§ 27-c. Preparation of public employers for state disaster emergencies involving public health. 1. Definitions. For the purposes of this section:

a. "Personal protective equipment" shall mean all equipment worn to minimize exposure to hazards, including gloves, masks, face shields, foot and eye protection, protective hearing devices, respirators, hard hats, and disposable gowns and aprons.

b. "Public employer" or "employer" shall mean the state of New York, a county, city, town, village or any other political subdivision or civil division of the state, a public authority, commission or public benefit corporation, or any other public corporation, agency, instrumentality or unit of government which exercises governmental power under the laws of this state, provided, however, that this subdivision shall not include any employer as defined in section twenty-eight hundred one-a of the education law.

c. "Essential" shall refer to a designation made that a public employee is required to be physically present at a work site to perform his or her job. Such designation may be changed at any time in the sole discretion of the employer.

d. "Non-essential" shall refer to a designation made that a public employee is not required to be physically present at a work site to perform his or her job. Such designation may be changed at any time in the sole discretion of the employer.

e. "Communicable disease" shall mean an illness caused by an infectious agent or its toxins that occurs through the direct or indirect transmission of the infectious agent or its products from an infected individual.

f. "Retaliatory action" shall mean the discharge, suspension, demotion, or discrimination against any employee, or other adverse employment action taken against an employee in the terms and conditions of employment.

2. Each public employer in the state of New York shall prepare a plan for the continuation of operations in the event that the governor declares a state disaster emergency involving a communicable disease. Such plans shall follow the provisions for review and publication as prescribed in subdivision four of this section.

3. The operations plan required by this section shall include, but not be limited to:

a. A list and description of the types of positions considered essential in the event of a state-ordered reduction of in-person workforce.

b. A description of protocols the employer will follow for non-essential employees to telecommute including, but not limited to, facilitating or requesting the procurement, distribution, downloading and installation of any needed technology, including software, data, and the transferring of office phone lines to work or personal cell phones as practicable or applicable to the workplace, and may include devices.

c. A description of how the employer will, to the extent possible, stagger work shifts of essential employees in order to reduce overcrowding on public transportation systems and at worksites.

d. A description of the protocol the employer will implement in order to procure the appropriate personal protective equipment for essential employees, based upon the various tasks and needs of such employees in a quantity sufficient to provide personal protective equipment to each essential employee during any given work shift. Such description shall also include a plan for storage of such equipment to prevent degradation and permit immediate access in the event of an emergency declaration.

e. A description of the protocol in the event an employee is exposed to a known case of the communicable disease that is the subject of the state disaster emergency, exhibits symptoms of such disease, or tests positive for such disease in order to prevent the spread or contraction

of such disease in the workplace. Such protocol shall also detail actions to be taken to immediately and thoroughly disinfect the work area of any employee known or suspected to be infected with the communicable disease as well as any common area surface and shared equipment such employee may have touched, and the employer policy on available leave in the event of the need of an employee to receive testing, treatment, isolation, or quarantine. Such protocol shall not involve any action that would violate any existing federal, state, or local law, including regarding sick leave or health information privacy.

f. A protocol for documenting hours and work locations, including off-site visits, for essential employees. Such protocol shall be designed only to aid in tracking of the disease and to identify the population of exposed employees in order to facilitate the provision of any benefits which may be available to certain employees on that basis.

g. A protocol for how the public employer will work with such employer's locality to identify sites for emergency housing for essential employees in order to further contain the spread of the communicable disease that is the subject of the declared emergency, to the extent applicable to the needs of the workplace.

h. Any other requirements determined by the department of health such as contract tracing or testing, social distancing, hand hygiene and disinfectant, or mask wearing.

4. Once drafted, each public employer shall present the plan described in this section to all applicable duly recognized or certified representatives of the employer's employees, who shall then be granted an opportunity to review the plan and make recommendations, if any, provided that nothing shall preclude such representatives from making such recommendations prior to the draft being completed. The employer must consider and respond to such recommendations in writing within a reasonable timeframe. A copy of the final version of such plan shall then be published in a clear and conspicuous location, and in the employee handbook, to the extent that the employer provides such handbook to its employees, and in a location accessible on either the

employer's website or on the internet accessible by employees. No employer shall take retaliatory action or otherwise discriminate against any employee for making recommendations regarding the content of the plan.

5. The department shall establish procedures to allow for public employees to contact and inform the department of any alleged violations of any of the provisions described in this section.

6. Nothing in this section shall be deemed to impede, infringe, diminish or impair the rights of a public employee or employer under any law, rule, regulation or collectively negotiated agreement, or the rights and benefits which accrue to employees through collective bargaining agreements, or otherwise diminish the integrity of the existing collective bargaining relationship.