

New York State and City Issue COVID-19 Guidance on Monitoring, Quarantines, and Testing

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By [Susan Gross Sholinsky](#), [Steven M. Swirsky](#), and [Nancy Gunzenhauser Popper](#)

New York State has responded to a significant increase in cases of the 2019 novel coronavirus (“COVID-19”) in the state with numerous press briefings and actions by the government. Both New York State and New York City have prepared guidance (the “[NYS Guidance](#)” and the “[NYC Guidance](#)”¹) on home self-monitoring² resulting from actual or possible exposure to COVID-19. The NYC Guidance is less detailed—but more straightforward—and discusses self-monitoring during a period of self-quarantine/isolation, and how to effectuate the return to work or school. The NYS Guidance, on the other hand, is more detailed concerning the period of self-quarantine/isolation, and distinguishes between those who are on mandatory self-isolation, mandatory self-quarantine, and precautionary self-quarantine.

While the Centers for Disease Control and Prevention (“CDC”) continues to provide support and guidance, the federal government is encouraging state and local health departments to manage the majority of testing and response to COVID-19. Additionally, the New York State Department of Health (“NYS DOH”) has provided [guidance](#) on when to test for COVID-19.

Moreover, on March 7, 2020, New York Governor Andrew Cuomo declared a [state of emergency](#) due to COVID-19. On March 10, 2020, Governor Cuomo also created a “[containment area](#)” with a one-mile radius in New Rochelle (in Westchester County). The National Guard will be assisting with testing and delivering food to quarantined homes.³ Employers should be mindful of how this order and the containment zone may impact the use of sick time under earned sick time laws, such as those in place in New York City and Westchester County. Both of these laws provide for paid time off due to office or school closures during public health emergencies.

NYC Guidance

The NYC Guidance, which is in the form of frequently asked questions, provides that individuals returning from [CDC-designated areas](#) without exhibiting symptoms, and

¹ The NYS Guidance was issued on March 6, 2020, and the NYC Guidance was issued on February 19, 2020.

² “Self-monitoring” is sometimes referred to as “self-isolation” or “self-quarantine.”

³ On March 11, 2020, the World Health Organization declared COVID-19 a pandemic.

others with possible exposures to the virus, should home self-monitor. The NYC Guidance defines “home self-monitoring” as checking one’s self for fever and remaining alert for cough or shortness of breath. According to New York City, while an individual is on home self-monitoring, the individual:

- should stay at home and avoid going outside for the entire self-monitoring period (the individual should not attend work, school, public events, or group gatherings);
- should take their temperature twice a day and check for symptoms (cough or shortness of breath);
- should call the NYC Department of Health at 347-396-7990 if they have a fever or symptoms; and
- can get a doctor’s note online at nyc.gov/health/coronavirus if they need to provide documentation of their absence to their school or employer.

The NYC Guidance provides additional information with respect to an individual’s household members while an individual is home self-monitoring:

- If the individual is not exhibiting symptoms, other members of the household who were not in one of the CDC-designated countries can continue to go to school and work.
- However, if the individual develops fever, cough, or shortness of breath, other members of the household should stay home until the individual’s symptoms are checked out by a medical provider.

Further, additional advice and resources for home self-monitoring is provided:

- If you have a medical emergency, you should call 911 and advise the operator of your recent travel.
- If you develop COVID-19 symptoms, you should avoid close contact (within six feet) with other people and call the NYC Department of Health at 347-396-7990.
- If you need to leave home and receive medical care for a chronic illness or other medical issue during your self-monitoring, you should call your doctor or health care provider ahead of your visit and advise of your recent travel.
- If you are overwhelmed, contact [NYC Well](#).
- At the end of the self-monitoring period, there is no formal clearance process, and you can simply return to work or school.
- If you need a doctor’s note to return to work, you can obtain one [here](#).

Finally, the NYC Guidance notes that there is no medical reason for an employer to exclude an individual following a period of self-monitoring. Also, if an employer refuses to allow an individual to return to work following a period of self-monitoring, the individual should:

- show the employer the doctor's note (available online from the NYC Health Department), and/or
- report this situation to the NYC Commission on Human Rights by calling **311** and saying, "human rights."

NYS Guidance

The NYS Guidance states that individuals who are isolated or quarantined must be treated with compassion and respect, and that local health departments ("LHDs") must help these individuals meet their housing, social, medical, mental health, and economic needs. The State recommends that LHDs use written agreements with the individuals subject to the varying levels of isolation and quarantine (explained below), and the NYS Department of Health will provide written agreements for each of those scenarios. The NYS Guidance notes that mandatory quarantine can be directed by legal order if not complied with voluntarily.

Required Mandatory Quarantine. Individuals will be placed on required mandatory quarantine if they:

- have been in close contact (within six feet) with someone who is positive but are not displaying symptoms of COVID-19, or
- have traveled to China, Iran, Japan, South Korea, or Italy and are displaying symptoms of COVID-19.

