

**ORDER OF THE COMMISSIONER
OF HEALTH AND MENTAL HYGIENE
TO REQUIRE COVID-19 VACCINATION FOR
PARTICIPATION IN HIGH RISK EXTRACURRICULAR ACTIVITIES**

WHEREAS, on March 12, 2020, Mayor Bill de Blasio issued Emergency Executive Order No. 98 declaring a state of emergency in the City to address the threat posed by COVID-19 to the health and welfare of City residents, and such order remains in effect; and

WHEREAS, on March 25, 2020, the New York City Commissioner of Health and Mental Hygiene declared the existence of a public health emergency within the City to address the continuing threat posed by COVID-19 to the health and welfare of City residents, and such declaration and public health emergency continue to be in effect; and

WHEREAS, pursuant to Section 3.01(d) of the New York City Health Code (“Health Code”), the existence of a public health emergency within the City as a result of COVID-19, for which certain orders and actions are necessary to protect the health and safety of the City of New York and its residents, was declared; and

WHEREAS, pursuant to Section 558 of the New York City Charter (the “Charter”), the Board of Health may embrace in the Health Code all matters and subjects to which the power and authority of the Department of Health and Mental Hygiene (the “Department”) extends; and

WHEREAS, pursuant to Section 556 of the Charter and Section 3.01(c) of the Health Code, the Department is authorized to supervise the control of communicable diseases and conditions hazardous to life and health and take such actions as may be necessary to assure the maintenance of the protection of public health; and

WHEREAS, the U.S. Centers for Disease Control and Prevention (“CDC”) reports that new variants of COVID-19, identified as “variants of concern” have emerged in the United States, and some of these new variants which currently account for the majority of COVID-19 cases sequenced in New York City, are more transmissible than earlier variants; and

WHEREAS, on August 5, 2021, the CDC issued updated guidance stating that vaccination is the leading public health prevention strategy to end the COVID-19 pandemic and that promoting vaccination can help schools safely return to in-person learning as well as extracurricular activities and sports; and

WHEREAS, the updated CDC guidance further states, “High-risk sports and extracurricular activities should be virtual or canceled in areas of high community transmission unless all participants are fully vaccinated”;¹ and

¹ CDC Guidance for COVID Prevention in K-12 Schools, update August 5, 2021, available online at: https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-guidance.html#anchor_1625662058182.

WHEREAS, under the CDC criteria, New York City is an area of high community transmission;² and

WHEREAS, on August 12, 2021, the New York State Education Department (“NYSED”) issued guidance for the 2021–2022 school year that recognizes the importance of school-sponsored sports and extracurricular activities for providing students with enrichment opportunities that can help them learn and achieve and support their social, emotional, and mental health, provided however, that high-risk sports and extracurricular activities should be virtual or canceled in areas of high community transmission unless all participants are fully vaccinated;³ and

WHEREAS, on August 20, 2021, the New York City Schools Chancellor issued a declaration that all participants in Public Schools Athletic League (“PSAL”) sports designated as high risk, or PSAL sports otherwise requiring vaccination because they take place in spaces subject to New York City Mayor Emergency Executive Order No. 225 (including any extensions and revisions of such order), are required to be vaccinated against COVID-19 as a condition of participation, absent a duly granted exemption from such vaccination requirement; and

WHEREAS, on August 24, 2021 I issued, and on September 12, 2021 I updated, an Order requiring COVID-19 vaccination for New York City Department of Education (“DOE”) employees, contractors, visitors and others who work in-person in or visit a DOE school setting or DOE building; and

WHEREAS, on September 2, 2021, the New York State Department of Health (“NYSDOH”) issued guidance reiterating the CDC guidance that extracurricular activities that are high risk or elevated risk, such as activities that involve singing, shouting, band, and exercise that could lead to increased exhalation, should be conducted virtually or cancelled in areas of high community transmission unless all participants are fully vaccinated;⁴ and

WHEREAS, Section 17-104 of the Administrative Code of the City of New York directs the Department to adopt prompt and effective measures to prevent the communication of infection diseases such as COVID-19, and in accordance with Section 17-109(b), the Department may adopt vaccination measures in order to most effectively prevent the spread of communicable diseases; and

WHEREAS, DOE serves approximately 1 million students across the City, including students in the communities that have been disproportionately affected by the COVID-19 pandemic and students who are too young to be eligible to be vaccinated; and

² CDC, COVID Data Tracker available online at <https://covid.cdc.gov/covid-data-tracker/#datatracker-home>.

