

New York State Legislature Approves Law That Prohibits No Fault Attendance Policies

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The New York State legislature recently passed a bill ([Senate Bill S1958A](#)) that, if and when enacted into law, would amend the New York Labor Law to clarify that employers who maintain “no fault” or absence control policies may not discipline employees for taking absences that are protected under federal, state, or local law.

Under absence control policies, employees are commonly assessed “points” or “demerits” for being absent from work. The assessment of points may subject an employee to disciplinary action (e.g., failure to receive a promotion, loss of pay, or termination). The amendment would prohibit employers in New York from “assessing any demerit, occurrence, any other point, or deductions from an allotted bank of time” to employees who take “any legally protected absence pursuant to federal, state or local law.” If an employer does so, the amendment clarifies that such conduct would constitute retaliation under the Labor Law.

The amendment would take effect 90 days after the Governor signs it into law. We will continue to report on this pending legislation and any further developments if and when it is enacted into law.

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