call. I wanted to ask about schools. Despite teachers being vaccinated, there appears to be a shortage of them qualified to provide in-person instruction to students, resulting in students learning on computers in the classrooms. You've said repeatedly that New York will offer five-day a week, full time instruction in September, but how can you assure that there will be enough teachers to accomplish that? And if teachers are vaccinated, why aren't you mandating that they returned to the classroom so, you know, more kids can get in more than one-day a week in some of the larger high schools?

Mayor: Yeah. Marla, First of all, the five-day a week approach has become prevalent throughout our

school system. There are some schools that just because of the number of kids that came back, have had to do a different schedule. But five-day a week has more and more become the norm. Especially in the elementary schools where now we're able to go to three feet. Look, the bottom line is we are well, well into the school year at this point. We've got kids on schedules, many of them remote. We've got teachers aligned to do that. We've set the pattern now for this school year. We had obviously, more than 50,000 kids come back on Monday. That's great. Now we are turning our focus to the summer with Summer Rising, which will be universal. I want to emphasize, never before done in the history of New York City. That any child that wants a summer opportunity, academic, cultural recreation altogether for free, can get it. And then September. All children will be welcome back. We'll have our full teaching core. We have lots of lots of teachers we're recruiting on top of that. Lots of people want to come be a part of this comeback. So, I feel very confident that we'll have the personnel we need going forward. Go ahead Marla.

Question: Okay. So, will the Department of Education be offering a remote option for families in the fall who want it? And if so, who will be teaching those remote kids?

Mayor: Well, Marla, it's a fair question for sure. I'm going to lean on the fact that it's April 29th. And, you know, opening day of school is after Labor Day obviously, but what the Chancellor and I both feel is we want the maximum number of kids back in person and we're planning for literally the ability to have every single child back. Let's see how we continue to make progress on COVID. I think the world could be a very different reality in the next few months, and I think it's going to be a lot better, but the goal is to be able to accommodate every single child.

Moderator: Next, we have Katie from the Wall Street Journal.

Question: Hey, good morning, Mayor de Blasio. I guess as a follow-up to that question, other's questions. So, I'd read, I believe in Chalkbeat, that the UFT representative said teachers will still be allowed medical accommodations next year. This was granted because of COVID. Can you explain why and would that not, would a teacher – if a teacher requires a medical accommodation because of COVID when there are vaccinations and lower rates, would that not then have someone go on disability? Can you explain why the accommodations will be extended to the next school year?

Mayor: Yeah. I don't want to make a – I don't know who you spoke with. I want to make sure we are accurate. The accommodation system was structured for this school year in the atmosphere of a COVID crisis. We are clearly coming out of that crisis. Next school year is a different reality. We'll have a different approach. We'll have more to say on that as we get closer, but no, the rules that were in place were for this school year. Go ahead, Katie.

Question: Great. Thank you. I guess, you know, going back to this reopening plan, I know Monday is when City workers are set to return to offices. How – could you just update a little bit on what's been done and what's been going on in preparation for that because I know that there was some pushback for that to begin.

Mayor: Yeah. We have a huge number of City workers who have gotten vaccinated now. That's the first thing to know. We have, obviously, proven over and over again that we have the tools to keep people safe. The best example remains our public schools. We're all – you know that gold standard of different health and safety measures worked, continues to work. We keep bringing back more and more kids. It keeps working. We have applied a lot of those same exact measures to our public offices. There'll be a lot of cleaning, a lot of smart efforts to keep people safe, mask wearing, obviously, you know, different

numbers of people at different times. There'll be a rotation system. I'm very confident that folks that will be able to come back safely. And by coming back, they'll be able to serve New Yorkers better and we need to start sprinting now as part of this recovery. We need to bring New York City back strong for everyone. And clearly, we have the ability to do that by getting our City workforce back.

Moderator: Next, we have Sophia from WNYC.

Question: Good morning, Mr. Mayor.

Mayor: Good morning. How are you doing Sophia?

Question: I'm good. Thank you. I am asking a follow-up to the questions about the medical accommodations especially with the declared reopening of the schools on July 1st. You know, there's been some pushback that this is conveniently after school's end date, and whether the UFT and medical accommodations that are in place right now have played a role in that timeline.

Mayor: No, obviously not the goal here is to prepare this city for a full reopening. We know that's going to take some work and we'll take work for different businesses and institutions to get ready for that. But it's also time to keep getting more and more people vaccinated. I said a long time ago, back in January, our goal was to get five million New Yorkers fully vaccinated by the end of June, we're still working on that goal. This synergizes perfectly with that. But we're actually seeing even better indicators now. And, again, this is the data and the science talking, we're seeing better indicators in terms of health care than we even expected at this point. And this is the power of vaccination. When you do 6.4 million vaccinations, you're going to see an impact and we're seeing it, but we'll have even more time to get ready and go much deeper between now and July 1st. Go ahead, Sophia.

Question: Great. Actually, that leads me to my next question, which is that – so the vaccination campaign has reached millions of people, but it's still concentrated in high-income areas and predominantly white neighborhoods. If the demand for walk-up appointments or the vaccine buses continues to drop, are you going to think about moving that reopening date from July 1st? There's been about a decline of a hundred thousand shots last week, relative to the week before.

