

EMPLOYMENT LAW ALERT

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HERO ACT: COVID-19 NOW REQUIRES HERO ACT PLANS TO BE ACTIVATED

On September 6, 2021, Governor Hochul announced that COVID-19 will now be designated as “a highly contagious communicable disease that presents a serious risk of harm to the public health” under the New York Health and Essential Rights Act (“HERO Act”). This means that employers must implement the exposure prevention plan that was required to be distributed to employees by September 4, 2021. For more information regarding the HERO Act, please see our prior articles: Important Upcoming Employment Deadlines: NYS HERO Act and COBRA Subsidy Final Notice and HERO Act Guidance Published by NY Department of Labor.

According to the Airborne Infectious Disease Exposure Standard, once a designation is made, each employer must:

- Immediately review the worksite’s exposure prevention plan and update the plan, if necessary, to ensure that it incorporates current information, guidance, and mandatory requirements issued by federal, state, or local governments related to the infectious agent of concern;
- Finalize and promptly activate the worksite exposure prevention plan;
- Provide a verbal review of the plan; and
- Provide each employee with a copy of the exposure prevention plan in their primary language (if made available by New York State), post a copy of the plan in a prominent location at each workplace, and ensure a copy of the plan is accessible to employees during all work shifts.

Additionally, so long as the designation remains in effect, an employer must ensure that the plan is effectively followed by:

- Designating one or more supervisory employees to enforce compliance with the plan and any other federal, state, or local guidance;
- Monitoring and maintaining exposure controls; and
- Regularly checking for updated information and guidance provided by the New York State Department of Health and the Centers for Disease Control and Prevention.

Employers must act swiftly to ensure they are in compliance with the requirements of the HERO Act. It is anticipated that additional developments and guidance will be provided by New York State.

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