

Quarantine & Sick Time Guidance

as of August 20, 2021

Step 1: Review the Legal Requirements of Paid COVID Sick Leave

- On March 17, 2020, NYS COVID Paid Sick Leave became law with rules regarding Staff Members subject to orders of quarantine. NYS COVID Paid Sick Leave became applicable to schools when the Families First Coronavirus Relief Act (FFCRA) expired December 31, 2020, eliminating paid leave under Emergency Paid Sick Leave (EPSL) and Emergency Family Medical Leave Enhancement Act (EFMLEA).
- The NYS COVID Paid Sick Leave law provides up to fourteen (14) calendar days (ten (10) work days) of paid sick leave without charge to leave accruals for an order of quarantine issued by the "State of New York, department of health, local board of health, or any governmental entity duly authorized to issue such order." The law charged the Commissioner of the Department of Labor (DOL) to issue guidance regarding the standards, payment, and eligibility for leave under the law.
- On January 20, 2021, the DOL Commissioner issued such guidance. The DOL guidance states Staff Members are entitled to use NYS COVID Paid Sick Leave without charge to leave accruals up to 14 days and for up to three (3) instances of quarantine, with qualifications. The DOL guidance states:
"In no event shall a Staff Member qualify for sick leave under New York's COVID-19 sick leave law for more than three orders of quarantine or isolation. The second and third orders must be based on a positive COVID-19 test."
- As such, NYS COVID Paid Sick Leave applies as follows:
 - For the FIRST use of NYS COVID Paid Sick leave: an order of quarantine based upon the Staff Member's positive COVID-19 test **OR** If the quarantine order is a protective order due to COVID-19 exposure.
 - For the SECOND and THIRD use of NYS COVID Paid Sick Leave: **ONLY** If the Staff Member is COVID-19 positive and provides documentation from a medical provider or testing facility. There currently is no expiration date for the NYS COVID Paid Sick Leave Law. Each Staff Member is eligible for only up to 3 instances of paid leave under the law.
- EXPIRATION OF THE GOVERNOR'S EXECUTIVE ORDERS:** There are no longer mandatory quarantine requirements for travelers. The DOH's "Pre-K to Gr 12 COVID-19 Toolkit" from February 2021 (regarding mandatory quarantines) is also no longer in effect as it was based on the Governor's Executive Orders. Schools are left with only the application of the NYS COVID Paid Sick Leave law and collective bargaining agreement obligations.

Step 2: Application of NYS COVID Paid Sick Leave

Scenario	Guidance	Types of Days Used
<p>Staff member has one or more COVID symptoms and is presenting as sick</p> <p>IF THE STAFF MEMBER HAS AN ORDER OF QUARANTINE OR TESTS POSITIVE FOR COVID, SEE SCENARIOS AND GUIDANCE BELOW</p>	<ul style="list-style-type: none"> Staff member should not come to school or report to work while they are presenting with symptoms or illness and should consider consulting with their physician District may request staff member to seek a COVID test to confirm COVID infection status Consider and review any current CDC guidance for staff member's return to the workplace following any illness. 	<ul style="list-style-type: none"> Staff member uses contractual sick leave If no sick leave is available, other paid leave time may apply or unpaid leave may apply Consult your Collective Bargaining Agreement NYS COVID Paid Sick Leave is NOT available UNLESS the Staff Member provides evidence of a positive COVID test result SEE BELOW FOR POSITIVE COVID TESTS
<p>Staff member placed under mandatory quarantine due to local order, contact tracing, or school order due to exposure, etc.</p>	<ul style="list-style-type: none"> Staff member should not come to school or report to work Quarantine/isolation period based on DOH order or local order 	<ul style="list-style-type: none"> FIRST instance of quarantine, Staff Member is eligible for NYS COVID Paid Sick Leave (up to 14 days) AFTER first instance of quarantine leave usage, Staff Member is ineligible for NYS COVID Paid Sick Leave unless Staff Member is positive for COVID Staff Member might be able to use contractual sick leave depending on contract language and definition of "sick" If no sick leave is available, other paid leave may apply or unpaid leave may apply Check your contract for "quarantine" leave language Consult your Collective Bargaining Agreement

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Scenario	Guidance	Types of Days Used
Staff member tests positive for COVID and is placed in mandatory quarantine (by DOH, county or other authority)	<ul style="list-style-type: none"> Staff member should not come to school or report to work Quarantine/isolation period based on DOH order or local order and as long as the employee is positive and symptomatic 	<ul style="list-style-type: none"> Staff Member eligible for NYS COVID Paid Sick Leave provided the member has not used all 3 instances It does not matter when the member tests positive, NYS COVID Paid Sick Leave applies After use of third NYS COVID Paid Sick Leave, Staff Member uses contractual sick leave If no sick leave is available, other paid leave may apply or unpaid leave may apply Check your contract for "quarantine" leave language Consult your Collective Bargaining Agreement
Staff member has child or family member subject to quarantine, child is not positive or otherwise sick, but no quarantine order for the staff member	<ul style="list-style-type: none"> No mandatory isolation from work Staff member can be required to report to work Staff member may consult collective bargaining agreement for other leave options, such as unpaid leave 	<p>NYS COVID Paid Sick Leave does not apply</p> <ul style="list-style-type: none"> Sick leave is typically unavailable, BUT depends on contract language and definition of "sick leave" and District's practice If no sick leave is available, other paid leave may apply or unpaid leave may apply Check your contract for "quarantine" leave language Consult your Collective Bargaining Agreement
Staff member has child or family member who is positive for COVID and resides in staff member's household with staff member as a primary caregiver	<p>Depends on whether the staff member has a mandatory order of quarantine applied to the Staff Member (not child, spouse, or household member) - See above for orders of quarantine</p> <ul style="list-style-type: none"> Otherwise: No mandatory isolation from work Staff member can be required to report to work Staff member may consult collective bargaining agreement for other leave options, such as unpaid leave 	<p>NYS COVID Paid Sick Leave does not apply</p> <p>See above for an order of quarantine applied to Staff Members if Staff Member becomes subject to quarantine</p> <ul style="list-style-type: none"> Sick leave may be available for an illness in the family depending on contractual definition of "sick leave" and "family" Personal leave and vacation time may apply depending on circumstances Unpaid leave may be an option Check your contract for "quarantine" leave language - Consult your Collective Bargaining Agreement
Staff member has a child whose school or daycare is closed due to COVID and the staff member is the primary caregiver	<ul style="list-style-type: none"> No mandatory isolation from work Staff member can be required to report to work Staff member may consult collective bargaining agreement for other leave options, such as unpaid leave 	<ul style="list-style-type: none"> NYS COVID Paid Sick Leave does not apply Typically, there are no contract provisions for paid time off due to lack of childcare Sick leave likely does not apply, but personal leave and vacation time may apply depending on circumstances Unpaid leave may be an option - Consult your Collective Bargaining Agreement

NOTE: The above is intended to be a guide and general guidance. There may be specific and unique circumstances for each District that need to be evaluated and discussed on an individual basis beyond the general guidance provided above. Complicating factors include but are not limited to:

- Questions about permitting employees to work from home or remotely;
- providing employees with leeway to use some type of leaves under a contract based upon a local adjustment or MOU; and
- history of leave usage based on local past practice or precedent.

When making employment decisions based on the above chart or in considering specific circumstances, we strongly encourage you to consult with your labor relations specialist or school attorney for specific guidance before taking action.