

SCHOOL DISTRICT EMPLOYEES MUST QUARANTINE FOR 14 DAYS AFTER TRAVEL TO A DESIGNATED STATE

Hodgson Russ Labor and Employment Alert
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Based on recent guidance issued by the New York Department of Health (“NYDOH”), school districts can no longer deem their employees “essential workers” for purposes of the travel restrictions. As you may recall, previous guidance issued by the DOH defined certain workers as exempt from Governor Cuomo’s Executive Order requiring those who travel to New York from certain designated states experiencing high rates of COVID-19 to quarantine for a period of 14 days. The guidance defined “essential worker” as: (1) any individual employed by an entity included on the Empire State Development (ESD) Essential Business list; or (2) any individual who meets the COVID-19 testing criteria, pursuant to their status as either an individual who is employed as a health care worker, first responder, or in any position within a nursing home, long-term care facility, or other congregate care setting, or an individual who is employed as an essential employee who directly interacts with the public while working, pursuant to DOH Protocol for COVID-19 Testing, issued May 31, 2020; or (3) any other worker deemed such by the Commissioner of Health.

Many school district employees, including but not limited to teachers, school nurses, maintenance staff and cafeteria employees, were either included on the ESD Essential Business List and/or were identified as those essential employees who directly interact with the public while working pursuant to DOH Protocol for COVID-19 Testing. As a result, many school districts designated these employees as exempt and did not require them to quarantine after travel.

The recently issued DOH Pre-K to Gr 12 COVID-19 Toolkit provides that all school district employees must quarantine until the local health department releases the employee from quarantine (at least 14 days from their return from travel.) The toolkit also specifically provides that a negative diagnostic test does not change the 14-day quarantine requirement.

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After receiving many requests for clarification, counsel in the Governor's Office has stated that, to the extent there are inconsistencies between information contained in the Toolkit and prior DOH guidance, the information contained in the Toolkit supersedes the prior guidance. In other words, while prior guidance defined teachers as "essential employees," the Toolkit clearly provides that "school staff are not essential workers and must quarantine."

As a result, school districts should immediately review their travel policies and related quarantine requirements and make any necessary revisions to ensure that all school district employees are quarantining for at least 14 days after their return from a designated state. Please note that those employees who voluntarily travel to a state included in the travel advisory remain ineligible for paid leave benefits under the New York State COVID-19 Paid Sick Leave law, pursuant to Executive Order 202.45. However, an employee may be eligible for paid leave benefits under other federal, state or local laws.

If you have any questions about the Executive Order, Toolkit or how such requirements may affect your school district and/or workforce, please contact Jeff Swiatek (716.848.1449), Liz McPhail (716.848.1530) or any other member of our Labor & Employment Practice Group.

Please check our Coronavirus Resource Center and our CARES Act page to access information related to both of these rapidly evolving topics.

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