

2023

BUSINESS IN 2022

WEEKLY WEBINAR SERIES

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Introduction and COVID Update



Adam P. Mastroleo

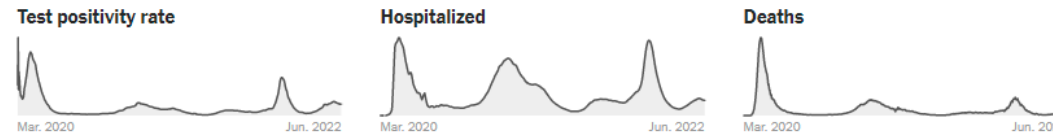
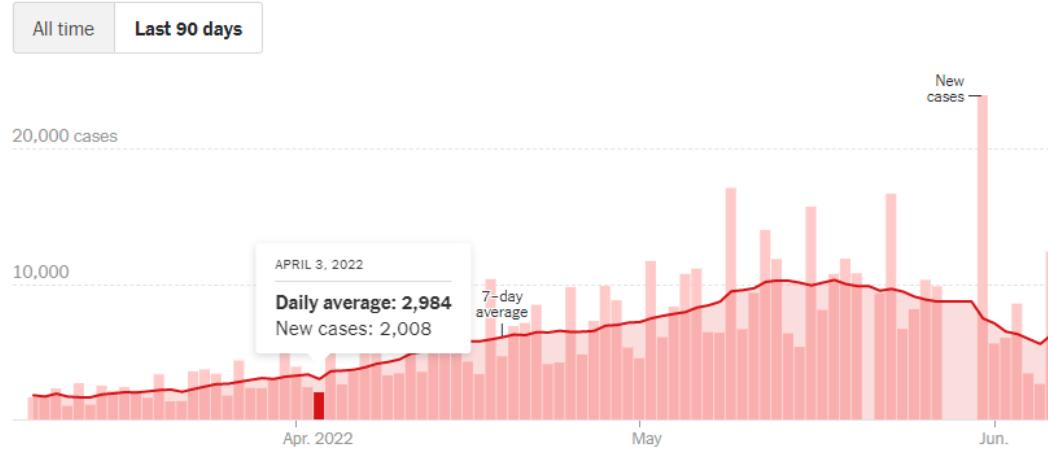
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Current COVID Data in New York

New reported cases



	DAILY AVG. ON JUN. 6	14-DAY CHANGE	TOTAL REPORTED
Cases	6,252	-35%	5,466,857
Test positivity	9.3%	—	—
Hospitalized	2,656	-11%	—
In I.C.U.s	258	-5%	—
Deaths	20	-14%	68,489