³ New York State Department of Health, Health and Safety Guide for the 2021 – 2022 School Year, available online at <http://www.nysed.gov/common/nysed/files/programs/back-school/nysed-health-and-safety-guide-for-the-2021-2022-school-year.pdf>.

⁴ New York State Department of Health, Interim NYSDOH Guidance for Classroom Instruction in P-12 Schools During the 2021-2022 Academic Year, available online at https://coronavirus.health.ny.gov/system/files/documents/2021/09/school-guidance_0.pdf.


NOW THEREFORE I, Dave A. Chokshi, MD, MSc, Commissioner of Health and Mental Hygiene, finding that a public health emergency within New York City continues, and that it is necessary for the health and safety of the City and its residents, do hereby exercise the power of the Board of Health to prevent, mitigate, control and abate the current emergency, and hereby order that:

1. All participants in high risk extracurricular sports and other high risk extracurricular activities who are eligible to be vaccinated must be fully vaccinated to participate.
2. Where participants in high risk extracurricular sports and other high risk extracurricular activities are not eligible to be vaccinated because of age, schools must implement mitigation measures to maximize the safety of all people, including players, coaches, and spectators.
3. For the purposes of this Order:
 - a. “High risk extracurricular sports” means sports, including PSAL sports, designated by DOE as high risk using criteria established by the CDC, NYSED, or NYSDOH.
 - b. “Other high risk extracurricular activities” means extracurricular activities that involve increased exhalation, such as singing, shouting, band, orchestra, chorus, musical theatre, dance/dance team, marching band, cheerleading, step teams and flag teams.
 - c. “Participants” means DOE students, and charter school students who participate in the PSAL.
 - d. “Fully vaccinated” means at least two weeks have passed after an individual received a single-dose of a vaccine that requires only one dose or the second dose in a two-dose series of a COVID-19 vaccine authorized for use by the U.S. Food and Drug Administration or the World Health Organization, *provided that*:
 - i. For extracurricular activities that are scheduled to start in September or October, a student will be deemed to have satisfied the requirement to be fully vaccinated if the student receives the first dose by September 27, 2021, with the second dose, if required, completed in accordance with the applicable schedule for the type of vaccine received (*e.g.*, currently 3 weeks after first dose for Pfizer and 4 weeks after first dose for Moderna). For extracurricular activities scheduled to start later in the school year, the student must be fully vaccinated by the start of the activity;
 - ii. For fall PSAL sports, a student will be deemed to have satisfied the requirement to be fully vaccinated if the student receives the first dose by the first day of competitive play of the applicable sport, with the second dose, if required, completed in accordance with the applicable schedule for the type of vaccine

received (*e.g.*, currently 3 weeks after first dose for Pfizer and 4 weeks after first dose for Moderna). For winter and spring PSAL sports, the student must be fully vaccinated by the start of practices for the applicable sport; and

- iii. For students who turn 12 during the school year, a student will be deemed to have satisfied the requirement to be fully vaccinated if the student receives the first dose within 2 weeks of their birthday and completes the second dose, if required, in accordance with the applicable schedule for the type of vaccine received (*e.g.*, currently 3 weeks after first dose for Pfizer and 4 weeks after first dose for Moderna or such other timeline if authorization is given for other vaccines).

Dated: September 15, 2021



Dave A. Chokshi, M.D., MSc
Commissioner