



NYSRA | Coronavirus (COVID-19) Member FAQ

This is a compilation of the most frequently asked questions we have gotten from members. Email us at info@nysra.org if you have a question not answered here.

Q: If I close, do I need to pay people their sick leave?

A: If by law or by policy you provide paid sick leave, that is strictly for days when staff call out sick and were scheduled to work. If your business is closed and no staff are working, you do not need to pay them out for sick leave.

Q: If I close, what should I tell my staff?

A: All businesses who are terminating staff, even on a temporary basis, must issue them a notice of termination. This includes full- and part-time staff, but not seasonal workers not currently working for you. You should inform them, in a letter, when their termination begins. If you offer health insurance, you need to explain what will happen with their coverage, and if this is a COBRA qualifying event, issue COBRA paperwork. Employees need this information so they can apply for unemployment benefits. Some businesses will also need to consider the WARN Act, and full information on who is covered is available at nysra.org.

Q: Is it possible for a business owner who is also the operator and is on the payroll to collect unemployment if hours and income are reduced to near zero?

A: From the NYSDOL - Simple answer is yes. They should absolutely apply. The big caveat is if they are still doing work, they have to report it for each day of work on their weekly certification. They would lose 25% for each day. One way to help address this is to combine all efforts into one day, instead of working each day.

Q: Can we convert salaried employees to hourly?

A: Yes, salaried employees can be converted to hourly employees, and will need to be issued a new wage notice. Hourly employees are entitled to overtime, so bear that in mind.

Q: If I have some existing employees become delivery drivers, what should I do?

A: Keep treating them as employees (i.e. not independent contractors). Make sure you are paying them the correct wage – as delivery workers, they are entitled to a different tipped minimum wage than food service workers. Make sure their tips are enough to satisfy the full minimum wage. Reimburse their costs for driving, such as gas. Check your insurance and theirs to make sure everyone is covered. Using a delivery app may be a simpler option.

Q: If I think my employee is sick at work, what should I do?

A: If an employee appears unwell, and you genuinely believe they are a threat to the health of your workplace, you can send them home. If you offer paid sick leave by law or policy, they can use it. As an



employer, you CAN ask your employees – better to ask the whole group – are you feeling well? Is anyone in your household sick? Have you visited a designated high-risk country? You should avoid singling people out or asking about *family* as opposed to *household* illness.

On March 17, 2020 the EEOC issued an alert that because the country is in the midst of a pandemic, employers may take a staff member's temperature. All employees should be treated consistently and ideally supervisors should not be involved, a nurse (if possible) or HR professional should conduct the examination.

Q: Are tips counted towards the calculation for unemployment benefits?

A: Wages include the monetary value of tips, bonuses, meals and lodging, as well as commissions and vacation pay.

Q: Can employees with Social Security numbers that have been used for their wages, but do not have a current work visa, collect unemployment?

A: Employees who file for benefits must have the legal ability to work while collecting benefits. All claimants have to be ready, willing and able to accept new employment. If the employee has lost that legal authority, such as a work visa, they cannot collect benefits.

Q: Our restaurant is an S corp. I own a majority of the stock and my partner owns a minority; can we collect unemployment benefits?

A: You should apply for benefits to determine if you and your partner are eligible. Generally, officers in corporations are not eligible for benefits unless the amount of ongoing work is limited to winding down a corporation.

Q: How long will it take to receive my first #UI check given the influx of applicants?

A: Per the NYSDOL: Once a claim is complete payments will be issued as soon as a week. Those who select direct deposit will likely receive their payment faster than those who select a check or debit card option.

Q: How does alcohol takeout/delivery work?

A: If you currently have permission for off-premise consumption: your privileges are unchanged for pickup orders. For delivery orders, you must sell alcohol together with food. If you currently have permission for on-premise consumption only: you may now also offer pickup and delivery orders for the same categories of alcohol that you are currently authorized to sell on-premise. The alcohol may be sold in a sealed original container of any size. The alcohol order must have an accompanying food purchase. For delivery orders, the vehicle transporting the alcohol must be licensed by the SLA – either a licensed third-party delivery service, or a vehicle owned/hired and operated by the licensee or their employee. The license or permit must be present in the vehicle. Delivery/takeout hours are limited to the on-premise operational hours for the county. Additional SLA guidance is available at nysra.org.



Q: Is there a time limit on my delivery and takeout operations? Am I impacted by the suggested curfew?

A: Currently, the 8 p.m. curfew mentioned by Governor Cuomo is a suggested curfew rather than an outright ban. You are currently able to offer delivery and takeout past 8p.m., and we will update you if anything changes.

Q: What do we know about rent relief?

A: We recommend speaking to your landlord to see what they can accommodate. There is also currently an indefinite moratorium on eviction proceedings for both residential and commercial tenants across New York State.

Q: Will there be a delay for property/sales/payroll tax payments?

A: We know these payments are top of mind for businesses, and we are pushing their delay as a top priority. We will keep you updated with any developments or announcements from State or City authorities.

Q: Will there be relief for credit card interest payments?

A: Right now, many credit card issuers are offering customer assistance for people impacted by Covid-19. Reach out to your card issuer directly to see what they can do for you.

Q: Are restaurants allowed to continue with private events with 50 people or less?

A: No, restaurants are now limited strictly to takeout and delivery.

Q: What food can hotels offer?

A: Room service is still allowed at hotels. We are still seeking clarification on how buffets or private lounges are impacted.

For more information and answers to additional questions, please refer to **Responding to Coronavirus Webinar Notes**, [here](#), and our **COVID-19 Information & Resources** page, [here](#).