

**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**, on November 26, 2021, New York State Governor Kathy Hochul issued Executive Order No. 11 declaring a disaster emergency in the State finding that New York is experiencing COVID-19 transmission at rates the State has not seen since April 2020 and that the rate of new COVID-19 hospital admissions had been increasing over the past month to over 300 new admissions a day due to the COVID-19 Delta variant; and

**WHEREAS**, COVID-19 continues to spread and mutate, and on November 26, 2021, the World Health Organization (“WHO”) declared a new variant of COVID-19, named Omicron, a variant of concern and preliminary evidence suggests an increased risk of reinfection and transmission; and

**WHEREAS**, the WHO and the U.S. Centers for Disease Control and Prevention (“CDC”) have advised all individuals to take measures to reduce their risk of COVID-19, especially the Delta and Omicron variants, and such measures include vaccination, which is the most effective tool to prevent the spread of COVID-19 and benefits both vaccine recipients and those they come into contact with, including persons who for reasons of age, health, or other conditions cannot themselves be vaccinated; and

**WHEREAS**, on October 29, 2021, the U.S. Food and Drug Administration authorized the emergency use of the Pfizer-BioNTech COVID-19 Vaccine for the prevention of COVID-19 for children 5 through 11 years of age; and

**WHEREAS**, on November 5, 2021, CDC issued updated guidance, reflecting the authorization of COVID-19 vaccines for children ages 5-11, reiterating 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 recommends that, “High-risk sports and extracurricular activities should be virtual or canceled in areas of high community transmission unless all participants are fully vaccinated”; and

**WHEREAS**, under the CDC criteria, New York City is an area of high community transmission; 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; 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 the Key to NYC program 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 September 2, 2021, the New York State Department of Health (“NYSDOH”) issued guidance reiterating the CDC recommendation that high risk or elevated risk extracurricular activities that involve singing, shouting, playing instruments, or exercising that leads to increased exhalation should be conducted virtually or cancelled in areas of high community transmission unless all participants are fully vaccinated; and

**WHEREAS**, pursuant to Section 558 of the New York City Charter (“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 (“Department”) extends; and

**WHEREAS**, pursuant to Section 556 of the Charter and Section 3.01(c) of the New York City Health Code (“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**, pursuant to Section 3.01(d) of the Health Code, upon the declaration of a public health emergency within the City as a result of COVID-19, I am authorized to issue orders and take other actions necessary to protect the health and safety of the City of New York and its residents; and

**WHEREAS**, on September 15, 2021, I issued and on September 28, 2021, I amended, an Order requiring COVID-19 vaccination for DOE employees, contractors, and others who work in- person in New York City Department of Education (“DOE”) school settings or DOE buildings and for staff of New York City charter schools; and

**WHEREAS**, on September 15, 2021, I issued an Order requiring COVID-19 vaccination for all DOE students participating in high risk extracurricular sports and other high risk extracurricular activities who are eligible to be vaccinated, as well as for charter school students participating in PSAL sports, who are eligible to be vaccinated; and

**WHEREAS**, Section 17-109(b) of the Administrative Code of the City of New York authorizes the Department to adopt vaccination measures in order to effectively prevent the spread of communicable diseases; and

**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 I hereby

**RESCIND** my Order of September 15, 2021, requiring COVID-19 vaccination for participation in high risk extracurricular activities; and now

**ORDER** that all DOE and charter school students participating in high risk extracurricular activities who are eligible to be vaccinated must be fully vaccinated to participate.

For the purposes of this Order:

“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, however,* that:

(i) A student who is under the age of 12 as of December 10, 2021 will be deemed to have satisfied the requirement to be fully vaccinated if the student receives the first dose of a vaccine by December 14, 2021.

(ii) A student whose 5th birthday occurs after December 10, 2021 will be deemed to have satisfied the requirement to be fully vaccinated if the student receives the first dose of a vaccine within two weeks of their birthday.

(iii) A charter school student who participates in a high risk extracurricular activity other than PSAL sports will be deemed to have satisfied the requirement to be fully vaccinated if the student receives the first dose of a vaccine by December 14, 2021.

(iv) A student who is starting a new high risk extracurricular activity will be deemed to have satisfied the requirement to be fully vaccinated if the student receives the first dose of a vaccine by the start of such activity.

In cases described in items (i) through (iv), the student must complete the second dose, if required for the type of vaccine received, in accordance with the applicable schedule for that vaccine (*e.g.*, currently 3 weeks after first shot for the Pfizer vaccine and 4 weeks after first shot for the Moderna vaccine, or such other timeline given for any other authorized vaccine).

DOE students age 12 and over participating in high-risk extracurricular activities and charter students participating in PSAL sports continue to be required to be fully vaccinated as was required by the September 15, 2021 Order, herein rescinded and replaced.


“High risk extracurricular activities” means:

(i) Sports deemed higher risk using criteria established by the CDC, NYSED, or NYSDOH, including PSAL sports designated by DOE as high risk; and

(ii) Extracurricular activities that involve increased exhalation, such as singing, shouting, band, orchestra, chorus, musical theatre, dance/dance team, marching band, cheerleading, step teams, flag teams and other similar activities.

This Order shall be effective immediately and remain in effect until rescinded, subject to the authority of the Board of Health to continue, rescind, alter, or modify this Order pursuant to Section 3.01(d) of the Health Code.

Dated: December 10, 2021

  
\_\_\_\_\_  
Dave A. Chokshi, MD, MSc  
Commissioner