

NYSCOPBA COVID-19 – Frequently Asked Questions

Do I have to use my own accruals to cover a COVID-19 quarantine?

It depends on how you were quarantined.

The New York paid sick leave law passed earlier this year provides for “at least fourteen days of paid sick leave during any mandatory or precautionary order of quarantine or isolation.” This covers mandatory or precautionary orders of quarantine or isolation issued by the State, the state Department of Health, a local board of health, or another government entity duly authorized to issue such order, such as an employing agency like OMH, OPWDD, etc. This does not include an employee deciding to quarantine voluntarily or an instruction to quarantine from an employee’s personal physician. If any employee believes they have reason to quarantine or has been instructed by their health care provider to quarantine, they should reach out to their local health department. Although some facilities have provided paid sick leave based on a doctor-ordered quarantine, this policy does not seem to be agency-wide. If possible, the employee should secure a quarantine order from their local health department.

What if I’m quarantined for the first time by the State, a state or local health department, or my employing agency but my employer says I have to use my own accruals?

If you are subject to a qualifying quarantine under the paid sick leave law, you are entitled to paid sick leave without using your own accruals. If you are denied paid sick leave, you should speak to a local NYSCOPBA representative and file a contract grievance. Your regional Vice President or Business Agent can provide you with a template for the grievance. Your grievance must be filed within 20 days after you learn that your own accruals will be charged. If you have a DOH quarantine order, attach it to your grievance.

What if I’m being quarantined for a second (or third, or fourth . . .) time by the State, a state or local health department, or my employing agency but my employer says I have to use my own accruals?

Our interpretation of the paid sick leave law is that every qualifying quarantine entitles you to paid sick leave without using your own accruals; certain state agencies have disagreed and told us that an employee is only entitled to one period of quarantine. Speak to a local NYSCOPBA representative and file a contract grievance. Your regional Vice President or Business Agent can provide you with a template for the grievance. Your grievance must be filed within 20 days after you learn that your own accruals will be charged. If you have a DOH quarantine order, attach it to your grievance.

What if I’m being quarantined by the State, a state or local health department, or my employing agency for more than 14 days and my employer says I have to use my own accruals?

The paid sick leave law says that for an appropriate quarantine, an employee is eligible for “at least” 14 days of paid sick leave. If you are subject to a quarantine order longer than 14 days (that would otherwise qualify for paid sick leave) and told that you need to use your own accruals to cover all or part of the quarantine period, speak to a local NYSCOPBA representative and file a contract grievance. Your grievance

must be filed within 20 days after you learn that your own accruals will be charged. If you have a DOH quarantine order, attach it to your grievance.

What if I am forced to use my own vacation accruals (rather than sick accruals) for a state-directed quarantine?

For any state-directed quarantine, you are entitled to paid leave, and if denied, you should file a grievance as set forth above. But, if you are forced to use your own vacation accruals for your quarantine, write a memo to your personnel office requesting to use alternate, sick leave accruals. If you are denied the use of sick leave, include this in your grievance along with a copy of your memo and the response you received.

What if my doctor told me to quarantine, not a state agency, and my employer says I have to use my own accruals?

Call your local health department, explain your circumstances, and try to get documentation. If you are successful, submit it to your work location. If you cannot get it, or cannot get it right away, provide a memo to your work location administration explaining the reason for your doctor's quarantine and stating that you are attempting to get documentation from your local health department. Attach your doctor's note to the memo. Speak to a local NYSCOPBA representative and file a contract grievance. Your grievance must be filed within 20 days after you learn that your own accruals will be charged. If you subsequently received documentation from your local health department, submit it to your work location.

What if I traveled for personal reasons outside of New York?

The State's position is as follows: if you travel for personal reasons to another state (other than a contiguous state – CT, MA, NJ, PA, VT) for more than 24 hours and are required to quarantine upon your return, you will not be eligible for paid sick leave. Although the paid sick leave law is silent on interstate travel, it makes clear that personal travel to a country for which the CDC has issued travel restrictions does not qualify for paid sick leave. (See p. 3 for more travel-related questions.)