Mayor: Sophia, first of all, we've had some aberrant realities the last few weeks, we all know, because of Johnson & Johnson. That was a clear curve ball that slowed us down some. But we got a lot of other interesting evidence that didn't slow us down much. As you heard from Dr. Chokshi yesterday, the rate at which people are getting their second shots is much better here in New York City than around the country. That's a really good sign. About 95 percent of people are showing up for their second shots when they should. That's amazing. That's positive. When you look at our efforts towards our goal, we're almost at the halfway point in terms of the five million, but very importantly, when it comes to the first dose, we're over 70 percent to goal in terms of New Yorkers who have had at least one dose. And because almost everyone that gets the first dose is getting a second dose, that means we're going to keep moving aggressively on that goal. We do need to do more work in the communities hardest hit by COVID. But what I'm finding is the more we make vaccination convenient, the better we're doing. And a lot of the folks who need it the most are some of the hardest working people in New York City who've got two jobs and three jobs and struggle to make ends meet, and they need this to be as convenient as possible. So, the more we're able to do walk-ins and community-based organizations, houses of worship. This constantly is moving the needle and we'll be doing a lot more of that going forward.

Moderator: Next, we have Courtney from NY1.

Question: Hi, Mr. Mayor. How are you?

Mayor: Good, Courtney. How you been?

Question: Good. Thank you. So, also on the reopening, I mean, I understand that you need State approval. What specifically do you need the State to approve considering I guess the balance of power in Albany has shifted a little bit and thinking of the State, do you also need the subways to come back 24/7 in order to really make New York back the way it used to be?

Mayor: Two great questions. So, look, Courtney, I think that was one of the greatest understatements I've heard all year, the – “the balance of power has shifted a little in Albany.” I think the balance of power shifted a lot in Albany. I think the Legislature is running the State of New York and thank God for it. I have a lot of faith in Andrea Stewart-Cousins and Carl Heastie, and they did literally the best budget we have seen in the history of New York State, as far as I'm concerned, certainly in the last generation. They have made clear by their actions, the last few days, that they are restoring this state to normal democracy. They are bringing back democratic norms in New York State and canceling some of the arbitrary decisions by the Governor. What we need is a full restoration of democracy while the Legislature is still in session. That is the way to help us move everything we have to do for a full recovery. So, to me, that would solve a lot of the questions and concerns here. I believe they're moving in that direction. That's what I think will be pivotal. Go ahead, Courtney.

Question: Oh, sorry, just on the subway closure again. When do you need the subway to come back? And then can I also get you to weigh in on the Scott Stringer news yesterday. There was a woman that came out accusing him of groping and harassment 20 years ago. Do you think that he needs to step out of the race for mayor or potentially leave his position, current position as the city comptroller?

Mayor: So, subways I have long believed we should get back to 24/7 at the right time. I think July 1st is the right time. I think the cleanup effort has been outstanding. This is an area where the City and State have been in agreement. The cleanup effort really helped, having the closure for several hours really helped make people more comfortable coming back to the subways. It clearly helped us. In fact, one of the things the City pushed hard was for the State to realize that the right kind of closures could help us address homelessness more productively. And it has, you know, many, many homeless folks out of the subways into shelter and they stayed in shelter and that's credit to everyone at the Department of Homeless Services, all the outreach workers. So, that's been really good, and I think that should continue for a while as we consolidate our gains. But when we talk about a full recovery, July 1st, I'm very comfortable that's a great time to bring the subways back 24/7.

On the comptroller, there needs to be an investigation, clearly. It needs to be a fast investigation because the people of this city deserve to know before they make their decision on the future on June 22nd. So, we need the facts. We need an investigation immediately.

Moderator: We have time for two more questions today. The next one goes to Henry from Bloomberg.

Question: Mr. Mayor, how are you doing today?

Mayor: It's a good day, Henry. How are you? It's a good day for me, it's not a good day for Jacob deGrom. But it's a good day for me. How are you, Henry?

Question: Ouch, it's true. It's not a good day for Jacob deGrom. It's a good day for me. I'd like to ask you another question about New York City opening because despite the difference in the balance of power and everything else, the Governor's powers still reside, especially the decrees that he issued. They still stand according to the Legislature's vote. So, July 1 is really a goal, is it not, especially considering that Broadway is not going to be open and you know, it's – what's your response?

Mayor: Henry, first of all, I would say this – Broadway has been clear from the beginning that it takes a lot of lead time to put together big elaborate productions. And they've said September for a while, although there are some shows that I think that some of the smaller, more intimate shows, we might be looking more like July, August, and we'll move heaven and earth to help them get that done. And we've been supporting Broadway with the vaccinations, which has been really, really effective. But Broadway's a very important piece of the equation, very emotionally important to us all, but the vast majority of other parts of our life and our economy, we'll certainly be able to get up and running full strength or close to full strength by July 1st. You know, you talked about restaurants, talked about retail stores, cultural venues. I assure you they can make it happen by July 1st.

My point about the State of New York, I think we see the handwriting on the wall. The Legislature is reducing the Governor's emergency powers constantly. I think they're going to do some more of that. I'd like to see them take the whole big step and just bring us back to normal democracy so we can make these decisions and move forward properly. But mainly I think the people are going to want it, Henry. I think this is a goal that makes sense. It made sense to our health care team, the data, the science speak to it, the number of vaccinations speak to it. I think the people are going to say it's time to come back fully. And July 1st is a really fair date that we can make happen. Go ahead, Henry.

