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COVID STRIKES BACK: THE HEROES ACT, NEW FEDERAL PLAN AND MORE


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BY THE NUMBERS CASES

- United States Is Trending at 170,000 new cases a day
- New York—6,000 new cases yesterday (highest this week)
- Sept 6 and 7, highest new cases in US since January (over 300,000 a day)

BY THE NUMBERS DEATHS

- 3,200 new deaths a day
- NEW YORK -68 deaths average a day
- Worst days of pandemic-3,000-5,000 deaths per day
- Yesterday—3,231 deaths

BROOME COUNTY

- New Cases follows the national trend
 - Height of Pandemic— 243
 - Now— 80-90
 - All of June and July single digits

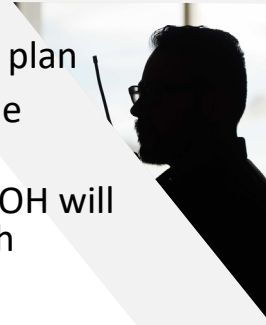


HERO'S ACT BASICS



NY HEROES ACT

- Requires Employers to develop safety plan
 - Airborne infectious diseases in the workplace
 - Commissioner of Labor and NY DOH will develop model standards for each industry
- Requires Employers to develop safety committee which includes employees
- Non-retaliation provisions



What Did We Get from DOL?

- General Statement About Applicability
- Prevention Standard
- Prevention Plan Models
- Frequently Asked Questions (recent)

<https://dol.ny.gov/ny-hero-act>



WHAT HAPPENED THIS WEEK?

- Commissioner of Health designated COVID-19 as a “highly contagious communicable disease that presents a serious risk of harm to the public health in New York State”
- Designation in effect until September 30, 2021 when it will be reviewed
- https://health.ny.gov/press/releases/2021/docs/2021-09-06_commissioner_designation.pdf



WHAT DID THAT TRIGGER?

- Copy of policy provided to all full-time, part-time employees, independent contractors, workers for digital platforms, hired through staffing agency, domestic workers **in writing**



EXPOSURE CONTROLS TO IMPLEMENT NOW

- General Awareness
- Stay at Home Policy
- Health Screenings
- Face Coverings
- Physical Distancing—checklist for employers
- Hand Hygiene
- Respiratory Etiquette
- Special Accommodations for individuals with risk factors



A STEP BACK IN TIME

- Health Screenings
- Face Coverings
- Signage



WHAT DO I NEED SIGNS FOR?


- Awareness
- Handwashing Facilities and Breaks
- Physical Distancing (Social Distancing)



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WHAT ELSE

- Cleaning and Disinfecting
- Provide PPE
- Engineering controls (air flow)
- Stay Home Protocols



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LEAVE ISSUES

- Need to address mandatory or precautionary orders of isolation or quarantine
- NYS COVID-19 Leave Is Still in Effect
 - Order for quarantine or isolation from a public health official
 - 3 times—2nd and 3rd time requires a positive COVID test
- FFCRA Leave through September 30
- Work from Home = No Paid Leave
- Vaccinated, exposed, no symptoms = No Quarantine Right Now



WHO QUARANTINES/ISOLATES?

<https://www.cdc.gov/coronavirus/2019-ncov/your-health/quarantine-isolation.html>

- Vaccinated No Symptoms: No. Test 3-5 days after exposure. Wear a mask indoors for 14 days.
- Unvaccinated No Symptoms: 10 days
- Positive Test: 10 days from onset of symptoms when symptom free with no assistance for 24 hours

Or

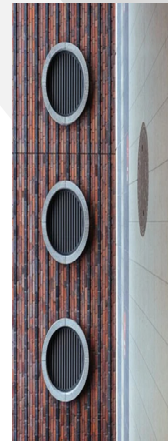
Meet the Test Based Reasons for Discontinuing

https://coronavirus.health.ny.gov/system/files/documents/2021/07/doh_covid19_discontinueisolation_72421.pdf

ADVANCED EXPOSURE CONTROLS

Not required yet

- Elimination of Some Activities (Risk Based Analysis)
- Engineering Controls
 - Ventilation
 - Disinfecting Systems
 - Barriers and Partitions
 - Changing Layout of Rooms



ADVANCED EXPOSURE CONTROLS

- ADMINISTRATIVE CONTROLS
 - Space between workers
 - Signage
 - Cross-training of employees
 - Traffic Flow
 - Additional Breaks
- ADDITIONAL PERSONAL PROTECTIVE EQUIPMENT
 - ***Note: Requires Employer to have such items stored for use!***

