

New York Employers Must Now Provide Employees with Paid Leave to Get Vaccinated

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New York employers no longer have to ponder if and how they should incentivize their employees to get vaccinated. Effective March 12, 2021, [Senate Bill S2588A](#) creates Labor Law Section 196-C, “Leave for COVID-19 Vaccination” (“Law”), which requires all public and private employers in the State to provide employees paid time off to get their vaccination shots. Specifically, employers must grant “a sufficient period of time, not to exceed four hours per vaccine injection” (unless the employer or a collective bargaining agreement provides for more than four hours).

The leave must be provided at the employee’s “regular rate of pay” and may not be charged against any existing bank of time off, including other paid [sick leave](#), [COVID-19 sick time](#), or any other paid time off already granted under a collective bargaining agreement. This entitlement can, however, be waived in the future under the terms of a valid collective bargaining agreement, so long as the waiver includes an explicit reference to the Law.

The Law also contains an anti-retaliation provision, prohibiting employers from discharging, threatening, penalizing, “or in any other manner” discriminating or retaliating against any employee because the employee has exercised his or her rights afforded under the Law, such as requesting or using a leave of absence to be vaccinated for COVID-19. The Law sunsets on December 31, 2022.

As of this date, no guidance has been propounded by the State concerning the Law. We will continue to review New York’s website for guidance, including any notice or posting requirements.

What New York Employers Should Do Now

- Provide employees with up to four hours of paid time off to obtain each injection of a COVID-19 vaccination.
- For those employers whose employees are represented by unions and covered by collective bargaining agreements, (a) determine whether the provisions of the existing agreements provide for paid time off that would satisfy the Law’s requirements, i.e., at least four hours of paid leave specifically for getting

vaccinated (and not chargeable to other banks of time off), and (b) when negotiating new or successor collective bargaining agreements with your employees' unions, determine whether to negotiate for specific waiver language in which unions waive the Law's requirements and/or acknowledge that the existing terms allow employees paid time off for this purpose equal to or greater than what the Law requires.

- Await further guidance regarding notices, posting, and other logistical requirements.

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