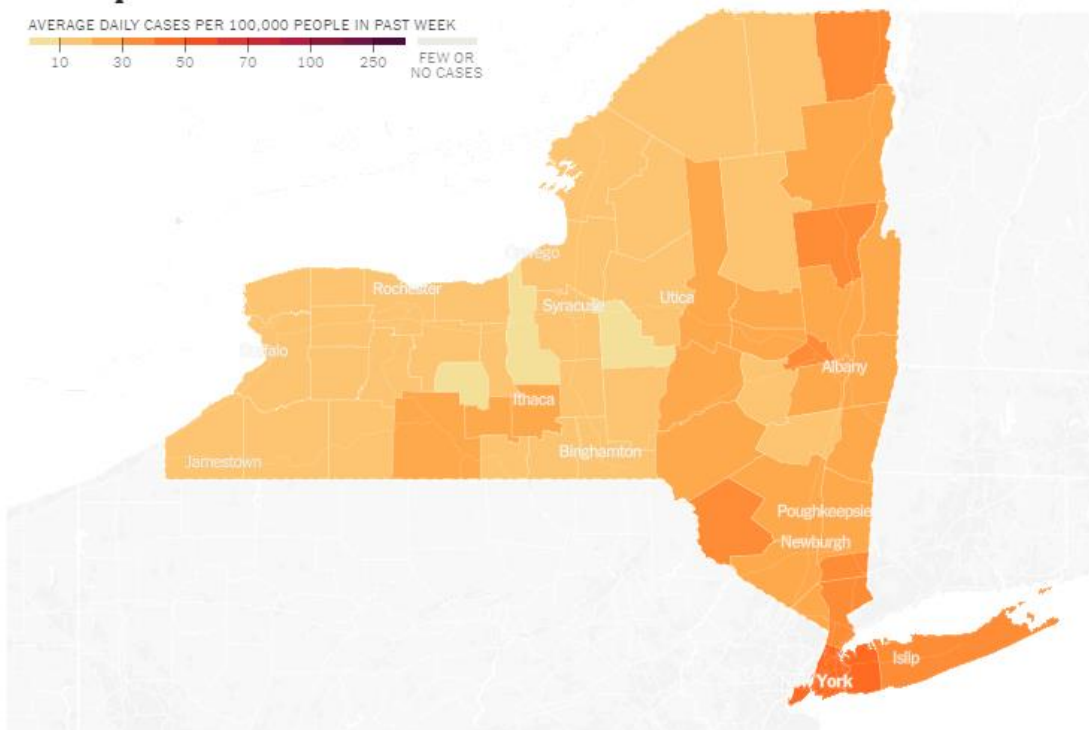
About this data

Current COVID Data in New York

Hot spots

AVERAGE DAILY CASES PER 100,000 PEOPLE IN PAST WEEK

10 30 50 70 100 250 FEW OR NO CASES



	CASES DAILY AVG.	PER 100,000	14-DAY CHANGE	TEST POSITIVITY	HOSPITALIZED AVG. PER 100,000	14-DAY CHANGE	DEATHS DAILY AVG.	PER 100,000	FULLY VACCINATED
New York	6,252	32	-35%	9%	14	-11%	19.7	0.10	77%
New York City >	3,402	41	-26%	8%	13	+1%	6.9	0.08	80%
Nassau >	554	41	-36%	13%	26	+4%	1.6	0.11	83%
Westchester >	338	35	-31%	11%	16	+13%	0.4	0.05	82%
Suffolk >	499	34	-39%	12%	19	+5%	2.0	0.14	77%
Sullivan >	25	34	-37%	12%	13	-25%	0.2	0.20	62%
Schenectady >	51	33	-46%	10%	8	-20%	0.3	0.18	74%
Clinton >	26	32	-30%	12%	38	+26%	0.1	0.18	73%
Warren >	20	31	-51%	9%	19	+9%	0	—	78%
Putnam >	30	30	-38%	12%	12	-4%	0	—	74%
Orange >	114	30	-35%	12%	12	Flat	0.6	0.16	66%

Changes to NY COVID Isolation and Quarantine Protocols



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DOH Quarantine and Isolation Guidance

- Updated guidance issued May 31, 2022
- Very few changes
- New quarantine and isolation exceptions for children in childcare and early childhood education settings
- All individuals age 5+ subject to the same quarantine and isolation periods

March 1, 2022 Guidance – Quarantine

People with Known Exposure to COVID-19 Who Do Not Have Symptoms¹
 “Quarantine”

	Under age 2 years or unable to wear a well-fitting mask	Age 2 – 4 years	Age 5 - 11 years		Age 12 years - Adult				All ages
			Up-to-Date Fully Vaccinated	Not yet Fully Vaccinated	Up-to-Date Fully Vaccinated and Boosted	Up-to-Date Fully Vaccinated, not yet eligible for booster	Fully Vaccinated, eligible for booster but not yet boosted	Not yet Fully Vaccinated	
Quarantine, Duration	Yes, 10 days (masks not recommended for children under age 2)	Yes, 5 days	No	Yes, 5 days	No	No	Yes, 5 days	Yes, 5 days	No
Attend/ work at school and eligible child care programs, (includes transportation)	N/A	Yes, if undergoing recommended testing.	Yes	Yes, if undergoing recommended testing.	Yes	Yes	Yes, if undergoing recommended testing.	Yes, if undergoing recommended testing.	Yes
Testing	Test on whichever comes first: at least 5 days after last exposure (testing recommended but optional if unable to test) or if Symptoms develop If positive, isolate for at least 5 days from symptom onset or (if no symptoms) date test was collected								No test needed. Test if Symptoms develop.

