

*This publication is updated and includes information as of September 10, 2020.
Please also monitor nyc.gov/workers.*

Important Information for Employers and Employees:

Update about Workplace Laws During COVID-19

Created by the NYC Department of Consumer and Worker Protection (DCWP), this publication includes a summary of City labor laws for employers and employees as you deal with the impact of the new coronavirus (COVID-19) on your workplace.

There are also State and federal labor laws that govern NYC workplaces. This publication includes some updates in relevant sections. Monitor ny.gov/COVIDpaysickleave and dol.gov/agencies/whd/pandemic for additional information.

This publication also includes important information about City and State resources for businesses and workers.

Important:

NYC is in Phase 4 of reopening. Essential and non-essential businesses that are allowed to be open must follow health and safety guidelines. Guidance is available:

Online:

- forward.ny.gov
 - nyc.gov/business (for businesses)
 - nyc.gov/workers (for workers)
 - nyc.gov/coronavirus (for public health updates)
- Or text* **COVID** to **692-692**.
*Message and data rates may apply.
Check your wireless provider plan for details.

By phone:

- Workers can call 311 or 1-212-436-0381 for the **Worker Protection Hotline**.
- Employers can call 1-888-727-4692 for the **NYC Business Restart Hotline**.

Discrimination and Retaliation are Illegal.

Workers in NYC have rights regardless of immigration status. Under NYC law, it is illegal to:

- Fire or require an employee to stay away or self-quarantine from the workplace only because of the employee’s race or national origin.
- Retaliate against employees who exercise—or seek to exercise—their workplace rights, such as using sick leave, asking for premium pay, or changing a work schedule. Retaliation includes any threat, discipline, firing, demotion, suspension, or reduction in hours, or any other negative employment action.

NYC's Paid Safe and Sick Leave Law

The law covers employees at any size business or nonprofit in NYC, including:

- part-time employees
- full-time employees
- temporary employees
- per diem and “on call” employees
- undocumented employees
- employees who are family members but not owners
- employees who live outside of NYC but work in NYC
- employees who have supervisory responsibilities

Employees may begin to use sick leave 120 days after their first day of employment.

Under the law:

- Employees get up to 40 hours (5 days) of sick leave each calendar year.
 - At businesses with 5 or more employees, leave is *paid*.
 - At businesses with fewer than 5 employees, leave is *unpaid*.
- Employees can use sick leave for themselves or for a family member, which includes anyone whose close association with the employee is the equivalent of family, and can use all of their accrued hours at one time.
- Employees *do not* need to find someone to cover their shift in order to use sick leave.
- Employees can use sick leave for themselves or for a family member for diagnosis, care, or treatment of an illness, injury, or health condition or for preventive medical care (for example, staying home to observe symptoms of COVID-19). Examples of acceptable reasons to use sick leave:
 - Employee feels ill or shows symptoms of COVID-19.
 - Employee gets tested for the flu or COVID-19.
 - Employee is under quarantine—which may also be covered by State or federal law—or self-isolating for preventative purposes.
 - Employee is caring for a family member under a mandatory or precautionary order of quarantine.
- Employees can use sick leave when a public official *closes* the business due to a public health emergency. Employees can use *accrued* sick leave to cover the period the workplace is closed, up to 40 hours.
- Employees can use sick leave when a public official *closes* their child’s school or child care provider due to a public health emergency.
- Employers *cannot* require medical documentation from employees, unless they have been absent for *more than 3* consecutive days.

On March 12, Mayor Bill de Blasio declared a state of emergency related to coronavirus.

On March 15, Mayor de Blasio closed public schools starting March 16.

On March 16, Mayor de Blasio signed an [Executive Order](#) with new restrictions that closed or limited operations of certain businesses, such as gyms, nightclubs, movie theaters, small theater houses, concert venues, and senior centers.

On March 20, Governor Andrew M. Cuomo signed an [Executive Order](#), effective 8 p.m. on March 22, requiring New York’s non-essential workforce to stay home or telecommute where possible.

In coordination with New York State, NYC entered a [phased reopening](#) on the following dates:

June 8: Phase 1
June 22: Phase 2
July 6: Phase 3
July 20: Phase 4

DCWP encourages employers to take additional steps to protect all employees, customers, and the public:

- **Provide additional leave to employees if needed.**
 - NYC law sets a floor for sick leave, but DCWP encourages employers to allow employees additional leave as needed for sickness, quarantine, or for other uses related to COVID-19.
 - An employer may already offer more than 40 hours of sick leave, which is an important tool to stop the spread of COVID-19.
 - If employers do not already offer additional sick leave, any additional leave can be paid or unpaid.
- **Use telecommuting wherever possible to reduce in-person contact.**
- **Require employees who feel ill or show symptoms of COVID-19 to stay home and make clear that there is no penalty for staying home.**
 - Employees may need to use more than the legally mandated 40 hours of sick leave, and they should stay home until it is safe to return with the assurance that their job will still be there for them.
 - Requiring sick employees to stay home will help to prevent the spread of COVID-19.

