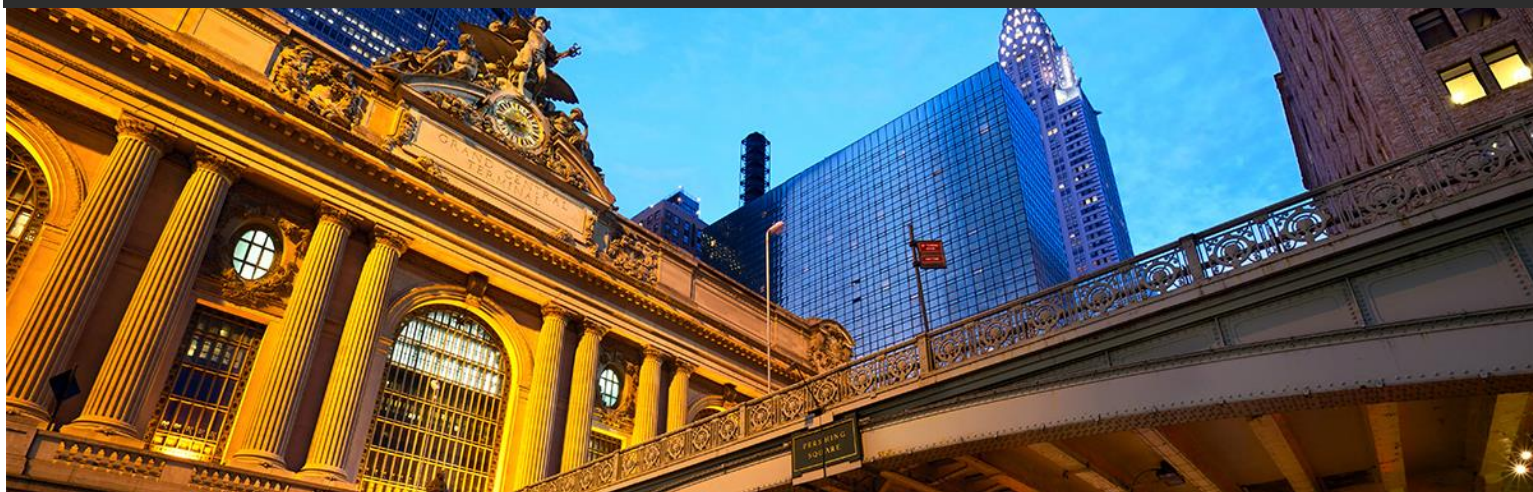


Alert | Health Emergency Preparedness Task Force: Business Continuity Amid COVID-19



February 2022

New York Employers: Continue Implementing Your Airborne Infectious Disease Exposure Prevention Plans and Review Your Masking Policies

Although New York's statewide indoor mask mandate **ended** Feb. 10, 2022, New York employers must continue to implement airborne infectious disease exposure prevention plans, pursuant to the New York Health and Essential Rights (NY HERO) Act, through at least March 17, 2022. The law, however, no longer requires many New York employers to mandate their employees wear masks in the workplace.

Extension of Employer Obligations Under NY HERO Act

On Feb. 15, 2022, the New York State Commissioner of Health extended the designation of COVID-19 as a highly contagious communicable disease that presents a serious risk of harm to public health. This is the fifth time the Commissioner has extended the designation since the Commissioner first designated the disease on Sept. 6, 2021.

Given this development, New York employers must continue implementing their NY HERO Act plans. Thus, they should continue to screen on-site employees daily for COVID-19 symptoms, require physical distancing at the workplace (to the extent feasible), encourage employees to maintain proper hand hygiene and respiratory etiquette, and undertake appropriate cleaning and disinfection, among other exposure controls.

For further information about employer responsibilities under the NY HERO Act, please refer to our [July 2021 GT Alert](#) and [September 2021 GT Alert](#) and the New York State Department of Labor's (NYSDOL) updated [FAQs](#).

Termination of New York State Mask Mandate for Most Employees

On Feb. 10, 2022, the NYSDOL updated its [Model Airborne Infectious Disease Exposure Prevention Plan](#) and [industry-specific templates](#) to state that face coverings are not required if indoor areas do not have a mask or vaccine requirement as a condition of entry. Notwithstanding, New York's masking requirements remain in effect for schools (pre-K to grade 12), public transit, homeless shelters, domestic violence shelters, correctional facilities, nursing homes, health care, childcare, group homes, and other sensitive settings in accordance with CDC guidelines.

Despite this development:

- New York employers covered by the federal Occupational Safety and Health Act and subject to its General Duty Clause should conduct an appropriate assessment of their workplace before rescinding any mask requirements;
- New York employers still should require employees to wear masks in accordance with the New York State Department of Health's (NYSDOH) [isolation and quarantine guidance](#) when applicable; and
- New York employers should be mindful of any mask requirements imposed by local laws, including any masking necessary to comply with obligations arising from New York City's vaccination requirement for workplaces (such as for employees granted an exemption from the vaccination mandate as an accommodation for their disability or sincerely held religious beliefs).

Even where the law does not require masks, New York state strongly recommends the use of masks in all public indoor settings. Moreover, current [CDC guidance](#) provides that persons who are not "up to date" with their COVID-19 vaccines or who are in an area of "substantial or high transmission" should wear a mask indoors in public. Accordingly, New York employers still may choose to require employees to continue wearing masks at work.

Next Steps

In addition to complying with the NY HERO Act's requirements and reviewing their masking policies, New York employers should consider updating their airborne infectious disease exposure prevention plan based on any changes to guidance issued by the NYSDOH and the CDC. When updating such plans, New York employers should follow the appropriate version of the NYSDOL's newly revised model plan.

For further information about this alert and updates on the developing situation, contact any member of [GT's New York Labor & Employment team](#) or visit [GT's Health Emergency Preparedness Task Force: Coronavirus Disease \(COVID-19\)](#) and [Business Continuity Amid COVID-19](#) pages.

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