What if I am sent home after failing the temperature screening at the entrance to my work location?

Call your personal physician for information on how to proceed. If your doctor advises you to quarantine or isolate, contact your local health department and try to get documentation for the quarantine or isolation.

If you are feeling healthy and have not been instructed to quarantine or isolate by your doctor or local health department, call your watch commander and inform them of your intent to return to work. If you are told not to report, ask whether your absence will be charged against your accruals or under a "no charge" leave code. If you are told that your absence is being charged against your accruals, contact your local NYSCOPBA steward to file a grievance requesting that your accruals be restored while your employer is ordering you to stay home. Your grievance must be filed within 20 days after you learn that your own accruals will be charged. If you have any documentation regarding your quarantine, attach it to your grievance.

If you are not feeling well and/or you have been instructed to quarantine or isolate by your doctor or local health department, call your watch commander and explain the circumstances. If you are ordered by your work location to stay home or have a quarantine/isolation order from your local health department

and your own accruals are charged, speak to a local NYSCOPBA representative and file a grievance. Your grievance must be filed within 20 days after you learn that your own accruals will be charged. If you have any documentation regarding your quarantine, attach it to your grievance.

How many days can the State direct me to quarantine for?

It depends. The necessity and length of your quarantine is determined by your State or local health department, and is dependent on many factors, but normally, a quarantine for an individual exposed to COVID-19 is 14 days. The DOH has issued guidance to local health departments permitting a quarantine of 10 days after exposure if there are no symptoms reported during the quarantine period, and the individual continues daily symptom monitoring through Day 14, continues strict adherence to prevention measures (use of face coverings, hand washing and physical distancing,) and if symptoms develop, immediate self-isolation and testing.

What will happen if I travel outside of New York for personal reasons?

Will I be forced to quarantine when I return to New York?

Possibly. If you traveled to another state (other than a contiguous state – CT, MA, NJ, PA, VT) for more than 24 hours, contact your supervisor after your return to New York and before your next scheduled shift and advise that you are returning from personal travel. Some agencies are returning essential employees to work from personal travel to a restricted state on a workplace by workplace basis, depending on whether, at the time the employee is seeking to return to work, the work location has a critical staffing need. Facilities without critical staffing needs are permitted to direct asymptomatic employees to quarantine for up to 14 days.

Do I have to use my own accruals if I travel outside of New York for personal reasons?

Yes. The State's position is as follows: if you travel for personal reasons to another state (other than a contiguous state – CT, MA, NJ, PA, VT) for more than 24 hours and are required to quarantine upon your return, you will not be eligible for paid sick leave. Although the paid sick leave law is silent on interstate travel, it makes clear that personal travel to a country for which the CDC has issued travel restrictions does not qualify for paid sick leave.

I've heard that I can "test out" of quarantine if I've traveled outside of New York State. Can I return to work early if I meet all the requirements for testing out? (This question is also addressed on p. 5 under 'I'm trying to return to work early from quarantine'.)

Probably. Some state agencies have made clear that employees "may" return to work if they "test out" of quarantine under the following circumstances:

For travel to a non-contiguous state, or, CDC Level 2 or Level 3 Travel Health Notice Country for more than 24 hours:

- Employees must obtain a COVID-19 test within 3 days prior to arrival in New York.
- The employee must, upon arrival in New York, quarantine for minimum of 3 days.
- On day 4 of their quarantine, the employee must obtain another COVID-19 test. If both test results are negative, the employee may exit quarantine early upon receipt of the second negative diagnostic test and may return to duty. The employee is required to confirm the negative test results with personnel at their work location, before the employee is permitted to return to duty. A copy of the test results must be provided to personnel upon receipt.
- Employees who fail to be tested as outlined above will be required to quarantine and remain out of work the mandatory 14-calendar days.

For travel out of New York State for *less than* 24 hours:

- The employee does not need a test prior to their arrival in New York, the employee does not need to quarantine upon arrival and may immediately return to duty.
- However, all travelers are required to fill out the *NYS Traveler Health Form* upon entry into New York State, and must take a COVID diagnostic test 4 days after their arrival in New York. For all employees who fall into this category, the results of the test must be provided to the designated MIO, followed by a copy of the results upon receipt.