Question: Okay. Thank you. The other question I have is that there have been these persistent reports, these tweets, these complaints to me from teachers that the infection rates in schools are higher than seems to be reported. There seems to be a disconnect between what's being publicly reported about virus infections in schools and what the reality is on the ground. Is there a way that the City could actually identify where viruses are occurring in schools and the amount of cases in these schools that are being reported?

Mayor: Yeah, Henry, look, there's a lot of transparency out there. We'll connect you with it, so you see it, constantly putting out information. Let me give you the last 24 hours, for example. Tests conducted in schools, 12,738. Positive cases, 46. That is a 0.37 percent positivity level. This has been very, very consistent for months that we've been in that kind of range. We put out a lot of information for the system school by school. So, connect you to that. But no, one thing I am quite certain about, there's incredible rigor, give a lot of credit to our Test and Trace team, a lot of credit to the folks in the situation room. They have been very exacting about the data and our health care leaders will tell you the data keeps coming back with extraordinary consistency, proving how safe our schools are.

Moderator: Our last question for today goes to Erin from Politico.

Question: Mr. Mayor, thanks for taking my question. You made a couple of references with this reopening plan to, you know, some people are still going to want to be wearing masks. I just want it to be clear, do you anticipate – does your plan include still having the mask mandate in place or are you intending to have it lifted at that point?

Mayor: You know, another organic piece of this, Erin, and the health care team and I've been saying this since January, is that we want people to assume to keep your mask on through June. Our hope was that

we would see tremendous progress on vaccination and in terms of our larger health care data. We're seeing that progress right now, which is fantastic and a credit to all New Yorkers and especially a credit to our health care leaders and everyone who runs the vaccination centers. I mean, there's something working here, but we've always said to people keep doing what you're doing through June. And I think that's still really where we are. It's really good advice. And then after June, I think we're going to be in a position to do some things differently. I still think a lot of New Yorkers personally want to choose to wear the masks a lot, but for the foreseeable future, absolutely we want to stick with it. Go ahead, Erin.

Question: And then I also wanted to ask about these allegations against Scott Stringer. You said there should be an investigation, but as you mentioned, it's only two months until the primary, less than that. So, who should be doing this investigation? And then also, I don't think you actually, the other part of Courtney's question, do you personally believe he should drop out of the race?

Mayor: Erin, I want to see the results of the investigation before offering any other judgment. We've just received this information. It's very important information that must be taken seriously, but it also must be investigated. There's a real question as to what's the appropriate next step. Is it the State Attorney General, is it the Department of Investigation? Whatever it is, the City of New York will obviously fully engaged but it needs to happen quickly. People need answers. So, we stand ready to take whatever next step will get this resolved.

Today, everyone, just as we wrap up, look, let's think about what we've all achieved together. And I really want to emphasize if you hear full reopening in New York City and that makes you feel good, then you should be feeling good about yourself because you did it, the people of this city did it. We went through the toughest times. We were the epicenter of this crisis for months last year. We've been through a lot of pain, a lot of loss. But people have done the right thing over and over and over again. I always get folks who have asked me questions – well, someone didn't do the right thing, or I see someone not following the rules. You know what I always say? What I see every day is the vast majority of New Yorkers out there doing the right thing, doing the hard work, sticking with it, helping each other out. That's been the story. This has been a hero city and people should feel really good about the fact that we can see the light at the end of the tunnel. So, we are beating COVID right now, but we got to finish the job. You know what I'm about to say, go get vaccinated. Thank you, everybody.

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EXHIBIT 11



← Tweet



Mayor Bill de Blasio @NYCMayor

This year our 4th of July festivities are back in full force! Plan ahead, stay safe, and let's have an incredible weekend in #NYC.



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44.4% of Covid cases in NYC are #DeltaVariant.

Only 51% of NYC is fully vaccinated.

Perhaps we should be encouraging people to wear masks and take more precautions?

1 in 250 people in NYC has already died from Covid and a more contagious and dangerous variant is now spreading.



NEW: Weekly data reports in NYC show Delta

Summary: People Vaccinated and Administered

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What's happening

COVID-19 · Last night

Pfizer says it will seek FDA approval for a COVID-19 vaccine booster dose



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Erin
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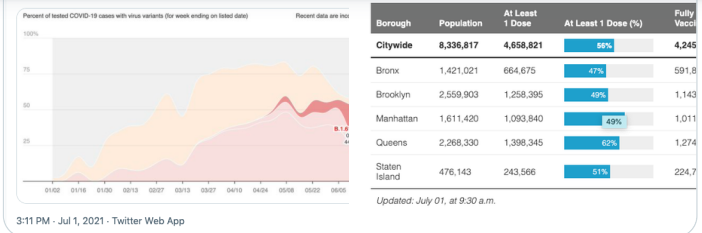
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 Empty offices as far as the eye can see.
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EXHIBIT 12



COVID-19

/ Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace

Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace

OSHA will update this guidance over time to reflect developments in science, best practices, and standards.

Guidance posted **January 29, 2021**

Summary of changes **June 10, 2021**

- Focus protections on unvaccinated and otherwise at-risk workers
- Encourage COVID-19 vaccination
- Add links to guidance with the most up-to-date content

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[Appendix: Measures Appropriate for Higher-Risk Workplaces with Mixed-Vaccination Status Workers](#)

Executive Summary

This guidance is intended to help employers and workers not covered by the Occupational Safety and Health Administration's (OSHA's) COVID-19 Emergency Temporary Standard (ETS) to identify COVID-19 exposure risks to workers who are unvaccinated or otherwise at-risk, and to help them take appropriate steps to prevent exposure and infection. See Text Box: Who Are At-Risk Workers?

