

# New York HERO Act Exposure Prevention Standard and Model Policies Released

*Initial Compliance Required by August 5, 2021*

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As we recently reported in prior alerts (see [here](#) and [here](#)), Gov. Andrew Cuomo signed the HERO Act (the Act) on May 5, 2021, requiring all New York employers to implement a written infectious disease exposure prevention plan in accordance with standards to be issued by the New York Department of Labor (NYDOL). On July 6, 2021, the NYDOL published its **Airborne Infectious Disease Prevention Standard** (the Standard) and **Model Airborne Infectious Disease Exposure Prevention Plan** (Model Plan). The Model Plan generally applies to office-based businesses. In addition, the NYDOL **published industry-specific templates** (the Templates) for agriculture, construction, food services, manufacturing and industry, personal services, retail, and other businesses.

Employers must now adopt the Model Plan, an industry-specific template, or their own written safety plan that meets or exceeds the Standard by August 5, 2021. The Model Plan and Templates are fillable forms through which companies can provide specific information to employees regarding exposure controls and training that will be implemented *if and when*, in the future, a “highly contagious communicable disease is designated by the Commissioner of Health as presenting a serious risk of harm to the public.” Given that New York has ended its COVID-19 state disaster emergency and recently lifted most COVID-19 restrictions, no such designation is currently in effect. Therefore, while employers must adopt plans as required by the Act, they are not required to implement the specific elements of the plan at this time.

After adopting a plan, employers must post their plan in the workplace and distribute it to their employees by September 4, 2021. The plan must be made available to employees in the language identified as their primary language—unless the employee identifies a language for which a model document is not available from the state. If an employer has a handbook, the plan must be included in the handbook.

Effective November 1, 2021, the Act also requires private employers with at least 10 employees to allow employees to establish a joint employer-employee workplace safety committee authorized to raise workplace health and safety issues and to evaluate applicable policies. The HERO Act directs the Department of Health to adopt rules and regulations, which have not yet been issued, related to the implementation of workplace safety committees.

If you need assistance navigating your obligations under the HERO Act, please contact Lowenstein Sandler’s Employment Law Practice Group.

***To see our prior alerts and other material related to the pandemic, please visit the [Coronavirus/COVID-19: Facts, Insights & Resources](#) page of our website by clicking [here](#).***

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