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MEMORANDUM

To: All Judicial and Nonjudicial Personnel

From: Carolyn Grimaldi, Esq., Director of Human Resources 

Date: January 6, 2022

Subject: Guidance Regarding Revised COVID-19 Safety and Operational Protocols:
Isolation and Quarantine Requirements for Individuals that Test Positive for COVID-19 and Individuals Exposed to COVID-19

This Memorandum provides detailed guidance regarding the revised COVID-19 Safety and Operational Protocols for Isolation and Quarantine, as set forth in the December 29, 2021 Memorandum from Justin Barry and Nancy Barry.

In accordance with the most recent guidance from the Centers for Disease Control and Prevention (“CDC”) and the New York State Department of Health (“NYSDOH”) ¹ any judge or nonjudicial employee that tests positive for COVID-19 or that has been exposed to someone that tests positive for COVID-19 must isolate or quarantine as set forth below.

Judges and Nonjudicial Employees that Test Positive for COVID-19

Regardless of your vaccination status, if you test positive for COVID-19 you must isolate, i.e., stay home, for a minimum of five (5) days.

- If you are experiencing symptoms, day 0 is the first day that your symptoms began.
- If you are not experiencing symptoms, day 0 is the day that your COVID-19 test was administered, i.e., day the specimen was collected.

Provided you have no symptoms, or your symptoms are resolving over the 5-day period, you may discontinue isolation and return to work on the 6th day.² However, upon your return to work you must wear a well-fitting, disposable, non-woven mask at all times around others and in all areas of our courts or facilities for the next 5 days.³

¹ See: <https://www.cdc.gov/media/releases/2021/s1227-isolation-quarantine-guidance.html>;
https://coronavirus.health.ny.gov/system/files/documents/2022/01/nys_updated_isolation_quarantine_guidance_01042022.pdf

² This shortened isolation period does not apply to individuals that are moderately or severely immunocompromised. Individuals that are moderately or severely immunocompromised should seek the guidance of a health care provider to determine when it is safe to discontinue isolation and/or quarantine.

³ A well-fitting mask is one that fits snugly over your nose, mouth and chin with no air gaps around the edges, e.g., N95/KN95 respirator, mask w/nose wire or a mask-fitter or brace over a disposable mask. For purposes of these shortened isolation/quarantine periods, cloth masks are not acceptable except as part of double masking with a disposable mask, e.g., surgical mask, underneath. Judges and nonjudicial employees returning to work pursuant to these shortened isolation/quarantine periods will be provided with a UCS-issued KN95 mask at their request.

Symptoms are considered as “resolving” when you:

- have not had a fever for at least 72 hours without fever-reducing medication;
- do not have a runny nose; and
- do not have more than a minimal, non-productive cough (i.e., not disruptive to work, not coughing up phlegm and does not prevent you from wearing a well-fitting mask continuously).

Judges and Nonjudicial Employees Exposed to COVID-19

Whether you must quarantine after exposure to someone with COVID-19 depends on your vaccination status.⁴

If you are:

- fully vaccinated and received a booster dose at least two (2) weeks prior to the exposure; or
- fully vaccinated with the Pfizer or Moderna vaccine within the last six (6) months; or
- fully vaccinated with the Johnson and Johnson vaccine within the last two (2) months,

you are not required to quarantine. However, you must wear a well-fitting, disposable, non-woven mask at all times around others and in all areas of our courts or facilities for ten (10) days from the exposure and monitor for symptoms.⁵

If you are:

- unvaccinated; or
- fully vaccinated with the Pfizer or Moderna vaccine over six (6) months ago but not boosted; or
- fully vaccinated with the Johnson and Johnson vaccine over two (2) months ago but not boosted,

you must quarantine, i.e., remain home, for at least five (5) days.

Provided you do not develop any symptoms during this 5-day period, you may discontinue quarantine and return to work on the 6th day.⁶ However, you must wear a well-fitting, disposable, non-woven mask at all times around others and in all areas of our courts or facilities for five (5) days thereafter.⁷

Regardless of your vaccination status and whether you develop any symptoms, if you were exposed to someone with COVID-19 you should get tested five (5) days following the exposure to confirm that you are not infected.

