

U.S. Regional Travel Bans Rescinded, Replaced with COVID Vaccination Requirement for Nonimmigrant International Air Travel

The federal government previously imposed significant restrictions on foreign citizens that wanted to enter the United States of America (USA) if they were physically present in certain countries with high infection rates; e.g., the Schengen Area.¹ These restrictions created a significant burden on USA employers with foreign employees who were not able to reenter the country and to perform their duties after traveling abroad for visa stamping, personal reasons, or professional obligations. President Biden and the Centers for Disease Control (CDC) recently issued Orders that repeal the previous onerous travel restrictions and liberalize the entry requirements for foreign citizens who work in the USA. Here is what employers with employees who are on non-immigrant visas need to know.

BACKGROUND

In response to the rapid spread of COVID-19, the federal government previously prohibited most foreign citizens from entering the USA if they had been physically present in Brazil, India, Ireland, the Schengen Area, and the United Kingdom within the last fourteen days. This restriction even extended to foreign citizens that held non-immigrant visas to work in the USA. The new Presidential Proclamation revokes the country-by-country restrictions and now conditions entry on one's vaccination status and test results.

NEW REQUIREMENTS TO ENTER

After November 8, 2021, all USA citizens, USA nationals, USA lawful permanent residents (green card holders), and foreign immigrants can enter the country by air regardless of where they have been physically present and without being fully vaccinated against COVID-19. All foreign citizens and foreign non-immigrants, however, must be fully vaccinated to travel to the USA by air. Only limited exceptions apply.

All air passengers arriving in the USA from any foreign country now must provide a negative pre-departure COVID-19 result or documentation of recovery from COVID-19. The specific requirements differ based on the COVID-19 vaccination status and immigration status of the traveler as discussed in more detail below.

Proof of a Negative COVID-19 Test

- A traveler must provide paper or digital documentation of a negative pre-departure test for COVID-19:
 - **If a person is fully vaccinated** against COVID-19, the test must be administered no more than **3 calendar days** prior to the scheduled flight departure from a foreign country; or
 - **If the person is not fully vaccinated**, the test must be administered no more than **1 calendar day** prior to the scheduled flight departure from a foreign country

¹ Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and Switzerland

Proof of Recovery from COVID-19

If applicable, travelers also have the option of providing documentation of recovery from COVID-19. In this instance, they must provide paper or digital documentation of a recovery from COVID-19 in the form of **both**:

- A positive viral test administered no more than **90 calendar days** prior to the scheduled flight departure from a foreign country; and
- A letter from their licensed healthcare provider or public health official stating that they are cleared for travel, *i.e.*, they have recovered from COVID-19.

The option of providing proof of recovery is available to all travelers, regardless of their current vaccination status.

Vaccinations

For the purposes of the new Orders, the following vaccines for COVID-19 will be acceptable:

- All vaccines approved by the US Food and Drug Administration (FDA) – currently Pfizer, Moderna, and Johnson & Johnson;
- Vaccines listed for emergency use by the World Health Organization (WHO)²;
- A vaccine or combination of vaccines, as described by the CDC.³

Travelers will have paper or digital proof of vaccination.

WHAT SHOULD EMPLOYERS DO?

Employers should encourage their foreign workers with non-immigrant visas to fully vaccinate themselves so that they can reenter the country if they intend on traveling internationally or have been stranded abroad since the prior restrictions went into effect. They, furthermore, should advise their non-immigrant workers to take only approved vaccines; otherwise, they cannot board an aircraft to come to this country. Employers also should instruct their non-immigrant workers to carry appropriate documentation with them to facilitate their inspection with Customs & Borders Protection; *i.e.*, carrying physical vaccination cards and having digital photographs of them.

² Please visit WHO's [website](#) at for more information about emergency-use vaccines.

³ The CDC does not recommend mix-and-match vaccination series, but the use of such strategies is becoming more common outside the US. Please review this CDC Technical Instructions [page](#) for more information on this option.