CDC's [Interim Public Health Recommendations for Fully Vaccinated People](#) explain that under most circumstances, fully vaccinated people need not take all the precautions that unvaccinated people should take. For example, CDC advises that most fully vaccinated people can resume activities without wearing masks or physically distancing, except where required by federal, state, local, tribal, or territorial laws, rules and regulations, including local business and workplace guidance. People are considered fully vaccinated for COVID-19 two weeks or more after they have completed their final dose of a COVID-19 vaccine authorized by the U.S. Food and Drug Administration in the United States. However, CDC suggests that people who are fully vaccinated but still at-risk due to immunocompromising conditions should discuss the need for additional protections with their healthcare providers. CDC continues to recommend precautions for workers in [certain transportation settings](#).

Unless otherwise required by federal, state, local, tribal, or territorial laws, rules, and regulations, most

employers no longer need to take steps to protect their fully vaccinated workers who are not otherwise at-risk from COVID-19 exposure. This guidance focuses only on protecting unvaccinated or otherwise at-risk workers in their workplaces (or well-defined portions of workplaces).¹

This guidance contains recommendations as well as descriptions of mandatory safety and health standards, the latter of which are clearly labeled throughout as "**mandatory OSHA standards.**" The recommendations are advisory in nature and informational in content, and are intended to assist employers in providing a safe and healthful workplace free from recognized hazards that are causing or likely to cause death or serious physical harm.

Who Are "At-Risk Workers"?

Some conditions, such as a prior transplant, as well as prolonged use of corticosteroids or other immune-weakening medications, may affect workers' ability to have a full immune response to vaccination. See the CDC's page describing [Vaccines for People with Underlying Medical Conditions](#), and further definition of [People with Certain Medical Conditions](#). Under the Americans with Disabilities Act (ADA), workers with disabilities may be [legally entitled](#) to reasonable accommodations that protect them from the risk of contracting COVID-19 if, for example, they cannot be protected through vaccination, cannot get vaccinated, or cannot use face coverings. Employers should consider taking steps to protect these at-risk workers as they would unvaccinated workers, regardless of their vaccination status.

COVID-19 and Prevention

COVID-19 is a highly infectious disease that is spread from person to person, including through aerosol transmission of particles produced when an infected person exhales, talks, vocalizes, sneezes, or coughs. COVID-19 is highly transmissible and can be spread by people who have no symptoms. Particles containing the virus can travel more than 6 feet, especially indoors and in dry conditions (relative humidity below 40%), and can be spread by individuals who do not know they are infected.

Vaccines authorized by the U.S. Food and Drug Administration in the United States are highly effective at protecting most fully vaccinated people against symptomatic and severe COVID-19, and OSHA encourages employers to take steps to make it easier for workers to get vaccinated. However, for workers who are unvaccinated or who are otherwise at-risk, OSHA recommends implementing multiple layers of controls. Key controls to help protect unvaccinated or otherwise at-risk workers include separating from the workplace all infected people, all people [experiencing COVID symptoms](#), and any unvaccinated people who [have had a close contact](#) with someone with COVID-19, implementing physical distancing, maintaining ventilation systems, and properly using [face coverings](#) or personal protective equipment (PPE) when appropriate.

Finally, OSHA provides employers with specific guidance for environments at a higher risk for exposure to or spread of COVID-19, primarily workplaces where unvaccinated or otherwise at-risk workers are more likely to be in prolonged, close contact with other workers or the public.

Purpose

OSHA provides this guidance for employers as recommendations to use in protecting unvaccinated or otherwise at-risk workers. Employers and workers should use this guidance to determine any appropriate control measures to implement.

While this guidance addresses many workplaces, many healthcare workplace settings will be covered by the **mandatory OSHA COVID-19 Emergency Temporary Standard**. Pursuant to the Occupational Safety and Health Act (the OSH Act or the Act), employers must comply with safety and health standards and regulations

issued and enforced either by OSHA or by an OSHA-approved state plan. In addition, the Act's General Duty Clause, Section 5(a)(1), requires employers to provide their workers with a safe and healthful workplace free from recognized hazards that are causing or likely to cause death or serious physical harm.

This guidance is not a standard or regulation, and it creates no new legal obligations. It contains recommendations as well as descriptions of existing **mandatory OSHA standards**, the latter of which are clearly labeled throughout. The recommendations are advisory in nature and informational in content, and are intended to assist employers in recognizing and abating hazards likely to cause death or serious physical harm as part of their obligation to provide a safe and healthful workplace.

About COVID-19

COVID-19 is a highly infectious disease that is spread from person to person, including through aerosol transmission of particles produced when an infected person exhales, talks, vocalizes, sneezes, or coughs. COVID-19 is less commonly transmitted when people touch a contaminated object and then touch their eyes, nose or mouth. The virus that causes COVID-19 is highly transmissible and can be spread by people who have no symptoms and who do not know they are infected. Particles containing the virus can travel more than 6 feet, especially indoors and in dry conditions with relative humidity below 40%. The [CDC estimates](#) that over fifty percent of the spread of the virus is from individuals with no symptoms at the time of spread.

