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**Testimony of Kymesha Edwards**  
**On Behalf of the New York Civil Liberties Union**  
**Before the New York City Council on Higher Education**  
**Regarding Oversight: Returning to CUNY campuses in the Wake of COVID-19**

**June 24, 2021**

The New York Civil Liberties Union (NYCLU) is thankful for the opportunity to submit the following testimony regarding the oversight of returning to CUNY campuses this fall. The NYCLU, the New York state affiliate of the American Civil Liberties Union, is a not-for-profit, nonpartisan organization with eight offices across the state and over 180,000 members and supporters. The NYCLU defends and promotes the fundamental principles and values embodied in the Bill of Rights, the U.S. Constitution, and the New York Constitution through an integrated program of litigation, legislative advocacy, public education, and community organizing. Specifically, NYCLU's Education Policy Center is dedicated to protecting racial justice and civil rights in education settings. Among our projects, we facilitate the NYCLU Campus Organizing youth program with students from four campuses across the state, including at John Jay College of Criminal Justice, Brooklyn College, Hunter College, and City College of New York. We want to ensure that CUNY welcomes its students back in an equitable way.

**I. Vaccine Approvals**

The Pfizer-BioNTech, Janssen, and Moderna COVID-19 vaccines are approved under the Emergency Use Authorization (EUA); for many, the end of the pandemic *seems*

near.<sup>1</sup> Businesses and schools are reopening, mask restrictions and social distance mandates are lessening, and COVID-19 hospitalizations and deaths continue on a downward trend. On May 10, Governor Cuomo made an announcement requiring COVID-19 vaccinations for all CUNY and SUNY students attending on-campus and in-person learning during the fall.<sup>2</sup> The City University of New York's school network is actively encouraging students to get vaccinated; notably, five CUNY campuses serve as vaccination sites for New Yorkers. While vaccination mandates at CUNY schools depend on full Food and Drug Administration (FDA) approval, no vaccine has received full FDA approval, affirming safety and efficacy. While two of the three EUA vaccines have applied for full FDA approval, the rigorous authorization process can take several months.<sup>3</sup>

Considering that the start of the Fall semester is a few short months away, CUNY schools must be more diligent in communicating a clear plan of flexibility and contingency regarding student vaccination mandates. Contingency plans must include guidance on the anticipated learning environments, should vaccines not be fully FDA approved by fall, and plans for delivering excellent remote education if needed. Plans must also detail the process for individuals to obtain medically contraindicated accommodations if they're unable to receive the vaccine. Finally, there must be clear guidance for international students that have been vaccinated with a non-EUA vaccine, as the effects of multiple COVID-19 vaccinations on individuals is understudied and needs to be considered when welcoming international students this fall.

## **II. Access & Hesitancy**

Vaccines are now available for all New Yorkers 12 years of age and older, and assuredly, the state is progressively beginning to reopen. Over 70% of New Yorkers have received at least one vaccine dose. In addition, nearly 10 million New Yorkers over the age of 18

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<sup>1</sup> *COVID-19 Vaccines*; <https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/covid-19-vaccines>

<sup>2</sup> *CUNY, SUNY to Require Vaccines, Contingent on FDA Approval*; <https://www.insidehighered.com/quicktakes/2021/05/11/cuny-suny-require-vaccines-contingent-fda-approval>

<sup>3</sup> *Full FDA approval could drive COVID-19 vaccinations, but experts advise against waiting*; <https://abcnews.go.com/Health/full-fda-approval-drive-covid-19-vaccinations-experts/story?id=78048166>

have received the entire vaccination series, studied as effective to reduce the symptoms and lethality of the coronavirus while also lessening the chances of transmitting the virus to others.<sup>4</sup> Yet, there are stark disparities in the vaccinated population between ethnic groups. White New Yorkers account for 50% of vaccinated individuals compared to 34% of Black New Yorkers.<sup>5</sup> Statewide campaigns tout accessibility to vaccination sites for New Yorkers, regardless of immigration, health insurance, and employment status, yet this stark racial gap persists. A study investigating vaccine accessibility in Brooklyn neighborhoods based on poverty rates demonstrates that poorer, Black and Brown communities have fewer vaccination sites, thus less access to vaccines.<sup>6</sup> As we pursue a goal of vaccinating all New Yorkers, it is crucial that all New Yorkers, regardless of their race and zip codes, have equitable access to vaccination sites in their communities. Because CUNY serves many students from high-poverty neighborhoods and backgrounds, it is crucial that the institution truly considers the issue of access before adopting any vaccination requirements.

The pandemic continually highlights racial and economic disparities in our City, as low-income Black and Brown New Yorkers have been more likely to succumb to the deadly virus and have more significant challenges accessing the resources necessary to protect themselves. Therefore, there must be a more meaningful and concerted effort to engage New York communities in public education about vaccine effectiveness and truly make vaccines accessible to New Yorkers by addressing the gap and increasing vaccination sites in Black and Brown communities. We believe CUNY plays a vital role in getting out scientific information about vaccine safety and side effects to help drive down hesitancy among students and their families. We appreciate the efforts CUNY is already making in this regard with the #VaxUpCUNY campaign, but education can only go so far if there is limited local access.

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<sup>4</sup> *Ensuring COVID-19 Vaccines Work*; <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness.html>

<sup>5</sup> *Latest Data on COVID-19 Vaccinations by Race/Ethnicity*; <https://www.kff.org/coronavirus-covid-19/issue-brief/latest-data-on-covid-19-vaccinations-race-ethnicity/>

<sup>6</sup> *Assessment of Racial and Ethnic Disparities in Access to COVID-19 Vaccination Sites in Brooklyn, New York*; JAMA Netw Open. 2021;4(6):e2113937. doi:10.1001/jamanetworkopen.2021.13937

We recommend that CUNY expand vaccination availability to all its campuses, in addition to those that already have vaccine sites, including Medgar Evers College, York College, City College, Lehman College, and Queensborough Community College, according to a May 10 letter to students<sup>7</sup>. Additionally, we recommend that CUNY work with vaccinated students as credible messengers to share information with their peers. Finally, we recommend that CUNY maintain a robust hybrid learning plan for students who cannot get vaccinated due to health reasons and for students with disabilities for whom coming to campus was challenging even *before* COVID-19. CUNY is an essential institution for economic and social mobility for New York’s young people; we hope the institution is doing everything it can to ensure a successful education for all its students.

The word “unprecedented” has been appropriately and repeatedly used to describe the COVID-19 virus and its global impact, claiming millions of lives. This disease hit us on a previously unforeseen scale, with over two million cases affecting New York families and claiming the lives of fifty-three thousand people.<sup>8</sup> To meet this challenge, state and local governments are under enormous pressure to take innovative, thoughtful, and flexible actions when planning to reopen the state and preserve public safety. Local governments and governing bodies, such as the CUNY network, must not adopt unnecessarily punitive or exclusionary policies or policies driven by fear. CUNY schools must ensure New York students have fair and equitable education access, and that will be best accomplished through flexibility. We look forward to welcoming back our CUNY campus organizers this fall and to supporting the efforts at education and equity in any way we can.

The NYCLU is grateful for the opportunity to provide testimony *Committee on Higher Education* and for consideration of this critically important issue.

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<sup>7</sup> *COVID Vaccine Required for In-Person Fall Classes*, <https://www.cuny.edu/coronavirus/university-updates/covid-vaccine-required-for-in-person-fall-classes/>

<sup>8</sup> *Tracking Coronavirus in New York: Latest Map and Case Count*; <https://www.nytimes.com/interactive/2021/us/new-york-covid-cases.html>