See the next page for an overview of City, State, and federal sick leave laws relating to COVID-19.

NYC's Temporary Schedule Change Law

Under the law:

- Employees can ask to make temporary changes to their schedules for certain personal events twice per year, totaling no more than 2 days.
 - *The temporary schedule change can include working remotely, arriving to work later and leaving later, using short-term unpaid leave.*
- These 2 days are in addition to an employee's sick leave.
- Time off for a temporary schedule change can be paid or unpaid.

Personal events include:

- Providing care for a minor or care recipient.
- Attending a legal proceeding for essential benefits.
- Taking leave for acceptable sick leave uses, including quarantine.

Example of acceptable use of temporary schedule change:

- Employee is caring for a child whose school or daycare has been closed due to COVID-19.

DCWP encourages employers to:

- **Allow employees to use additional temporary schedule changes if needed.**

Paid Sick Leave: New York City, New York State, and Federal Laws

Law	Number of Employees	Amount of Sick Leave	Rate of Pay for Sick Leave	Acceptable Reasons to Use Sick Leave
New York City Paid Safe and Sick Leave Law† Visit New York City website for more information.	5 or more	Up to 40 hours	PAID (regular hourly rate but no less than the current minimum wage)	<ul style="list-style-type: none"> • Diagnosis, care, or treatment of illness, injury, or health condition or for preventive medical care for employee or for a family member • When a public official closes employee's workplace or child's school or child care provider due to a public health emergency Note: Paid sick leave under State and federal law (see below) is in addition to accrued sick leave under City law.
	1-4		UNPAID	
New York State Emergency COVID-19 Paid Sick Leave Effective March 18, 2020 Visit New York State website for more information. EXCEPTION: Workers who voluntarily travel to states designated as high risk cannot access State paid sick leave benefits or other paid benefits under the law. See restriction effective June 25.	1-10	Duration of quarantine or isolation	If business income less than \$1 million: <ul style="list-style-type: none"> • UNPAID (all days) 	<ul style="list-style-type: none"> • Government-ordered quarantine or isolation* Employees: For COVID-19 paid sick leave documentation for your employer (mandatory isolation order), visit nyc.gov/health for: Paid Sick Leave Commissioner's Order Paid Sick Leave Order FAQ *Where the federal and State laws overlap on mandatory quarantine, the federal law applies. State law applies to the extent it gives employees additional benefits beyond what federal law allows. Note: Employees can use Paid Family Leave or disability benefits for the mandatory quarantine or isolation period not covered by sick days paid directly by their employer.
	11-99		If business income more than \$1 million: <ul style="list-style-type: none"> • PAID (at least 5 days) • UNPAID (remaining days) 	
	100+		<ul style="list-style-type: none"> • PAID (at least 5 days) • UNPAID (remaining days) 	
Federal Families First Coronavirus Response Act (FFCRA) COVID-19 Paid Sick Leave^ Effective April 2, 2020 Visit U.S. Department of Labor (DOL) website for more information.	Up to 500* *U.S. DOL has issued regulations exempting certain health care providers, emergency responders, and small businesses (50 or fewer employees) with documented financial difficulties.	FULL-TIME employees: <ul style="list-style-type: none"> • 2 weeks (80 hours) PART-TIME employees: <ul style="list-style-type: none"> • Amount equal to average hours worked over 2-week period 	Regular rate of pay up to: <ul style="list-style-type: none"> • \$511 per day and • \$5,110 total 	<ul style="list-style-type: none"> • Mandatory quarantine or isolation • Doctor-recommended self-quarantine • Medical diagnosis due to symptoms of COVID-19
			2/3 of regular rate of pay up to: <ul style="list-style-type: none"> • \$200 per day and • \$2,000 total 	

† Employees may be eligible for 2 additional days as unpaid leave under NYC's [Temporary Schedule Change Law](#).

^ Employees may be eligible for expanded paid or unpaid leave under Family and Medical Leave Act (FMLA).

NYC's Fair Workweek Law

Under the law, fast food and retail employers must give workers advance notice of work schedules, including schedule changes. Fast food employers must pay a premium for certain schedule changes.

If employers are unsure if the law covers your business, visit nyc.gov/workers.

Note:

On March 12, Mayor de Blasio declared a state of emergency with restrictions and guidance for establishments.

