

Client Alert | May 17, 2024

New York State Budget Includes Updates to Employment Laws

Employers should be aware of three major changes to New York State's labor and employment laws that were passed recently as part of the fiscal year 2025 state budget process.

Paid Lactation Breaks

Effective **June 19, 2024**, New York Labor Law § 206-c will be amended to require that employers provide 30-minute paid breaks to employees who need to express breast milk in the workplace for up to three years after childbirth. Employees can also use existing paid break time or meal time to express milk if a period of longer than 30 minutes is needed. The amended law does not appear to limit how many paid lactation breaks an employee may take per day. Previously, employers were required only to give "reasonable unpaid break time" or permit an employee to use existing paid break or meal time for lactation. For added clarity, the new law imposes no limits on the number of lactation breaks an employee may take and it will thus be important for employers to be flexible in their administration of this provision.

For illustrative purposes, a recent federal government [women's health report](#) estimates that a lactation break would normally take place about every 2 to 3 hours, or about 2 to 3 times during an 8-hour shift, and that most nursing mothers would need about 15-20 minutes to express milk, plus some time to get to the lactation room and set up / clean up the pumping equipment. Under the amended § 206-c, however, if an employee sought to take more lactation breaks than this norm during a shift, the employee should be permitted to take what she says she needs, subject, of course, to the normal good faith interaction between employer and employee to communicate this good faith need. For avoidance of doubt, amended § 206-c clearly imposes more stringent requirements on employers than currently exist under federal law. Further, in connection with the implementation of and compliance with this provision, it should be noted that it applies uniformly to employers of any size regardless of size or nature of the business.

Employers should adjust timekeeping systems to allow employees to record lactation breaks so that this time is appropriately compensated at an employee's regular rate of pay. Employers may also wish to update existing workplace policies for break time and lactation to reflect these changes in law. When dealing with employees exempt from overtime under applicable law, it will be equally important for employers to provide the required time for lactating mothers but without concern over proper payment inasmuch as employers will not be required to keep regular track of time spent on such lactation breaks.

As a reminder, existing state and federal laws require that upon an employee's request, a designated lactation space be made available. For more details concerning existing lactation room laws, please see our previous client alert [here](#).

New York City employers should take further note that the New York City Human Rights Commission interprets the New York City Human Rights Law to require either a refrigerator to store expressed milk or if providing a refrigerator would pose an undue hardship, to engage in a cooperative dialogue with an employee regarding alternative storage options (such as a cooler). Employees can also elect to express milk at their usual workstation rather than using a designated lactation space unless it would pose an undue hardship for the employer. However, discomfort from coworkers, clients, or customers cannot be viewed as, or constitute an undue hardship.

Paid Prenatal Leave

As of **January 1, 2025**, private sector employers in New York will be required to provide pregnant employees with 20 hours of paid prenatal leave per year, in addition to existing paid sick leave requirements under state and local laws. Employees may take prenatal leave in hourly increments for physical examinations, medical procedures, monitoring and testing, and discussions with health care providers related to pregnancy.

Employers should update time and leave tracking systems to ensure that pregnant employees are granted a balance of 20 hours of prenatal leave. Employers may also wish to update Handbooks and/or New York policy addenda to reflect that such leave is available to pregnant employees. The same process as noted above will apply for employers providing such leave to exempt employees.

The End of Paid COVID Sick Leave

As part of a series of measures passed at the height of the COVID pandemic emergency in March 2020, New York required employers to provide paid time off for employees who are isolating or quarantining due to COVID. Dependent on employer size, employers are required to provide up to 14 days of paid COVID sick leave or unpaid leave for smaller employers. This law has remained in effect for over four years, despite changes in CDC guidance regarding the amount of time necessary to isolate after testing positive for COVID.

Under the recently passed budget, employers will no longer be required to provide special COVID paid sick leave after **July 31, 2025**. Employees, however, may use their paid sick leave time available under state and local laws to remain absent from the workplace if they or a covered family member are sick with COVID or any other illness. Additionally, employers are free to continue offering remote work or other accommodations (including paid or unpaid leave) to employees who are sick with contagious respiratory illnesses and whose presence in the workplace would pose a direct threat to others. To the extent employers have COVID policies in Employee Handbooks or separate workplace COVID / respiratory illness policies, employers may wish to prepare updates to reflect that New York COVID paid leave will not be available after July 31, 2025.

Pay Frequency Litigation Reform Not Included in Final Budget

Although the Governor's initial budget proposal contained limits on liquidated damages available to employees who challenge the frequency of their pay (i.e., at what intervals they are paid by their employer), such a measure was not included in the final budget. We will continue to monitor the law in this area, including whether the New York Court of Appeals settles a split between the intermediate appellate courts concerning whether employees have a private right of action to challenge the frequency of their pay.

Key Contacts

Our Labor & Employment Law team is available to assist employers in navigating full compliance with New York Labor Laws and other statutes concerning employee time and leave benefits, including updating Employee Handbooks and state-specific addenda to reflect such changes in law.

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