

LABOR AND EMPLOYMENT LAW INFORMATION MEMO

JULY 7, 2021

NY HERO Act – NYSDOL Publishes Airborne Infectious Disease Exposure Prevention Standards and Model Plans For Various Industries

On the evening of July 6, 2021, the NYS Department of Labor (DOL) published the long awaited “[Airborne Infectious Disease Exposure Prevention Standard](#)” (Standard), a general “[Model Airborne Infectious Disease Exposure Prevention Plan](#),” and several industry specific model prevention plans as well. These are now available on the DOL’s [website](#). The model plans are currently available in English, but the website states that they will also be available in Spanish soon, as required by statute.

Private employers in New York State now have 30 days, or until Aug. 5, 2021, to either adopt one of the model plans or develop an alternative plan that meets or exceeds the requirements in the Standard. Employers that choose to develop an alternative plan must adopt a plan pursuant to an agreement with the collective bargaining representative (if any), or where there is no collective bargaining representative, with meaningful participation of employees, for all aspects of the plan. The alternative plan must be tailored and specific to the hazards in the specific industry and worksites of the employer.

Notably, although employers are required to adopt a compliant airborne infectious disease exposure prevention plan, such plans only go into effect when the New York State Commissioner of Health designates an airborne infectious disease as a “highly contagious communicable disease that presents a serious risk of harm to the public.” The DOL’s website currently provides that as of the current date, no such designation has been made, and therefore the airborne infectious disease prevention plans are not currently required to be in effect.

Employers should carefully review the Standard and the applicable model prevention plan(s) and determine whether to adopt one of the model plans or develop and adopt a compliant alternative prevention plan.

If you have any questions about the information presented in this memo, please contact [Stephanie H. Fedorka](#), any [attorney](#) in Bond’s [Labor and Employment practice](#) or the Bond attorney with whom you are regularly in contact.



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