More information on COVID-19 is available from the [Centers for Disease Control and Prevention](#).

What Workers Need To Know about COVID-19 Protections in the Workplace

COVID-19 spreads mainly among unvaccinated people who are in [close contact](#) with one another especially in [poorly ventilated spaces](#).

[Vaccination](#) is the key in a multi-layered approach to protect workers. Learn about and take advantage of opportunities that your employer may provide to take time off to get vaccinated. Vaccines authorized by the U.S. Food and Drug Administration are highly effective at protecting vaccinated people against symptomatic and severe COVID-19 illness. According to the CDC, a growing body of evidence suggests that fully vaccinated people are less likely to have symptomatic infection or transmit the virus to others. See CDC's [Guidance for Fully Vaccinated People](#).

If you are unvaccinated or otherwise at-risk (e.g., because of a prior transplant or other medical condition), you should follow recommended precautions and policies at your workplace. Many employers have established COVID-19 prevention programs that include a number of important steps to keep unvaccinated and otherwise at-risk workers safe. These COVID-19 prevention programs include measures such as telework and flexible schedules, enhanced cleaning programs with a focus on high-touch surfaces, engineering controls (e.g., ventilation), administrative policies (e.g., vaccination policies), personal protective equipment (PPE), face coverings, and physical distancing. Ask your employer about plans in your workplace. In addition, employees with disabilities who are at-risk may request reasonable accommodation under the ADA.

Even if your employer does not have a COVID-19 prevention program, if you are unvaccinated or otherwise at-risk, you can help protect yourself by following the steps listed below:

- Identify opportunities to get vaccinated. Ask your employer about opportunities for paid leave, if necessary, to get vaccinated and recover from any side effects.
- Properly wear a face covering over your nose and mouth. [Face coverings](#) are simple barriers worn over the face, nose and chin. They work to help prevent your respiratory droplets or large particles from reaching others. If they are of high enough quality, they also provide a measure of protection to the people wearing them. CDC provides [general guidance on masks](#). If you are working outdoors you may opt not to wear face

coverings in many circumstances; however, you should be supported in safely continuing face covering use if you choose, especially if you work closely with other people.

- Stay far enough away from other people so that you are not breathing in particles produced by them – generally at least 6 feet (about 2 arm lengths), although this approach by itself is not a guarantee that you will avoid infection, especially in enclosed or poorly ventilated spaces. Ask your employer about possible telework and flexible schedule options at your workplace, and take advantage of such policies if possible. Perform work tasks, hold meetings, and take breaks outdoors when possible.
- Participate in any training offered by your employer/building manager to learn how rooms are ventilated effectively and notify the building manager if you see vents that are clogged, dirty, or blocked by furniture or equipment.
- Practice good personal hygiene and wash your hands often. Always cover your mouth and nose with a tissue, or the inside of your elbow, when you cough or sneeze, and do not spit. Monitor your health daily and be alert for COVID-19 symptoms (e.g., fever, cough, or shortness of breath). See CDC's [Personal & Social Activities Guidance for Unvaccinated People](#).

COVID-19 vaccines are highly effective at keeping you from getting COVID-19. If you are not yet fully vaccinated, or are otherwise at risk, optimum protection is provided by using multiple layers of other interventions that prevent exposure and infection.

The Roles of Employers and Workers in Responding to COVID-19

Under the OSH Act, employers are responsible for providing a [safe and healthy workplace free from recognized](#) hazards likely to cause death or serious physical harm.

CDC's [Interim Public Health Recommendations for Fully Vaccinated People](#) are directed at individuals and explains that fully vaccinated people can resume activities without wearing masks or physically distancing, except where required by federal, state, local, tribal, or territorial laws, rules and regulations, including local business and workplace guidance. See CDC's [Exceptions to COVID-19 Recommended Precautions for Fully Vaccinated People](#).

Except for workplace settings covered by OSHA's ETS and mask requirements for public transportation, most employers no longer need to take steps to protect their workers from COVID-19 exposure in any workplace, or well-defined portions of a workplace, where all employees are fully vaccinated. Employers should still take steps to protect unvaccinated or otherwise at-risk workers in their workplaces, or well-defined portions of workplaces. ²

Employers should engage with workers and their representatives to determine how to implement multi-layered interventions to protect unvaccinated or otherwise at-risk workers and mitigate the spread of COVID-19, including:

1. ***Grant paid time off for employees to get vaccinated.*** The Department of Labor and OSHA, as well as other federal agencies, are working diligently to ensure access to COVID-19 vaccinations. CDC provides [information on the benefits and safety](#) of vaccinations. Businesses with fewer than 500 employees may be eligible for [tax credits under the American Rescue Plan](#) if they provide paid time off for employees who decide to receive the vaccine and to recover from any potential side effects from the vaccine.
2. ***Instruct any workers who are infected, unvaccinated workers who have had close contact with someone who tested positive for SARS-CoV-2, and all workers with COVID-19 symptoms to stay home from work*** to prevent or reduce the risk of transmission of the virus that causes COVID-19. Ensure that absence policies are non-punitive. Eliminate or revise policies that encourage workers to come to work sick or when unvaccinated workers have been exposed to COVID-19. Businesses with fewer than 500 employees may be eligible for refundable tax credits under the American Rescue Plan if they provide paid

time off for sick and family leave to their employees due to COVID-19 related reasons. The ARP tax credits are available to eligible employers that pay sick and family leave for qualified leave from April 1, 2021, through September 30, 2021. More information is [available from the IRS](#).