Your employer might not be *required* to return you early even if you follow these protocols. If you follow these protocols and are told you must remain out for the entirety of your quarantine, speak with your local NYSCOPBA representative. Voluntary out-of-state travel (to a non-contiguous state) disqualifies an employee for paid sick leave; if you voluntarily travel to a non-contiguous state you will be required to use your own accruals for any necessary period of quarantine.

Is COVID-19 covered by Workers' Compensation?

I was contacted by my workplace and advised that I have been exposed to someone who tested positive for COVID-19. What should I do?

Write down the date, time and person from your workplace who you spoke to and follow their direction. Ask for documentation indicating that your employing agency is ordering you to quarantine and the reason why. Follow up with your local department of health for further instructions. Please see NYSCOPBA's website for guidance on ["What to do if Exposed"](#).

If your employing agency directs you to quarantine as a result of the exposure, we believe this constitutes a state-directed quarantine for which you are entitled to paid leave. (See p. 1, 'Do I have to use my own accruals to cover a COVID-19 quarantine?')

I believe that I contracted COVID-19 while on duty. Is this a Workers' Compensation issue? What should I do?

It may be. If you believe that you contracted COVID-19 while on duty, and you are experiencing symptoms, you may preserve your right to pursue workers' compensation benefits to which you may be entitled. Please see NYSCOPBA's website for guidance on ["What to do if Infected at Work"](#).

If possible, prior to departing your workplace, request, complete, and submit an Employee Accident/Injury/ Illness Report. Complete the “Workers’ Compensation Benefit Election Form” for NYSCOPBA. If you have questions about the form, contact your NYSCOPBA Regional VP, BA or local rep. Make copies of both the employee accident/injury/illness report and the Benefit Election Form and keep them for your records. Submit the original employee accident/injury/illness report and Benefit Election Form to your personnel office. Request date-stamped copies, if they will provide them. If not, note the date, time, and name of the staff member to whom you submitted the forms. Call NYS Accident Reporting System 1-888-800-0029 within twenty-four (24) hours and report illness. Upon returning home, immediately contact your primary care physician and local health department to report your symptoms (if any) and follow their guidance. Complete and submit C-3 “Employee Claim” form on the [NYS Workers’ Compensation Board website](#). Save a copy of C-3 form for your records.

What if my work location won’t sign and/or accept the employee accident/injury/illness report?

Submit a copy of the unsigned accident/injury report (with a memo about the date, time and individual who refused to sign it) and/or send a copy of your C-3 by mail to the HR/personnel office at your workplace (within 30 days of illness/injury). Keep a copy and proof of mailing. Speak to a local NYSCOPBA representative and file a contract grievance alleging violations of Articles 14 and 27. Include a description of the workplace’s refusal to accept the employee accident/injury/illness report and Benefit Election Form. Please note, you have twenty (20) calendar days (not workdays) from the date your workplace does not accept your form(s) to file a grievance.

What about other benefits?

I’ve heard about additional benefits under the Families First Coronavirus Response Act (FFCRA), including Federal Emergency Paid Sick Leave and Emergency Family and Medical Leave. Can I receive those benefits?

Unfortunately, no. Although these programs do provide additional benefits for many individuals, the FFCRA does not apply to correction officers and other law enforcement personnel. The federal legislation that provides for these benefits gives the Secretary of Labor the authority to exclude certain health care providers and emergency responders from the definition of an eligible employee. The Federal Register clarifies that an “emergency responder” includes “anyone necessary for the provision of transport, care, healthcare, comfort and nutrition of such patients, or others needed for the response to COVID-19”, to include “law enforcement officers” and “correctional institution personnel”. Many state agencies have taken the position that its employees are exempt from the foregoing paid leave provisions.

I’m trying to return to work early from a quarantine.

I was isolated or quarantined either because I tested positive myself or because I was exposed to someone who was positive. I’ve heard that there are certain circumstances in which I can return to work early. I meet those circumstances, but my employer isn’t letting me return early. Do they have to?

