



PHILLIPS LYTLE LLP CLIENT ALERT

LABOR & EMPLOYMENT

FEBRUARY 2021



New York State Issues Supplemental COVID-19 Sick Leave Law Guidance

On January 21, 2021, the New York State Department of Labor (DOL) issued supplemental guidance on employer obligations under the State's COVID-19 Sick Leave Law, which clarifies several points of confusion surrounding the law. While the DOL's previous guidance remains in effect, the new guidance sets forth the following protocols for administering leave under the law:

1. Employees need not be tested before returning to work after a period of mandatory quarantine or isolation (except for nursing home staff), and an employee should not be tested to discontinue isolation or quarantine.
2. An employee who tests positive after previously completing a period of mandatory quarantine or isolation must not report to work. The employee shall be deemed subject to a mandatory order of isolation and entitled to leave under the COVID-19 Sick Leave Law, even if the employee has already received leave under the law for the first period of quarantine or isolation.
3. An employee who continues to test positive after completing a period of quarantine or isolation must not report to work. The employee shall be deemed subject to a second mandatory order of isolation and entitled to leave under the COVID-19 Sick Leave Law for such second period of isolation.
4. An employer that requires an employee who is not otherwise subject to a mandatory or precautionary order of quarantine or isolation to remain out of work because of exposure or potential exposure to

COVID-19 must continue to pay the employee until the employer permits the employee to return to work, or the employee becomes subject to a mandatory or precautionary order of quarantine or isolation. If the employee subsequently becomes subject to such an order, the employee is then entitled to receive sick leave under the COVID-19 Sick Leave Law for the period of time the employee is subject to such order.

5. Employees may only qualify for leave under the COVID-19 Sick Leave Law a total of three (3) times. The second and third leaves must be based on a positive COVID-19 test, rather than merely having close contact with someone who has COVID-19, and must be supported with documentation of a positive test result from a licensed medical provider or testing facility, unless the employer conducted the test.

The DOL's supplemental guidance does not affect whether an employer is required to provide paid or unpaid leave under the law based on the employer's size. It also does not change the amount of paid leave, if any, that must be provided during a period of leave covered by the law. The DOL's full supplemental guidance can be viewed [here](#).

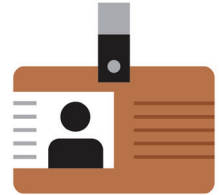
Employers should take steps to inform human resources employees and other appropriate personnel of the COVID-19 Sick Leave Law's protections, as well as the DOL's supplemental guidance, to ensure compliance with the law.



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Additional Assistance

For questions regarding the DOL's supplemental guidance, please contact any of the attorneys on our [Labor & Employment Practice Team](#) or the [Phillips Lytle attorney](#) with whom you have a relationship. ■



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