

New Paid Time Off for COVID-19 Vaccinations

Friday, March 12, 2021, the State passed legislation which provides all public sector and private sector employees with time off to receive COVID-19 vaccinations.

Public Employers/Public Employees

The legislation amends the N.Y. Civil Service Law, adding a new Section 159-c, titled “Leave time for COVID-19 vaccination”.

Covered employees: Every public officer, employee of the state, employee of any county, employee of any community college, employee of any public authority, employee of any public benefit corporation, employee of any BOCES, employee of any vocational education and extension board, or a school district, employee of any municipality, or any employee of a participating employer in the New York state and local employees' retirement system or any employee of a participating employer in the New York state teachers' retirement system.

Benefit: Paid leave of absence for time to receive a COVID-19 vaccination. The time off provided will be a sufficient period of time not to exceed four hours per vaccine injection. This leave of absence will be deemed an excused leave and will not be charged against any other leave that the public officer or employee is otherwise entitled to.

Private Employers/Private Employees

The legislation amends N.Y. Labor Law, adding a new Section 196-c, titled “Leave time for COVID-19 vaccination”.

Covered employees: All. Technically 196-c is covered by Article 6, and the definitions of employee and employer are as follows:

"Employee" means any person employed for hire by an employer in any employment.

"Employer" includes any person, corporation, limited liability company, or association employing any individual in any occupation, industry, trade, business or service. The term "employer" shall not include a governmental agency.

Benefit: Every employee shall be provided a paid leave of absence from his or her employer for a sufficient period of time to receive a COVID-19 injection, not to exceed four hours per vaccine injection. The entire period of the leave of absence granted shall be provided at the employee's regular rate of pay and shall not be charged against any other leave such employee is otherwise entitled to, including the new paid sick leave law (Labor Law § 196-b).

No Discrimination or Retaliation

The law contains anti-discrimination and anti-retaliation provisions whereby covered employers may not discharge, threaten, penalize, or in any other manner discriminate or retaliate against any employee because such employee has exercised his or her rights afforded under the legislation, including, but not limited to, requesting or obtaining a leave of absence to be vaccinated for COVID-19.

Existing Rules for Vaccinations

If your collective bargaining agreements or policies provide for richer time off for vaccinations, you must follow those existing policies/contracts.

Effective Date

The law is not retroactive. It states that it is effective immediately. Since this bill was signed by the Governor on March 12, 2021, that is the effective date. The law expires and is deemed repealed on December 31, 2022, so if new vaccinations or booster shots are needed in 2022 this law seems to be applicable in that future year.