

HERO Act Development of Airborne Infectious Disease Prevention Plan

Effective Date:	February 24, 2022
Supersedes:	n/a
Policy Review Date:	To be reviewed every 3 years from effective date
Issuing Authority:	Research Foundation President
Policy Owner:	Vice President for Human Resources
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Reason for Policy

The New York State (NYS) Health and Essential Rights Act (“HERO Act”) requires private employers to develop and maintain an Airborne Infectious Disease Prevention Plan (the “Plan”) designed to protect employees and independent contractors working at certain NYS Worksites against exposure and disease during an airborne infectious disease outbreak.

Statement of Policy

This Plan is to be implemented when an airborne infectious disease is designated by the New York State Commissioner of Health as a “highly contagious communicable disease that presents a serious risk of harm to the public health.” *Should such a designation be made, the Research Foundation must implement a Plan for each applicable Worksite as appropriate, communicate and distribute a copy to employees, maintain and enforce the plan and post a copy at each Worksite.*

Develop an Airborne Infections Disease Prevention Plan

Locations may adopt the New York Department of Labor Commissioner’s Model Airborne Infectious Disease Exposure Prevention Plan relevant to the specific industry or create their own Plan that meets or exceeds the minimum standards established by the labor commissioner. If an RF location chooses to establish its own Plan, it must consider and incorporate controls applicable to the Worksite as set forth in the NY Department of Labor’s General Standards, get employee feedback on the Plan, and customize to incorporate industry-specific hazards and Worksite considerations.

Each Worksite Plan must establish protocols to address the following minimum exposure controls:

- general awareness of how infectious disease spreads
- stay at home policy for employees exhibiting symptoms of the infectious disease;
- employee health screenings;
- face coverings;
- personal protective equipment (PPE) provided by the employer as required by industry;
- employee hand hygiene and sanitizing facilities

- respiratory etiquette
- cleaning and disinfecting of shared work equipment and surfaces (i.e. telephones, elevator buttons, and door handles, etc.);
- social distancing protocols;
- accommodations for individuals with added risk factors; and
- compliance with mandatory or precautionary isolation or quarantine orders.

The exposure control protocols should be selected based on the types and level of exposure risks employees have during all activities performed at the Worksite.

For activities where the minimum exposure controls alone will not provide sufficient protection for employees, additional controls from the following hierarchy may be necessary. Employers should determine if the following are necessary:

- elimination of risky activities;
- Engineering Controls (e.g., ventilation changes and the use of disinfection systems and partitions);
- Administrative Controls (e.g., limiting the use of shared workstations, increasing space between workers, or allowing fewer workers to maintain only essential operations).

Implementation of the Plan

The Plan must be implemented when an airborne infectious disease is designated by the New York State Commissioner of Health as a highly contagious communicable disease that presents a serious risk of harm to the public health. The Plan is subject to any additional or greater requirements arising from a declaration of a state of emergency due to an airborne infectious disease, as well as any applicable federal standards.

Each Worksite Plan must include one or more designated supervisory individuals who will be responsible for each of the following activities upon Plan implementation:

- review to ensure the Plan incorporates current information, guidance, and mandatory requirements issued by the New York State Department of Health. Keep on top of changing requirements and update the Plan as necessary;
- finalize and promptly activate the Plan;
- communicate the implementation of the Plan and protocols to employees, including employees' rights under the HERO Act, which should include a verbal review;
- provide each employee with a copy of the Plan in English or in the language identified as the primary language of such employees, if the NYSDOL makes a translation available;
- post a copy of the Plan in a visible and prominent location at the Worksite;
- provide training to employees on the Plan; and
- monitor controls and ensure the Plan is effectively followed.

Distribution and Posting of the Plan

Employees who work at Worksites with a Plan should receive a copy of the Plan under the following circumstances:

- Within 30 days after implementation;
- Upon hire;
- Within 15 days of reopening after business closure due to an airborne infectious period; and
- Upon request from an employee, independent contractor, employee representative, collective bargaining representative, the labor commissioner or the commissioner of public health.

A copy of the Plan must be posted at applicable Worksites.

