

# New York State Issues Additional Guidance on COVID-19 Quarantine Leave Law

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On January 20, 2021, the New York State Department of Labor issued new [guidance](#) on the state's [COVID-19 leave law](#), which requires that employers provide up to 14 days of job-protected leave to employees who are subject to a mandatory or precautionary order of quarantine or isolation. The new guidance supplements [other guidance](#) previously issued by the state, which remains in effect.

Under the new guidance, an employee who receives a positive diagnostic test for COVID-19 *after* previously completing a period of quarantine or isolation shall be deemed to be subject to a second mandatory order of quarantine or isolation and shall be entitled to leave under the COVID-19 leave law, even if the employee has already taken leave for the first period of quarantine or isolation. Before the guidance was issued, it was unclear whether or not employees could take multiple periods of leave under the law. Now, it is clear that employees can take leave multiple times, subject to the following limitations:

1. Employees may only qualify for leave under the state's COVID-19 leave law for a total of **three (3)** times.
2. The second and third periods of leave must be based on a positive COVID-19 diagnostic test, rather than merely having close contact with someone with COVID-19.
3. To take leave the second or third time, the employee must submit documentation from a licensed medical provider or testing facility attesting that the employee has tested positive for COVID-19.

In addition to clarifying that leave may be taken multiple times, the guidance also appears to create a new leave entitlement for any employee who is not permitted to report to work by their employer due to exposure or potential exposure to COVID-19. According to the guidance, if “an employer mandates that an employee ... remain out of work due to exposure or potential exposure to COVID-19 ... the employer shall continue to pay the employee at the employee’s regular rate until such time as the employer permits the employee to return to work or the employee becomes subject to a mandatory or precautionary order of quarantine or isolation.”

Under the COVID-19 leave law, employers must provide either five or fourteen days of paid leave, or only job-protected leave, depending on the size of the employer. However, when an employer prohibits an employee from working due to exposure or potential exposure to COVID-19 (which is not a reason for leave under the COVID-19 leave law), this guidance suggests that employers must provide paid leave for any amount of time that an employee is prohibited from working by their employer due to exposure or potential exposure to COVID-19, unless and until the employee is subject to an order of quarantine or isolation.

Our team is closely monitoring guidance on the COVID-19 pandemic and will provide updates as they become available.

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