- 3. Implement physical distancing for unvaccinated and otherwise at-risk workers in all communal work areas.** A key way to protect unvaccinated or otherwise at-risk workers is to physically distance them from other unvaccinated or otherwise at-risk people (workers or customers) – generally at least 6 feet of distance is recommended, although this is not a guarantee of safety, especially in enclosed or poorly ventilated spaces.

Employers could also limit the number of unvaccinated or otherwise at-risk workers in one place at any given time, for example by implementing flexible worksites (e.g., telework); implementing flexible work hours (e.g., rotate or stagger shifts to limit the number of such workers in the workplace at the same time); delivering services remotely (e.g., phone, video, or web); or implementing flexible meeting and travel options, all for such workers.

At fixed workstations where unvaccinated or otherwise at-risk workers are not able to remain at least 6 feet away from other people, transparent shields or other solid barriers (e.g., fire resistant plastic sheeting or flexible strip curtains) can separate these workers from other people. Barriers should block face-to-face pathways between individuals in order to prevent direct transmission of respiratory droplets, and any openings should be placed at the bottom and made as small as possible. The posture (sitting or standing) of users and the [safety of the work environment](#) should be considered when designing and installing barriers, as should the need for enhanced ventilation.

- 4. Provide unvaccinated and otherwise at-risk workers with face coverings or surgical masks, unless their work task requires a respirator or other PPE.** Such workers should wear a face covering that covers the nose and mouth to contain the wearer's respiratory droplets and help protect others and potentially [themselves](#). [Face coverings](#) should be made of at least two layers of a tightly woven breathable fabric, such as cotton, and should not have exhalation valves or vents. They should fit snugly over the nose, mouth, and chin with no large gaps on the outside of the face. CDC provides [general guidance on masks](#).

Employers should provide face coverings to unvaccinated and otherwise at-risk workers at no cost. Under federal anti-discrimination laws, employers may need to provide [reasonable accommodation](#) for any workers who are unable to wear or have difficulty wearing certain types of face coverings due to a disability or who need a religious accommodation under Title VII. In workplaces with employees who are deaf or hard of hearing, employers should consider acquiring masks with clear coverings over the mouth for unvaccinated and otherwise at-risk workers to facilitate lip-reading.

Unless otherwise provided by federal, state, or local requirements, unvaccinated workers who are outdoors may opt not to wear face coverings unless they are at-risk, for example, if they are immunocompromised. Regardless, all workers should be supported in continuing face covering use if they choose, especially in order to safely work closely with other people.

When an employer determines that PPE is necessary to protect unvaccinated and otherwise at-risk workers, the employer must provide PPE in accordance with [relevant mandatory OSHA standards](#) and should consider providing PPE in accordance with other [industry-specific guidance](#). Respirators, if necessary, must be provided and used in compliance with 29 CFR [1910.134](#) (e.g., medical determination, fit testing, training on its correct use), including certain provisions for voluntary use when workers supply their own respirators, and other PPE must be provided and used in accordance with the applicable standards in 29 CFR 1910, Subpart I (e.g., [1910.132](#) and [133](#)). There are times when PPE is not called for by OSHA standards or other industry-specific guidance, but some workers may have a legal right to PPE as a reasonable accommodation under the ADA. Employers are encouraged to proactively inform employees

who have a legal right to PPE as a reasonable accommodation for their disability about how to make such a request. Other workers may want to use PPE if they are still concerned about their personal safety (e.g., if a family member is at higher-risk for severe illness, they may want to wear a face shield in addition to a face covering as an added layer of protection). Encourage and support voluntary use of PPE in these circumstances and ensure the equipment is adequate to protect the worker.

For operations where the face covering can become wet and soiled, provide unvaccinated and otherwise at-risk workers with replacements daily or more frequently, as needed. Face shields may be provided for use with face coverings to protect them from getting wet and soiled, but they do not provide protection by themselves. See [CDC's Guide to Masks](#).

Employers with workers in a setting where face coverings may increase the [risk of heat-related illness indoors](#) or [outdoors](#) or cause safety concerns due to introduction of a hazard (for instance, straps getting caught in machinery) may wish to consult with an occupational safety and health professional to help determine the appropriate face covering/respirator use for their setting.

5. **Educate and train workers on your COVID-19 policies and procedures using accessible formats and in language they understand.** Train managers on how to implement COVID-19 policies. Communicate supportive workplace policies clearly, frequently, and via multiple methods to promote a safe and healthy workplace. Communications should be in plain language that unvaccinated and otherwise at-risk workers understand (including non-English languages, and American Sign Language or other accessible communication methods, if applicable) and in a manner accessible to individuals with disabilities. Training should be directed at employees, contractors, and any other individuals on site, as appropriate, and should include:

- A. Basic facts about COVID-19, including how it is spread and the importance of physical distancing (including remote work), ventilation, vaccination, use of face coverings, and hand hygiene.
- B. Workplace policies and procedures implemented to protect workers from COVID-19 hazards.

For basic facts, see [About COVID-19](#) and [What Workers Need to Know About COVID-19](#), above and see more on [vaccinations](#), improving ventilation, physical distancing (including remote work), PPE, and face coverings, respectively, elsewhere in this document. Some means of tracking which workers have received this information, and when, could be utilized, by the employer, as appropriate.