May 31, 2022 Guidance – Quarantine

People with Known Exposure to COVID-19 Who Do Not Have Symptoms¹

“Quarantine”

	Under Age 2 years or unable to wear a well-fitting mask	Age 2 – 4 years	Age 5 years - Adult				All Ages
			Up-to-Date Fully Vaccinated and Boosted with recommended booster(s)	Up-to-Date Fully Vaccinated, not yet eligible for 1 st booster or received 1 st booster and not yet eligible for 2 nd booster if recommended	Fully Vaccinated, eligible for 1 st or 2 nd recommended booster but not yet boosted	Not yet Fully Vaccinated	
Quarantine, Duration	Yes, 10 days (masks not recommended for children under age 2)	Yes, 5 days	No	No	Yes, 5 days	Yes, 5 days	No
Attend/work at school and eligible childcare programs, (includes transportation)	Yes, on days 6-10 if completely asymptomatic and negative test if feasible	Yes, if undergoing recommended testing, or (for childcare/early childhood education settings) on days 6-10 if completely asymptomatic and negative test if feasible. ²	Yes	Yes	Yes, if undergoing recommended testing.	Yes, if undergoing recommended testing.	Yes
Testing	Test on whichever comes first: at least 5 days after last exposure (testing recommended but optional if unable to test) or if Symptoms develop If positive, isolate for at least 5 days from symptom onset or (if no symptoms) date test was collected						No test needed. Test if Symptoms develop.

Quarantine Exception for Childcare / Early Childhood Education Settings

- Children (ages 0 – 4) and staff who are not up to date on vaccinations:
 - Children may return on day 6 if completely asymptomatic
 - Testing on day 5 recommended, but not required
 - Mask on days 6 – 10 for children 2+ years old
 - Staff (not up to date on vaccinations/boosters) may return to work on day 6
 - Testing on day 5 strongly urged
 - May return to work if negative
 - If results are positive, isolate for 5 days
 - If testing not available and no symptoms, may return to work
 - Mask on days 6 – 10

“Up to Date”

- DOH Guidance was also revised to reflect the CDC’s updated use of the phrase up to date
- CDC says: “You are **up to date** with your COVID-19 vaccines when you have received all doses in the primary series and all boosters recommended for you, when eligible.”
 - Dependent on age, which vaccine you first received, and the time since your last dose
 - <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/stay-up-to-date.html>

March 1 Guidance – Isolation

	Symptoms, Waiting for Test Result	No Symptoms, Positive Test	<u>Symptoms</u> , Positive Test	Hospitalized for COVID-19 or Immunocompromised
Duration of Isolation	<p>Until test result is received or 5 days, whichever is first.</p> <p>If test result is negative, isolation can end.</p> <p>If test result is positive, see "Symptoms, Positive Test" column.</p>	<p>5 days (day 0 is the day the test was collected; isolation ends <u>after</u> day 5).</p> <p>10 days if unable to wear a well-fitting mask</p> <p>If symptoms develop after testing positive, start 5-day count again with day 0 being the day symptoms started.</p>	<p>Minimum of 5 days (day 0 is the day symptoms start; isolation ends <u>after</u> day 5). <u>and</u> when fever-free for 24 hours without fever-reducing medication <u>and</u> symptoms have improved</p> <p>10 days if unable to wear a well-fitting mask</p>	<p>10 - 20 days, consult healthcare provider</p>
Antigen Test Timing at the End of Isolation	N/A	<p>Optional. If testing is done, it should be on at least day 5 of isolation.</p> <p>If positive, isolate through day 10. If negative, isolation can end but continue to wear a mask through day 10.</p>	<p>Optional. If testing is done, it should be on at least day 5 of isolation (when fever free for 24 hours and symptoms have improved).</p> <p>If positive, isolate through day 10. If negative, isolation can end but continue to wear a mask through day 10.</p>	<p>Consult healthcare provider</p>