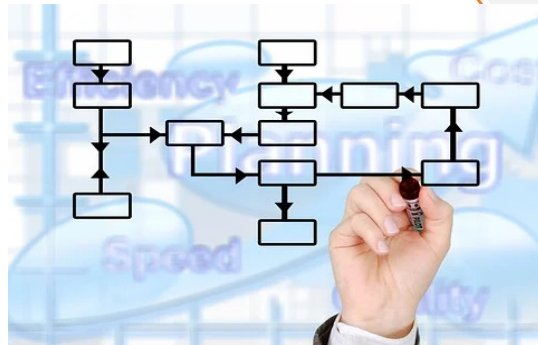
ANTI-RETALIATION PROVISION

- No retaliation for making a complaint
- Must maintain complaints for 2 years after the conclusion of the high risk event
- **Must have a way for employees to report violations during non-work hours**



WHERE DOES IT APPLY

- “any physical space, including a vehicle, that has been designated as the location where work is performed **over which an employer has the ability to exercise control.**”
- Does not include telecommuting sites unless the employer has control
- Does not apply to employees covered by an applicable OSHA standard—(i.e. Healthcare)



TRAINING AND INFORMATION DURING A DESIGNATED OUTBREAK

“VERBAL REVIEW”

- Employer policies, employee rights, and exposure prevention plan
- “Such verbal review shall be provided in a manner most suitable for the prevention of an airborne infectious disease, whether in person in a well-ventilated environment with appropriate face masks or personal protective equipment, or via audio or video conference technology”
- Verbally provided in person or through telephonic, electronic, or other means

IS A VIDEO ENOUGH?



What about employee questions?



WORKPLACE SAFETY COMMITTEE

NO NEW GUIDANCE YET—IMPLEMENTATION
DATE OF NOVEMBER 5, 2021

27-D WORKPLACE SAFETY COMMITTEE

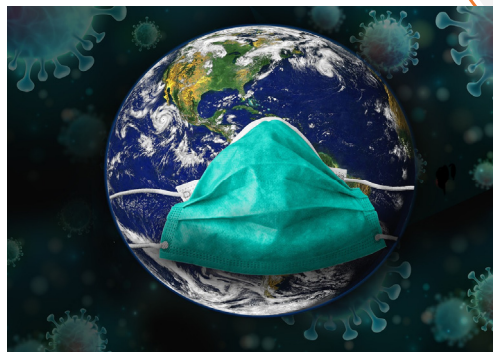
- 10 or More Employees
- At least 2/3 non-supervisory employees
- Selected by non-supervisory employees
- Co-chaired by employer and non-supervisor designees
- May need separate committees at separate sites

27-D POWERS OF THE WORKPLACE SAFETY COMMITTEE

- Raise concerns
- Review any policy required by this law OR Worker's Comp. law **RELATED TO HEALTH AND SAFETY OF EMPLOYEES**
- Participate in site visits by government official (OSHA)
- Review any report by the employer

27-D SAFETY COMMITTEE-WHAT ELSE?

- Regularly schedule meeting during work hours at least once a quarter—LIMITED TO 2 HOURS
- Permit safety committee designees to attend training without loss of pay regarding safety committees—LIMITED TO 4 HOURS
- Non-retaliation



FEDERAL PLAN TO COMBAT THE VIRUS

SIX POINT PLAN

<https://www.whitehouse.gov/covidplan/>

- Vaccinate the Unvaccinated
- Further Protect the Vaccinated
- Increased Testing and Requiring Masks
- Protecting Our Economic Recovery
- Small Business Programs
- Improving Care for those with COVID-19

VACCINATION

- OSHA Rule for Mandatory Vaccines for Employers with 100 or more employees
 - Will have a weekly testing option
 - Accommodation for religious and disability
- Required Vaccinations for Federal Workers and Government Contractors
- Required Vaccination for Healthcare Setting
- Large Entertainment Venues
- Paid Time Off for Employees to Get Vaccinated



OTHER MEASURES

- Booster Shots Starting Sept. 20th
- Measures for Schools
- Increased Production of Tests and Making Tests Free
- Increased deployment of Monoclonal Antibody treatment



WHAT NOW?

- Implement HEROES Act
- Make Sure Payroll is Processing COVID related absences correctly
- Make a Plan for Mandatory Vaccines (if over 100)
- Make a Plan for Safety Committee (if over 10)



FINAL THOUGHT . . .



YOUR QUESTIONS