In addition, ensure that workers understand their rights to a safe and healthful work environment, whom to contact with questions or concerns about workplace safety and health, and their right to raise workplace safety and health concerns free from retaliation. This information should also be provided in a language that workers understand. (See [Implementing Protections from Retaliation](#), below.) Ensure supervisors are familiar with workplace flexibilities and other human resources policies and procedures.

6. **Suggest that unvaccinated customers, visitors, or guests wear face coverings**, especially in public-facing workplaces such as retail establishments, if there are unvaccinated or otherwise at-risk workers in the workplace who are likely to interact with these customers, visitors, or guests. This could include posting a notice or otherwise suggesting unvaccinated people wear face coverings, even if no longer required by your jurisdiction. Individuals who are under the age of 2 or are actively consuming food or beverages on site need not wear face coverings.
7. **Maintain Ventilation Systems.** The virus that causes COVID-19 spreads between people more readily indoors than outdoors. Improving ventilation is a key engineering control that can be used as part of a layered strategy to reduce the concentration of viral particles in indoor air and the risk of virus transmission to unvaccinated workers in particular. Some measures to improve ventilation are discussed in [CDC's Ventilation in Buildings](#) and in the [OSHA Alert: COVID-19 Guidance on Ventilation in the Workplace](#). These recommendations are based on ASHRAE [Guidance for Building Operations During the COVID-19](#)

Pandemic. Adequate ventilation will protect all people in a closed space. Key measures include ensuring the HVAC system(s) is operating in accordance with the manufacturer's instructions and design specifications, conducting all regularly scheduled inspections and maintenance procedures, maximizing the amount of outside air supplied, installing air filters with a [Minimum Efficiency Reporting Value \(MERV\) 13](#) or higher where feasible, maximizing natural ventilation in buildings without HVAC systems by opening windows or doors, when conditions allow (if that does not pose a safety risk), and considering the use of portable air cleaners with High Efficiency Particulate Air (HEPA) filters in spaces with high occupancy or limited ventilation.

8. **Perform routine cleaning and disinfection.** If someone who has been in the facility within 24 hours is [suspected of having or confirmed to have COVID-19](#), follow the [CDC cleaning and disinfection recommendations](#). Follow requirements in **mandatory OSHA standards 29 CFR 1910.1200** and **1910.132, 133, and 138** for hazard communication and PPE appropriate for exposure to cleaning chemicals.
9. **Record and report COVID-19 infections and deaths:** Under **mandatory OSHA rules in 29 CFR 1904**, employers are responsible for recording work-related cases of COVID-19 illness on OSHA's [Form 300 logs](#) if the following requirements are met: (1) the case is a confirmed case of COVID-19; (2) the case is [work-related](#) (as defined by [29 CFR 1904.5](#)); and (3) the case involves one or more [relevant recording criteria](#) (set forth in [29 CFR 1904.7](#)) (e.g., medical treatment, days away from work). Employers must follow the requirements in [29 CFR 1904](#) when [reporting COVID-19 fatalities and hospitalizations to OSHA](#). More information is available [on OSHA's website](#). Employers should also report outbreaks to health departments as required and support their contact tracing efforts.

In addition, employers should be aware that [Section 11\(c\) of the Act](#) prohibits reprisal or discrimination against an employee for speaking out about unsafe working conditions or reporting an infection or exposure to COVID-19 to an employer. In addition, **mandatory OSHA standard 29 CFR 1904.35(b)** also prohibits discrimination against an employee for reporting a work-related illness.

Note on recording adverse reactions to vaccines: DOL and OSHA, as well as other federal agencies, are working diligently to encourage COVID-19 vaccinations. OSHA does not want to give any suggestion of discouraging workers from receiving COVID-19 vaccination or to disincentivize employers' vaccination efforts. As a result, OSHA will not enforce 29 CFR 1904's recording requirements to require any employers to record worker side effects from COVID-19 vaccination through May 2022. OSHA will reevaluate the agency's position at that time to determine the best course of action moving forward. Individuals may choose to submit adverse reactions to the federal [Vaccine Adverse Event Reporting System](#).

10. **Implement protections from retaliation and set up an anonymous process for workers to voice concerns about COVID-19-related hazards:** [Section 11\(c\) of the OSH Act](#) prohibits discharging or in any other way discriminating against an employee for engaging in various occupational safety and health activities. Examples of violations of Section 11(c) could include discriminating against employees for raising a reasonable concern about infection control related to COVID-19 to the employer, the employer's agent, other employees, a government agency, or to the public, such as through print, online, social, or any other media; or against an employee for voluntarily providing and safely wearing their own PPE, such as a respirator, face shield, gloves, or surgical mask.

In addition to notifying workers of their rights to a safe and healthful work environment, ensure that workers know whom to contact with questions or concerns about workplace safety and health, and that there are prohibitions against retaliation for raising workplace safety and health concerns or engaging in other protected occupational safety and health activities (see [educating and training workers about COVID-19 policies and procedures](#), above); also consider using a hotline or other method for workers to voice concerns anonymously.