May 31 Guidance – Isolation

	Symptoms, Waiting for Test Result	No Symptoms, Positive Test	<u>Symptoms</u> , Positive Test	Hospitalized for COVID-19 or Immunocompromised
Duration of Isolation	<p>Until test result is received or 5 days, whichever is first.</p> <p>If test result is negative, isolation can end.</p> <p>If test result is positive, see "Symptoms, Positive Test" column.</p>	<p>5 days (day 0 is the day the test was collected; isolation ends <u>after</u> day 5).</p> <p>10 days if unable to wear a well-fitting mask; <u>except children can attend childcare/early childhood education <u>after</u> day 5.</u></p> <p>If symptoms develop after testing positive, start 5-day count again with day 0 being the day symptoms started.</p>	<p>Minimum of 5 days (day 0 is the day symptoms start; isolation ends <u>after</u> day 5). <u>and</u> when fever-free for 24 hours without fever-reducing medication <u>and</u> symptoms have improved</p> <p>10 days if unable to wear a well-fitting mask; <u>except children can attend childcare/early childhood education <u>after</u> day 5 if they meet symptom criteria above.</u></p>	10 - 20 days, consult healthcare provider
Antigen Test Timing at the End of Isolation	N/A	<p>Optional. If testing is done, it should be on at least day 5 of isolation.</p> <p>If positive, isolate through day 10. If negative, isolation can end but continue to wear a mask through day 10.</p>	<p>Optional. If testing is done, it should be on at least day 5 of isolation (when fever free for 24 hours and symptoms have improved).</p> <p>If positive, isolate through day 10. If negative, isolation can end but continue to wear a mask through day 10.</p>	Consult healthcare provider

Isolation Exception for Childcare / Early Childhood Education Settings

- Children (ages 0 -4) and staff isolate as normal subject to these exceptions:
 - Children may return on day 6 if fever free for 24+ hours without aid of fever suppressing medication and if other symptoms improving
 - Testing on day 5 recommended, but not required
 - Isolation should continue through day 10 if test is positive
 - Mask on days 6 – 10 for children 2+ years old
 - Children under 2 years old may still attend childcare/school on day 6
 - Staff may return to work on day 6
 - Same rules as above

What to Expect from a DOL Audit



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Department of Labor Audits

- The federal Department of Labor (DOL) can audit employers (1) after a complaint is made, or (2) on its own initiative.
 - DOL will not disclose the complaint that was made.
- During investigations, DOL is primarily looking for compliance with the Fair Labor Standards Act and the Family and Medical Leave Act.

DOL On Site

- DOL will notify the employer of the date an investigator will come on site.
- Investigator will begin with an opening conference, and end with a closing conference.
- Investigator will speak with supervisory and non-supervisory employees
- Investigator may do a visual inspection of mandatory posters
- Employer has a right to have an attorney present for each aspect, except interviews with non-supervisory personnel.

The Importance of Recordkeeping

- An employer's time and payroll records are at the center of any DOL audit or wage and hour litigation
- FLSA does not specify the form in which records must be kept (e.g., paper, computer data), but an employer must be able to convert the data into a form that can be viewed and inspected within 72 hours
- Must maintain records for six (6) years!

Records Requested

- DOL may request records on:
 - Payroll for all employees for the past 3 years
 - Timesheets for all employees for the past 3 years
 - Names, addresses, and phone numbers for all employees at the target location
 - A list of all exempt employees at the location, their exemption, how the exemption was determined, and brief job description
 - Independent contractor arrangements
 - Child labor
 - FMLA and timekeeping policies

How Can You Prepare?

- Make sure your exempt employees are truly exempt.
- Ensure compliance with minimum wage and overtime pay laws.
- Stop off-the-clock work and keep accurate time records, including with regard to meal and rest periods.
- Conduct an internal audit?

Updated Guidance on FMLA Leave for Mental Health Conditions



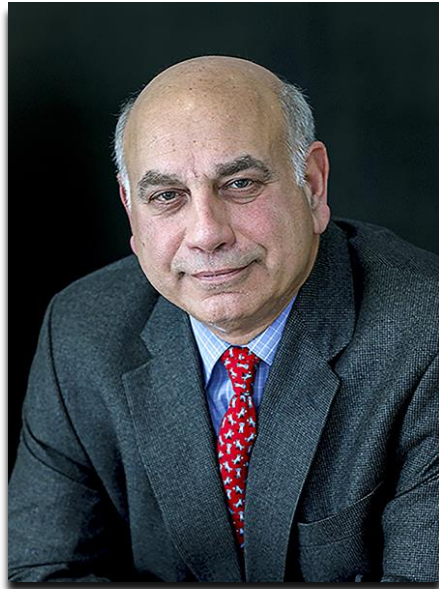
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COVID Update

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New York Employment Law: The Essential Guide

Bar Association Members can buy the book from the bar [here](#).

Non-Bar Association Members can purchase through Amazon [here](#).

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