



New York Legislature Passes Bill Granting Paid Leave for Employees Receiving COVID-19 Vaccine

On March 1, 2021, the New York State Senate followed in the footsteps of the State Assembly by unanimously voting to grant both private and public employees up to four hours of paid leave to receive the COVID-19 vaccine. This measure was supported by Governor Cuomo who signed the bill into law on March 12, 2021. Employers and employees alike should note that this law is effective immediately and will remain so until December 31, 2022.

What does the law entail?

This new law amends both the New York Labor Law (NYLL) (Section 196-C) and the Civil Service Law by requiring that all private and public employers respectively provide their employees with a “sufficient period of time” – up to four hours – of paid leave to receive the COVID-19 vaccine. The amount of leave is per injection, which allows for employees receiving a two-dose vaccine to be entitled to up to a total of eight hours of paid time off under the law. This particular time off cannot be charged against any other type of leave the employee may otherwise be entitled to, including the recently enacted New York paid sick leave requirements.

The total period of leave taken by an employee must be provided at their regular rate of pay. The requirements of the law, however, can be waived by a collective bargaining agreement if it explicitly references NYLL 196-C. Employers are forbidden from discriminating or retaliating against an employee, or interfering with the ability to exercise their rights under the law – which includes the process by which employees may request this time off.

Unanswered questions remain.

The law itself does not provide many details or address many of the common questions that are likely to arise, such as whether or not employers may ask for proof of vaccination and what may serve as proof; or whether employers may have a say in when an employee schedules their vaccine appointment; or, if employees may use this paid leave for recovery from any adverse side effects of the vaccine itself.

Until the state issues further guidance on these questions and any others regarding sick leave for COVID-19 vaccinations, it is recommended that employers rely on current guidance issued by the Equal Employment Opportunity Commission (EEOC).

Employers should be ready to comply with all requirements of the law, which may include paid time off for “booster” vaccinations in the future, by preparing processes to manage time-off requests and payroll requirements. It’s important for employers to also consider updating their official Employee Handbook for the latest information, as well as any applicable formal policies.