11. **Follow other applicable mandatory OSHA standards:** All of OSHA's standards that apply to protecting workers from infection remain in place. These **mandatory OSHA standards** include: requirements for PPE (29 CFR 1910, Subpart I (e.g., 1910.132 and 133)), respiratory protection (29 CFR 1910.134), sanitation (29 CFR 1910.141), protection from bloodborne pathogens: (29 CFR 1910.1030), and OSHA's requirements for employee access to medical and exposure records (29 CFR 1910.1020). Many healthcare workplaces will be covered by the **mandatory OSHA COVID-19 Emergency Temporary Standard**. More information on that standard is available on the OSHA website at [link]. Where the ETS does not apply, employers are required under the General Duty Clause, [Section 5\(a\)\(1\)](#) of the OSH Act, to provide a safe and healthful workplace free from recognized hazards that are causing or likely to cause death or serious physical harm .

Appendix: Measures Appropriate for Higher-Risk Workplaces with Mixed-Vaccination Status Workers

Employers should take additional steps to mitigate the spread of COVID-19 for unvaccinated and otherwise at-risk workers in workplaces where there is heightened risk due to the following types of factors:

- **Close contact**— where unvaccinated or otherwise at-risk workers are working close to one another, for example, on production or assembly lines. Such workers may also be near one another at other times, such as when clocking in or out, during breaks, or in locker/changing rooms.
- **Duration of contact** – where unvaccinated or otherwise at-risk workers often have prolonged closeness to coworkers (e.g., for 8–12 hours per shift). Continued contact with potentially infectious individuals increases the risk of SARS-CoV-2 transmission.
- **Type of contact** – unvaccinated or otherwise at-risk workers who may be exposed to the infectious virus through respiratory droplets in the air—for example, when unvaccinated or otherwise at-risk workers in a manufacturing or factory setting who have the virus cough or sneeze. It is also possible that exposure could occur from contact with contaminated surfaces or objects, such as tools, workstations, or break room tables. Shared spaces such as break rooms, locker rooms, and entrances/exits to the facility may contribute to their risk.
- **Other distinctive factors that may increase risk among these unvaccinated or otherwise at-risk workers include:**
 - A common practice at some workplaces of sharing employer-provided transportation such as ride-share vans or shuttle vehicles;
 - Frequent contact with other unvaccinated or otherwise at-risk individuals in community settings in areas where there is elevated community transmission; and
 - Communal housing or living quarters onboard vessels with other unvaccinated or otherwise at-risk individuals.

In these types of higher-risk workplaces – which include manufacturing, meat and poultry processing, high-volume retail and grocery, and seafood processing – this Appendix provides best practices to protect unvaccinated or otherwise at-risk workers. Please note that these recommendations are *in addition to* those in the general precautions described above, including isolation of infected or possibly infected workers, and other precautions.

In all higher-risk workplaces where there are unvaccinated or otherwise at-risk workers:

- Stagger break times in these generally high-population workplaces, or provide temporary break areas and restrooms to avoid groups of unvaccinated or otherwise at-risk workers congregating during breaks. Unvaccinated or otherwise at-risk workers should maintain at least 6 feet of distance from others at all

times, including on breaks.

- Stagger workers' arrival and departure times to avoid congregations of unvaccinated or otherwise at-risk in parking areas, locker rooms, and near time clocks.
- Provide visual cues (e.g., floor markings, signs) as a reminder to maintain physical distancing.
- Implement strategies (tailored to your workplace) to improve ventilation that protects workers as outlined in [CDC's Ventilation in Buildings](#) and in the [OSHA Alert: COVID-19 Guidance on Ventilation in the Workplace](#).

In workplaces (or well-defined work areas) with processing or assembly lines where there are unvaccinated or otherwise at-risk workers:

- Working on food processing or assembly lines can result in virus exposure because these workplaces have often been designed for a number of workers to stand next to or across from each other to maximize productivity. Proper spacing of unvaccinated or otherwise at-risk workers (or if not possible, appropriate use of barriers) can help reduce the risks for such workers.

In retail workplaces (or well-defined work areas within retail) where there are unvaccinated or otherwise at-risk workers:

- Suggest masks for unvaccinated (or unknown-status) customers and other visitors.
- Consider means for physical distancing from other people who are not known to be fully vaccinated. If distancing is not possible, consider the use of barriers between work stations used by unvaccinated or otherwise at-risk workers and the locations customers will stand, with pass-through openings at the bottom, if possible.
- Move the electronic payment terminal/credit card reader farther away from any unvaccinated or otherwise at-risk workers in order to increase the distance between customers and such workers, if possible.
- Shift primary stocking activities of unvaccinated or otherwise at-risk workers to off-peak or after hours when possible to reduce contact between unvaccinated or otherwise at-risk workers and customers.

Unvaccinated and otherwise at-risk workers are also at risk when traveling to and from work in employer-provided buses and vans.

- Notify unvaccinated and otherwise at-risk workers of this risk and, to the extent feasible, help them limit the number of such workers in one vehicle.
- Make sure all unvaccinated and otherwise at-risk workers sharing a vehicle are wearing appropriate face coverings.

¹ CDC recommends that fully vaccinated people should nonetheless:

- [watch out](#) for [symptoms of COVID-19](#), especially if they have been around someone who is sick. If they have symptoms of COVID-19, they should get [tested](#) and [stay home](#) and away from others.
- [monitor](#) for [symptoms of COVID-19](#) for 14 days following an exposure.

² Schools should continue to follow applicable CDC guidance.



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