

THE IMPLICATIONS OF THE GOVERNOR'S 3/17/2020 EXECUTIVE ORDER FOR MUNICIPALITIES

Hodgson Russ Municipal Alert
March 17, 2020

In a continuing effort to support municipalities during this unprecedented time, the Hodgson Russ Municipal Practice wanted to share its initial analysis of the Executive Order issued by Governor Cuomo late yesterday (Executive Order 202.4). The text of the Executive Order can be found here:

<https://www.governor.ny.gov/news/no-2024-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

The Executive Order requires “[a]ny local government or political subdivision” to immediately allow “non-essential” personnel to work from home, or take leave without charging leave accruals, through April 15, 2020. Such non-essential personnel must total at least 50% of the employer’s total workforce. The determination of which employees are non-essential is a matter for each local government to consider based on its needs.

Additionally, the Executive Order also postponed all village elections that were scheduled to be held on March 17, 2020, and ordered that all elected officials holding such positions will remain in office until a new election is held.

Municipalities should immediately begin considering which employees are non-essential and instruct those employees (at least 50% of the workforce) to begin working from home or take leave starting today. As a practical matter, municipalities should carefully consider the implementation of their approach and the internal issues that may result such as how to address potential demands from unions to negotiate such employee selections.”

Municipalities also must consider whether the current order falls within any provision in a collective bargaining agreement. The Executive Order does not contemplate any bargaining obligations with regard to which employees may be directed to work either on site or at home and how such employees must be paid.

Please feel free to contact any member of the Municipal Practice if you have any questions on this or any other aspect of the response to the COVID-19 pandemic. We have also issued an update on the variety of other issues confronting school districts in relation to COVID-19, which can be found here: <https://www.hodgsonruss.com>

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