New York State has put out guidance, based on CDC guidance, which allows for “essential” personnel who were infected or exposed to return early from a quarantine or isolation under certain circumstances, including absence of a fever for at least 72 hours without the use of fever-reducing medication.

Even if you meet the criteria for early return, your employer is not required to return you early. These criteria may be used to return employees early “if needed to maintain essential operations.” If your work location is not experiencing a staffing shortage or other conditions that would make it necessary to return you early in order to maintain essential operations, they are not required to do so. They may require you to remain out of work for the entirety of your quarantine.

The criteria for early return are as follows:

Essential personnel *who have been exposed to a confirmed or suspected case of COVID-19* can be permitted to work in the required workplace setting if all of the following conditions are met:

1. Working from home would not be feasible for job duties;
2. Personnel are asymptomatic;
3. Personnel quarantine themselves when not at work;
4. Personnel undergo temperature monitoring and symptom checks upon arrival to work and at least every 12 hours while at work, and self-monitor (i.e. take temperature, assess for symptoms) twice a day when at home;
5. Personnel required to interact with individuals within 6 feet should wear a facemask¹ while working for 14 days following the last exposure;
6. Personnel whose job duties permit a separation of greater than 6 feet should have environmental controls in place to ensure adequate separation is maintained, and do not need to wear a facemask;
7. If personnel develop symptoms consistent with COVID-19 (e.g., fever, cough, or shortness of breath) while working, they should immediately stop work and isolate at home; and
8. Testing should be prioritized for essential personnel with symptoms.

Essential personnel *with confirmed or suspected COVID-19* may be permitted to work in the required workplace setting if all of the following conditions are met:

1. Working from home would adversely impact essential services or functions, including critical public health and public works infrastructure in New York or the response to the COVID-19 public health emergency;
2. Personnel have maintained isolation for at least 7 days after illness onset (i.e. symptoms first appeared) and have not had a fever for at least 72 hours, without the use of fever-reducing medications, and with other symptoms improving;
3. Personnel who are recovering from COVID-19, and return to work, must wear a or 14 days following onset of illness.

I've heard that I can “test out” of quarantine if I've traveled outside of New York State. Can I return to work early if I meet all the requirements for testing out? (This question is also addressed on p. 3 under ‘What will happen if I travel outside of New York for personal reasons?’)

Probably. Many state agencies have made clear that employees “may” return to work if they “test out” of quarantine under the following circumstances:

For travel to a non-contiguous state, or, CDC Level 2 or Level 3 Travel Health Notice Country for more than 24 hours:

- Employees must obtain a COVID-19 test within 3 days prior to arrival in New York.
- The employee must, upon arrival in New York, quarantine for minimum of 3 days.
- On day 4 of their quarantine, the employee must obtain another COVID-19 test. If both test results are negative, the employee may exit quarantine early upon receipt of the second negative diagnostic test and may return to duty. The employee is required to confirm the negative test results with the personnel office for their work location, before the employee is permitted to return to duty. A copy of the test results must be provided to personnel upon receipt.
- Employees who fail to be tested as outlined above will be required to quarantine and remain out of work the mandatory 14-calendar days.

For travel out of New York State for *less than* 24 hours:

- The employee does not need a test prior to their arrival in New York, the employee does not need to quarantine upon arrival and may immediately return to duty.
- However, all travelers are required to fill out the *NYS Traveler Health Form* upon entry into New York State, and must take a COVID diagnostic test 4 days after their arrival in New York. For all employees who fall into this category, the results of the test must be provided to the designated MIO, followed by a copy of the results upon receipt.

Your employer might not be *required* to return you early even if you follow these protocols. If you follow these protocols and are told you must remain out for the entirety of your quarantine, speak with your local NYSCOPBA representative. Voluntary out-of-state travel (to a non-contiguous state) disqualifies an employee for paid sick leave; if you voluntarily travel to a non-contiguous state you will be required to use your own accruals for any necessary period of quarantine.

1/6/21