⁴ Exposure or “close contact” continues to be defined as within 6 feet for a cumulative total of 15 minutes within a 24-hour period. “Fully vaccinated” continues to be defined as at least two (2) weeks after receiving the second dose of Pfizer or Moderna or a single dose of Johnson & Johnson.

⁵ *See* Note 3.

⁶ Day 0 for purpose of calculating the 5-day quarantine period is the date you were last in close contact with the positive person.

⁷ *See* Note 3.

Documentation Not Ordinarily Required⁸

Please note that the above guidance is a departure from what we've issued previously in that we are now imposing the above-referenced shortened isolation and quarantine periods before you may return to work and will no longer ordinarily require isolation or quarantine orders or documentation from a health care provider to clear you to return to work.

- Documentation from a public health official or health care provider directing that you quarantine following exposure to a positive person is not required in order to substantiate your absences from work during the 5-day period. However, you are required to notify your supervisor and/or local HR administrator if you have been in close contact with a positive person to ensure the proper safety precautions are followed and prevent others from potentially being exposed.
- Documentation from a public health official or health care provider directing that you isolate upon testing positive for COVID is not required in order to substantiate your absences from work during the 5-day period. However, a copy of the positive test result must be provided to your supervisor and/or local HR administrator to ensure the proper safety precautions are followed and prevent others from potentially being exposed.⁹
- Documentation from a public health official or health care provider clearing you to return to work upon completion of the applicable 5-day period is not required so long you meet the criteria for discontinuing isolation or quarantine, as set forth above, i.e., in the case of a positive test, you are asymptomatic or your symptoms are resolving and in the case of an exposure, you did not develop any symptoms during the quarantine period. Simple confirmation to your supervisor and/or local HR administrator that this is the case is sufficient for you to return to work.

However, if you do not meet the criteria to discontinue isolation or quarantine upon conclusion of the above-referenced 5-day periods, **you must seek the guidance of a health care provider to determine when it is safe for you to return to work.** Documentation confirming that you are not a risk to the health or safety of others will be required for you to be approved to return to work.

Moreover, if you are directed to isolate or quarantine by a public health official or health care provider in excess of the minimum periods set forth above, you must follow those directives. A copy of the isolation or quarantine order must be provided to your supervisor and/or local HR administrator. Depending on the contents of such isolation/quarantine order, additional documentation confirming that you are not a risk to the health or safety of others may be required for you to be approved to return to work.¹⁰

⁸ Nothing in this section nullifies or otherwise restricts the application of the Rules of the Chief Judge or collective bargaining agreements that pertain to the Court System's right to request documentation to substantiate absences due to illness/injury.

⁹ Where the positive test result was obtained *via* a home test, you are presumed positive and must not report to work. However, you will be required to confirm your diagnosis *via* an "acceptable test", as set forth in footnote 1 of the August 18, 2021 Memo from Justin Barry and Nancy Barry.

¹⁰ For example, where you have been directed to quarantine for 7 days and monitor for symptoms, confirmation to your supervisor and/or local HR administrator that you've not developed any symptoms during that 7-day quarantine period will be sufficient for you to return to work. On the other hand, if you are simply directed to quarantine for 7 days or to quarantine for 5 days followed by a test, you will need to provide documentation from a health care provider confirming that you do not pose a risk to the health or safety of others in order to return to work.

Absences During Minimum Isolation and Quarantine Periods¹¹

Nonjudicial employees that are subject to the above-referenced isolation or quarantine requirements shall be authorized to work remotely to the fullest extent practicable provided they are not actually ill, i.e., experiencing COVID-19 symptoms. Those employees that are experiencing COVID-19 symptoms or cannot perform their job duties remotely continue to be eligible to apply for Leave for Quarantine to cover their absences.

