

New York State Issues Guidance on COVID-19 Vaccine Leave Law

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The New York State Department of Labor (“NYSDOL”) has issued [guidance](#) on the State’s recently enacted COVID-19 vaccine leave law, which went into effect on March 12, 2021. As we [previously reported](#), the law requires employers to provide employees with “a sufficient period of time, not to exceed four hours” per dose to be vaccinated for COVID-19. Leave must be paid at the employee’s regular rate of pay and cannot be charged against other leave accruals.

The NYSDOL’s guidance addresses and clarifies a number of details about the new law. Below are the key takeaways:

- **Use of Leave and Employee Coverage:** Paid leave is only available for an employee’s own receipt of a COVID-19 vaccine. The law does not provide leave to allow an employee to assist a relative or other person to receive a vaccine. Neither the law nor the guidance addresses the law’s application to part-time employees. However, because the law refers to “every employee,” employers should consider erring on the side of caution and provide leave to both part-time and full-time employees.
- **Amount of Leave:** The maximum number of leave hours that an employee is entitled to depends on the number of required COVID-19 vaccine injections. If a COVID-19 vaccine requires two injections, then the employee would be entitled to two periods of paid leave of up to four hours each (eight hours in total).
- **Retroactive Application:** The law does not create any retroactive benefit rights. Therefore, only employees who were vaccinated on or after March 12, 2021 are eligible for paid leave. However, nothing in the law prevents employers from voluntarily providing employees with such benefits retroactively.
- **Notice and Documentation Requirements:** According to the guidance, the law does not prevent an employer from requiring notice or proof of vaccination in order to claim this paid period of leave. However, the guidance cautions employers to “consider any confidentiality requirements applicable to such records prior to requesting proof of vaccination.”

- **Unionized Employers:** The rights afforded to employees under this law may be waived by a collective bargaining agreement. However, the agreement must specifically reference section 196-c of the New York Labor Law.

New York's COVID-19 vaccine law remains in effect until December 31, 2022. We will continue to report on any further developments with regard to this law and other similar leave laws nationwide.

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