Required Mandatory Isolation. Individuals will be placed on required mandatory isolation if they have tested positive for COVID-19, whether or not displaying symptoms for COVID-19.

The NYS Guidance states that LHDs must immediately issue an order for Mandatory Quarantine or Isolation once notified of the facts and circumstances necessitating the quarantine or isolation, and the order shall be served on the person impacted. During mandatory isolation or quarantine, "LHDs must perform in person visits at least once per day at the site of quarantine at random intervals to determine the individual(s) are located at the site and their well-being." Additionally, there must be electronic communication at least once per day, and the communication must establish presence in the residence listed in the order, such as by use of a landline telephone or a video communication (i.e., Skype or other video communication).

Given the virulence of COVID-19, the NYS DOH has also provided for some precautionary protocols, as follows:

Required for Precautionary Quarantine. An individual will be placed on a precautionary quarantine if one or more of the following criteria are met:

- the individual has traveled to China, Iran, Japan, South Korea, or Italy while COVID-19 was prevalent but is not displaying symptoms, or
- the individual is known to have had a proximate exposure to a positive person but has not had direct contact with a positive person and is not displaying symptoms.

If there is any other person that an LHD believes should be quarantined but is not addressed by one of the descriptions above, the LHD should contact the NYS DOH. During precautionary quarantines, LHDs have no required in-person visits. However, there must be electronic communications at least once per day, utilizing a mechanism to get a status and health update and to provide advice. This may be done by utilizing telemedicine, video communication (such as Skype), or another mechanism.

Mandatory isolation, mandatory quarantine, and precautionary quarantine are all subject to the NYS Guidance's detailed "**shelter requirements.**" For example, the NYS Guidance notes that when individuals are placed in mandatory quarantine or precautionary quarantine, any bathroom shared with a family member must have cleaning supplies. Further, all individuals sharing the bathroom with the person on mandatory or precautionary quarantine who begin to exhibit symptoms will themselves be considered exposed persons until the symptomatic person is appropriately evaluated and cleared. In the case of a mandatory isolation or mandatory quarantine, LHDs must assess the setting to be sure it is safe to allow persons to remain and avoid transmission from the exposed persons(s) to others in the household if the exposed person becomes symptomatic.

The NYS Guidance notes that an LHD must create an action plan for what to do if a quarantined person becomes ill, and such action plan must address:

- the immediate transfer from the home and isolation to reduce the risk of infecting other household members;
- how the individual would get to an appropriate health care provider or facility for medical evaluation (such provider or facility must be able to implement appropriate infection control and obtain specimens);
- what hospital should receive the individual; and
- who the person or caregiver should notify first:
 - in an emergency, call 911, and
 - for a non-emergency, the LHD must be called first, and the LHD will then contact the NYS DOH (the LHD should also notify the EMS provider and hospital in advance).

The NYS Guidance states that “[n]o person subject to an order shall have an adverse employment impact.” The NYS Guidance further states that “if a situation arises,” the individual should “contact the New York State Department of Labor.”

Finally, New York State has established a COVID-19 hotline at 888-364-3065.

NYS DOH Testing Guidance

According to new [testing guidance](#) from the NYS DOH, testing for COVID-19 will be authorized by a health care provider when:

- An individual has come within proximate contact (same classroom, office, or gatherings) of another person known to be positive; or
- An individual has traveled to a country that the CDC has issued a Level 2 or Level 3 Travel Health Notice, and shows symptoms of illness; or
- An individual is quarantined (mandatory or precautionary) and has shown symptoms of COVID-19 illness; or
- An individual is symptomatic and has not tested positive for any other infection; or
- Other cases where the facts and circumstances warrant as determined by the treating clinician in consultation with state and local department of health officials.

Impact of Declared State of Emergency on New York City and Westchester County Earned Sick Time Laws

In connection with the NYS Guidance, the NYC Guidance, and the state of emergency order, employees may be entitled to use earned sick time under the New York City and Westchester County sick time laws in connection with (1) office closures by order of a public health official, or (2) school or day care closures by order of a public health official. Further, under the Westchester County sick leave law, an employee may use sick time for the care of an employee or family member when the relevant public health authorities determine that the employee’s or family member’s presence in the community may jeopardize the health of others because of his or her exposure to a communicable disease (whether or not the employee or family member has actually contracted the communicable disease).

What New York Employers Should Do Now

- Continue to monitor guidance from the CDC, the NYS DOH, and local government agencies.⁴

⁴ The Occupational Safety and Health Administration and the U.S. Department of Labor issued guidance, which will be the subject of a forthcoming article.

- As the COVID-19 situation progresses in New York, be on the lookout for additional guidance from the NYS DOH and prepare for absences from work due to quarantine, isolation, or school closures.

For more information about this Advisory, please contact:

Susan Gross Sholinsky

New York
212-351-4789

sgross@ebqlaw.com

Steven M. Swirsky

New York
212-351-4640

sswirsky@ebqlaw.com

Nancy Gunzenhauser Popper

New York
212-351-3758

npopper@ebqlaw.com

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