However, in order for employees to be authorized to work remotely or have absences covered by Leave for Quarantine **in excess of the minimum periods set forth above**, documentation from a public health official or health care provider will be required. For example, a nonjudicial employee that tested positive but does not believe symptoms are resolving within the requisite 5-day period must seek the guidance of a health care provider as to when it is safe for the employee to discontinue isolation and return to work. Similarly, an employee that was exposed to a positive person and develops symptoms during the 5-day period must seek the guidance of a health care provider as to when it is safe for that employee to discontinue quarantine. Absent documentation substantiating the need for the employee to remain out of work in excess of the minimum periods, absences in excess of the 5 days, as set forth above, shall be charged to the employee’s accruals and telecommuting will not be authorized.

Regardless of your vaccination status, you must not report to work if are experiencing any symptoms, particularly if you have been exposed to someone with COVID-19 within the last ten (10) days. If you are experiencing symptoms that may be attributable to COVID-19, it is recommended that you seek a diagnosis. In this circumstance only, proof of a negative test will be sufficient to clear you to return to work.

FAQs

- Are home tests permissible for weekly [surveillance] testing?

No. Home tests may only be used in the event of an exposure or where the employee is experiencing symptoms, however, in order for absences based on a positive COVID-19 test to be substantiated for purposes of paid Leave for Quarantine [or for authorization to telecommute, where the individual is asymptomatic], a positive home test must be followed up with a PCR or other approved test as set forth in footnote 1 of the September 1, 2021 Memorandum from Nancy Barry and Justin Barry.

- Am I entitled to excused leave [or CT credit] for purposes of being tested following an exposure a positive person?

No. The one (1) hour of excused leave for testing is only available to employees required to undergo weekly [surveillance] testing. There is no CT credit available for testing. However,

¹¹ The Leave for Quarantine form is currently being updated to conform to this guidance. However, in the meantime, the current form should still be used by checking “I have tested positive for COVID...” in the case of a positive test, and “I have been directed ... to isolate or quarantine...” in the case of an exposure to a positive person. In the case of an exposure, please indicate in the cover email or an attachment that the direction to quarantine is pursuant to this guidance, i.e., no quarantine order is required. Individuals that are authorized to telecommute during an asymptomatic isolation or quarantine period must have their timecards marked with the comment “REG PAY-CV19-OFF-SITE ASSIGNMENT”. Individuals approved for Leave for Quarantine will have their timecards updated [and any accruals restored as may be appropriate], centrally by the Division of HR.

excused leave and/or CT credit up to 3.5 hours per appointment continues to be available pursuant to the January 15, 2021 Vaccination Policy Memo to individuals becoming vaccinated or those being administered a booster dose.

- Do all judges and nonjudicial employees have to wear a “well fitting, non-cloth/woven” mask in our courts or facilities?

No. Only those judges and nonjudicial employees that are returning to work pursuant to the above shortened isolation and quarantine guidelines.

- If I return to work under the shortened isolation or quarantine guidelines, am I permitted to eat lunch at my desk?

Not if you will be around others. If you return to work under these shortened periods, you are required to wear a well-fitting mask at all times when around others. If you are unable to do so, you are not authorized to return to work absent documentation from a health care provider confirming that you no longer pose a risk to the health or safety of others.

- My child has been directed to quarantine following an exposure at his/her/their school or daycare, am I permitted to work remotely or apply for Leave for Quarantine to cover my absences?

No. At this time telecommuting is limited to accommodations pursuant to the ADA or employees that are subject to an isolation or quarantine order themselves but not symptomatic. Similarly, in order to be eligible for Leave for Quarantine, the employee themselves must: (1) be experiencing symptoms and seeking a diagnosis; or required to isolate following a positive test; or (3) required to quarantine following an exposure to a positive person.

Questions regarding this Memorandum should be directed to your local HR Administrator.

HR Administrators that have questions or require any guidance with regard implementing the provisions of this Memorandum in their District, Court or Office should contact the Labor Relations Office at 212-428-2585 or the Division of Human Resources at 212-428-2515.