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New York Employers Must Now Provide Paid Vaccination Leave

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On March 12, 2021, New York enacted legislation requiring that all employers in the state provide paid leave time to their employees in order to receive COVID-19 vaccinations. The law is effective immediately and remains in effect through December 31, 2022. The law does not create any retroactive benefit rights, and only employees receiving vaccinations on or after March 12 are eligible for paid leave. However, nothing in the law prevents employers from voluntarily providing employees with such benefits retroactively.

Under the law, every employee is entitled to up to four hours of paid leave per vaccine injection for COVID-19. So, if a COVID-19 vaccine requires two injections (e.g., Moderna or Pfizer), then the employee would be entitled to two periods of paid leave of up to 4 hours each (which could be up to eight hours in total). An employer or a collective bargaining agreement may provide a greater number of hours.

Vaccination leave is paid at the employee's regular rate of pay, and it may not be charged against any other leave the employee is otherwise entitled to.

The paid vaccination leave is only available to the employee for the employee's own receipt of the COVID-19 vaccine. This means an employee cannot use the vaccination leave to assist a relative or another person in getting the vaccine.

The law does not prevent an employer from requiring that employees provide notice before taking vaccination leave. Nor does the law prevent employers from requiring proof of vaccination from employees. However, the New York Department of Labor reminds employers to consider any confidentiality requirements applicable to such records.

Finally, an employer may not discharge, threaten, penalize, or in any other manner discriminate or retaliate against any employee because he or she has exercised his or her rights afforded under the law, including requesting or obtaining a leave of absence to be vaccinated for COVID-19.

Contact your Vorys lawyer if you have questions about COVID-related leave requirements.

Vorys Covid-19 Task Force

Vorys attorneys and professionals are counseling our clients in the myriad issues related to the coronavirus (COVID-19) outbreak. We have also established a comprehensive Coronavirus Task Force, which includes attorneys with deep experience in the niche disciplines that we have been and expect to continue receiving questions regarding coronavirus. Learn more and see the latest updates from the task force at [vorys.com/coronavirus](https://www.vorys.com/coronavirus).