On March 16, Mayor de Blasio signed an [Executive Order](#) with new restrictions that closed or limited operations of certain businesses.

On March 20, Governor Cuomo signed an [Executive Order](#), effective 8 p.m. on March 22, requiring New York's non-essential workforce to stay home or telecommute where possible.

On June 8, as part of Phase 1 in NYC, non-essential retail businesses could reopen for curbside or in-store pickup or drop off only.

On June 22, as part of Phase 2 in NYC, retail businesses could reopen in-store services and fast food establishments could reopen for outdoor dining in addition to takeout and delivery services.

Information for FAST FOOD EMPLOYERS + EMPLOYEES on Schedule Changes and Premium Pay

By law, if the business remains open, even with limited operations such as delivery/takeout service only, employees must get premium pay for schedule changes.

Employers must give workers premium pay for schedule changes with less than 14 days' notice in the following situations:

- You ask an employee to cover the shift of a sick coworker, and the employee accepts.
- You are open for delivery or takeout and ask an employee to work different shifts or additional hours—even when the City or State has declared a state of emergency.
- You cancel scheduled shifts or reduce the number or hours of staff working scheduled shifts even if business is slow.

Employers do *not* owe workers premium pay in the following situations:

- An employee requests to stay home from work because the employee is sick or quarantined.
- Two employees voluntarily trade shifts because one of them is sick or quarantined.
- The City or State declare a state of emergency that *closes* the business.

Information for RETAIL EMPLOYERS + EMPLOYEES on Schedule Changes

Employers cannot:

- Require an employee to work additional hours or to cover a shift for a sick coworker with less than 72 hours' notice unless the employee consents in writing. *The employee providing coverage earns their regular hourly rate for the additional hours.*
- Cancel an employee's shift or reduce an employee's hours with less than 72 hours' notice unless the employee consents in writing.

Employers can:

- Assign shifts as needed without needing employee consent with more than 72 hours' notice.
- Ask employees to volunteer to cover a sick coworker's shift, as long as you get written consent from the employees who agree to work.
- Cancel shifts or reduce hours as needed with less than 72 hours' notice when the City or State declare a state of emergency that *closes* the business.

NYC's Freelance Isn't Free Act

Under the law:

- All contracts worth \$800 or more must be in writing. The written contract must spell out the work freelancers will perform; the pay for the work; and the date freelancers get paid. Freelancers and hiring parties must keep a copy of the written contract.
- Hiring parties must pay freelancers for all completed work. Freelancers must receive payment on or before the date that is in the contract. If the contract does not include a payment date, hiring parties must pay freelancers within 30 days after freelancers complete the work.
- It is illegal for hiring parties to penalize, threaten, blacklist, or otherwise deter freelancers from exercising their rights under the law.

Worker Complaints and Enforcement Amid State of Emergency and Applicable Executive Orders

DCWP is:

- Continuing to enforce NYC workplace laws.
- Prioritizing complaints from workers who report immediate impacts on their ability to earn income, such as last-minute schedule reductions or employers' failure to provide or pay for sick leave.
- Prioritizing swift resolutions that make workers whole, taking into account the good faith, responsiveness, and legitimate business considerations of employers.

For more information:

- Call **311**. Say "Paid Safe and Sick Leave," "Fair Workweek," or "Freelance Worker."
- Email OLPS@dca.nyc.gov
- Visit nyc.gov/workers

To file a workplace complaint:

- Call **311**. Say "Paid Safe and Sick Leave," "Fair Workweek," or "Freelance Worker."
- Email OLPS@dca.nyc.gov
- Visit nyc.gov/workers

Other NYC and State Benefits and Support

Unemployment Benefits

- Visit labor.ny.gov for information about:
 - Unemployment Insurance benefits
 - Pandemic Unemployment Assistance (PUA) benefits
 - [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#) (specifically unemployment)

Resources for New Yorkers

- Visit nyc.gov/coronavirus for information and support for:
 - Food
 - Employment and Jobs
 - Health Insurance, Health and Emotional Well-being
 - Rent and Housing
 - Benefits screening
 - School and Education
 - Free COVID-19 testing locations and information

Resources are available for:

- Immigrants
- People with disabilities
- Older New Yorkers
- Children and families
- Veterans

Resources for Survivors During COVID-19

- Visit the [Mayor's Office to End Domestic and Gender-Based Violence](#) at nyc.gov/endgbv.

Information on COVID-19 and Protections against Unlawful Discrimination

- Visit the [City Commission on Human Rights](#) at nyc.gov/humanrights.

Resources for Businesses

- Visit nyc.gov/coronavirus for small business support.