

Jason Habinsky in Workspan Daily on NYC Vaccine Mandate

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PRACTICES Labor and Employment, Employment Litigation

Haynes Boone Partner [Jason Habinsky](#) was quoted in a *Workspan Daily* article discussing the new vaccine mandate in New York City for private employers and the legal challenges that may arise.

Below is an excerpt:

As part of a series of measures to try and slow the spread of the new Omicron variant, New York City Mayor Bill de Blasio announced a coronavirus vaccine mandate for private employers that operate in the city.

Under New York City's new mandate for private employers, employees who work in-person at private companies must have one dose of the vaccine by Dec. 27. Remote workers will not be required to get the vaccine. There is no testing option as an alternative. ...

"The City has attempted to bolster its defenses to any legal challenges by having the Commissioner of Health issue the vaccine mandate in response to a public health emergency posed by the new wave virus spread and the threat of infections due to the Omicron variant," said Jason Habinsky, partner and chair of the labor and employment practice group at Haynes Boone. "It remains to be seen how New York courts will evaluate the merits of the litigation." ...

Another wrinkle in the New York City mandate is that Mayor de Blasio is in the final weeks of his term, as Mayor-elect Eric Adams takes office on Jan. 1. Both Ho and Habinsky noted that it remains to be seen whether Adams' administration will keep the mandate in place or modify it in any way amid likely legal challenges. ...

"Importantly, unlike other mandates such as OSHA's federal mandate which remains in limbo, there will be no option to test as an alternative to vaccination," Habinsky said. "As for an exemption, employers will be required to offer exemptions from vaccination for those entitled to reasonable accommodation on the basis of a medical disability or sincerely held religious belief."

New York City will issue further guidance concerning reasonable accommodation and enforcement on or before Dec. 15. Unlike OSHA's ETS, this city mandate has a much smaller window for compliance, which could put many private employers operating in New York City in a bind. Habinsky said employers should start preparing employees for mandatory vaccinations and begin collecting information and proof of vaccination to better position themselves.

"Employers who already mandate vaccination should be certain that existing policies and procedures are consistent with the City's upcoming guidance and further requirements," Habinsky said. "Employers should further begin implementing policies and procedures for mandating vaccination, for granting exemptions and the interactive process, and providing reasonable accommodations."

To read the full article, click [here](#).