



Labor & Employment Issues Client Alert

Pitta LLP
For Clients
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NEW YORK STATE DEPARTMENT OF LABOR SHARED WORK PROGRAM – A BENEFIT FOR EMPLOYERS AND EMPLOYEES

Even as employers and employees in the New York Metropolitan Area continue to function under stay at home orders, everyone is beginning to consider moving to the next phase in the coming months – some relaxation of those rules and a reopening of some part of regular business. The New York State Department of Labor Shared Work Program provides an option in this environment for employers and labor organizations representing employees to consider in this unstable economic environment. The Shared Work Program gives employers an alternative to laying off workers by allowing their employees to work a reduced work schedule and still collect partial unemployment insurance benefits for up to 26 weeks.

While many employers, in the face of reduced business and revenue, instinctively turn to layoffs or reduced work schedules, the downside to that approach is that the employer's skilled and trained employees who are laid off may choose to collect their unemployment benefits while they look for other full-time employment. Employees whose hours are reduced but who do not qualify for partial unemployment benefits may have to look for other work to supplement their pay and may forsake their connection to the job. Instead of cutting staff, employers can reduce the number of hours of all employees or just a certain group for 26 weeks while business comes back.

Under the well-established Shared Work Program, an employer can reduce the weekly work schedules of a unit of employees from 20% to up to 60%. The employees can receive shared work unemployment benefits proportionate to the amount of the reduction in their work. For example, if the employer reduces employees' work schedules in a particular department by 20% (effectively reducing the work week from five days to four days), the employee will be eligible for 20% of his or her regular unemployment benefit thereby offsetting the reduction in wages.

Employers must submit an application and if approved may start the program on the next Monday after approval. Employees and the employer will submit weekly certifications to the Department of Labor to maintain the program and for the employees to receive their partial benefits. The labor organizations representing the employees must approve the shared work program application submitted by the employer. Employers and labor organizations should consult <https://labor.ny.gov/ui/employerinfo/sharedworkfaq.shtm> for more information.

GOVERNOR TO MAKE DECISIONS FOR SCHOOLS BY THE END OF THE WEEK

Governor Andrew Cuomo stated that he is working with Connecticut Governor Ned Lamont and New Jersey Governor Phil Murphy to decide whether to extend school shutdowns to the end of the school year in late June.

New York's PAUSE Order and New Jersey's shelter-in-place order are set to expire on May 15, while Connecticut's shelter-in-place order expires on May 20. Governor Cuomo stated that all three Governors want to make the decision together on school shutdowns and that "we're going to have a decision by the end of the week."

Once schools reopen, school officials must prepare plans to minimize public health risks which may create logistical challenges to practice social distancing measures. The Governor also stated that his office will decide whether to mandate summer school to make up for lost classroom instruction time, which several school districts in the state have suggested. In regard to schools, Governor Cuomo said that it will be "a two-part decision."

STATE TO BUY EXCESS AGRICULTURAL PRODUCTS TO STOCK FOOD BANKS

Farmers that have had difficulty selling their agricultural products during the COVID-19 pandemic have received a reprieve from the state. The state will be purchasing excess food from farms upstate and distribute it to food banks across the state. Governor Cuomo calls the program *Nourish New York*.

During the COVID-19 pandemic, food banks have experienced a surge of participation from unemployed New Yorkers. Some estimates show a 100% increase in the use of food banks throughout New York. The state government will also partner with dairy producers such as Chobani, Dairy Farmers of America, Upstate Niagara, and Cabot Cheese to process excess milk into products such as yogurt, cheese, cream cheese and sour cream. Farmers have had to dump milk because COVID-19 has disrupted food chains. New York State Farm Bureau President David Fisher called Nourish New York a "win-win."

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