Discrimination and Retaliation Prohibited

The RF, or any employee or representative of the RF, must not “discriminate, threaten, retaliate against, or take any adverse action” against employees for:

- (1) exercising their rights under the HERO Act or the RF’s Plan;
- (2) reporting violations of the HERO Act or the RF’s Plan to officials;
- (3) reporting or seeking assistance for an airborne exposure concern to an employer or official entity; or
- (4) refusing to work when the employee, acting in good faith, believes that dangerous exposure caused by working conditions inconsistent with laws or the required safety Plan exists, with certain exceptions.

Any violation of this provision should be immediately reported to supervisors, the Operations Manager or designee, or RF Campus HR.

Responsibilities

The following table outlines the responsibilities for compliance with this Policy:

Responsible Party	Responsibility
Operations Manager or Designee	Ensure RF operating location is in compliance with this policy. Designate appropriate staff to implement, communicate and train on safety Plan and protocols for applicable Worksites.
Vice President of Human Resources	Maintain corporate policy and communicate requirements. Ensure RF Central Office is in compliance with this policy. Designate appropriate staff to implement, communicate and train on safety Plan and protocols for applicable Worksites.
Designated Supervisory Individual(s)	Ensure the Plan incorporates current information, guidance, and mandatory requirements issued by the New York State Department of

Responsible Party	Responsibility
	Health, and review and update as necessary. Communicate the Plan to employees as required, provide training, monitor controls and ensure the Plan is effectively followed.
RF Employees at applicable Worksites	Comply with airborne prevention Plan protocols

Definitions

Administrative Controls - are policies and work rules used to prevent exposure. Examples include:

- Increasing the space between workers;
- Slowing production speed to accommodate fewer workers at a time;
- Disinfecting procedures for specific operations;
- Not shaking out soiled laundry;
- Employee training;
- Identify and prioritize job functions that are essential for continuous operations;
- Cross-train employees to ensure critical operations can continue during worker absence;
- Limit the use of shared workstations;
- Post signs reminding employees of respiratory etiquette, masks, handwashing;
- Rearrange traffic flow to allow for one-way walking paths;
- Provide clearly designated entrance and exits;
- Provide additional short breaks for handwashing and cleaning;
- Establishing pods or cohorts working on same shift.

Engineering Controls – contain and/or remove the infectious agent, prevent the agent from being spread, or isolate the worker from the infectious agent. Examples include:

- mechanical ventilation (e.g., local exhaust ventilation such as lab hoods, kitchen vents and vented biosafety cabinets);
- general ventilation (e.g., dedicated ventilation systems for cooking areas, manufacturing, welding, indoor painting, laboratories, and negative pressure isolation rooms; increasing the percentage of fresh air introduced into air handling systems, avoiding air recirculation, using higher-efficiency air filters, etc.);
- natural ventilation (e.g., opening outside windows and doors to create natural ventilation, etc.);
- installing automatic disinfection systems (e.g., ultraviolet light disinfection systems, etc.);
- Install cleanable barriers such as partitions and/or clear plastic sneeze/cough guards;
- Change layouts to avoid points or areas where employees may congregate.

Plan- Airborne Infectious Disease Prevention Plan. Required by the New York State (NYS) Health and Essential Rights Act (“HERO Act”) to protect employees and independent contractors working at certain NYS Worksites against exposure and disease during an airborne infectious disease outbreak.

Worksite - “any physical space, including a vehicle, that has been designated as the location where work is performed over which an employer has the ability to exercise control.” It does not include a telework site unless the employer “has the ability to exercise control of such site.”

Related Information

New York Department of Labor’s General Standards – the New York State Department of Labor developed an Airborne Infectious Disease Exposure Prevention Standard, which can be accessed here:

[NY Hero Act - NY Department of Labor Website](#)

New York Department of Labor Commissioner’s Model Airborne Infectious Disease Exposure Prevention Plan – the New York State Department of Labor developed a model exposure prevention Plan, which can be accessed here:

[Airborne Infectious Disease Exposure Prevention Standard](#)

Forms:

[Model Infectious Disease Exposure Prevention Plan](#)

Change History

Date	Summary of Change
February 24, 2022	New Policy

Feedback

Was this document clear and easy to follow? Please send your feedback to webfeedback@fsuny.org.