

2021 US Labor & Employment Webinar Week

Insights and Compliance Strategies for a New World

February 1 – 4, 2021



New York Breakout Session: A New York Minute of Employment Updates

February 4, 2020

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The background of the slide features a collection of medical and financial symbols. A blue stethoscope is draped across the top and right. In the center-left, there is a small pile of yellow and blue capsules. Below the pills is a light blue silhouette of the state of New York. In the bottom right corner, there are two US dollar bills, one of which is a \$100 bill, partially visible. A teal square is positioned on the right side of the slide, containing the title text.

New York State & NYC Paid Leaves

New York State Paid Sick Leave

100+ Employees

Up to 56 hours
of paid sick leave per
calendar year.

5-99 Employees

Up to 40 hours
of paid sick leave per
calendar year.

0-4 Employees

If net income is \$1 million or less, employer must provide up to 40 hours of unpaid sick leave. If net income is greater than \$1 million, employer must provide up to 40 hours of paid sick leave.

Permitted Uses (Employee or Family Member):

- Mental or physical illness, injury, health condition
- Diagnosis, care, or treatment of the above, or need for medical diagnosis or preventative care
- Safe leave: victim of domestic violence, family offense, sexual offense, stalking, human trafficking

Accrual: 1 hour for 30 hours of work or frontload beginning on first day of work or 9/30/21

New York City Paid Safe and Sick Leave

- Existing New York City paid sick leave law amended
- Same as NY State
- Expands to more employers:
 - 4 or less employees + \$1M?
 - 100+ employees = 56 hours
- Pay statement/written notice requirement
- Potential reimbursement to employees for health care documentation
- No minimum hours requirement



Paid Family Leave (PFL)

- Eligible employees get up to 12 weeks PFL.
- Wage replacement benefits = 67% of the employee's average weekly wage (capped at \$971.61).
- Eligible employees may take paid time off to bond with newly born, adopted or fostered children; care for a family member with a serious health condition; or help loved ones when a spouse, domestic partner, child or parent is deployed abroad on active military service.
- Job protection
- Continued health insurance.

A woman with long dark hair, wearing glasses and a light blue surgical face mask, is looking off to the side. She is standing on a city street at night, with blurred lights and other people in the background. A large purple rectangle is overlaid on the right side of the image, containing the text "NY & COVID-19".

NY & COVID-19

NY & COVID-19

- NY provides Paid COVID-19 Leave:
 - Guaranteed job protection and financial compensation in the event employee or his/her minor child are subject to quarantine or isolation orders issued by the state, a local board of health or another government entity due to COVID-19.
 - Most financial compensation will be drawn from a combination of benefits, including Paid Family Leave, sick leave and disability.
 - Not available to employees who are able to work remotely.
- COVID-19 deemed protected class

NYCCHR – Discrimination Investigations Trend



New York City Commission on Human Rights (NYCCHR) – Discrimination and Investigations Trend

- NYC is getting more aggressive in direct investigations/inquiries into employer practices/discrimination/diversity and inclusion – especially with high fashion retailers.
- NYCCHR tasked with enforcing New York City Human Rights Law, which makes it illegal to engage in discriminatory actions on the basis of race, age, gender, and national origin, among an array of other protected traits.
 - One of most powerful anti-discrimination laws in the country
 - Stronger than either federal law or most state counterparts.
- Prada and Gucci made headlines when they each announced that they would launch ambitious diversity initiatives after being on the receiving end of accusations of racism.
 - Prada -> \$550 monkey figurine sold in stores around the world
 - Gucci -> Runway model wearing \$900 blackface-esque sweater
 - Dior -> Native American-themed Sauvage campaign



New York Case Law Update

Brief Overview of What Courts Are Up To

- NY Federal Court Strikes Down Primary Elements of DOL's New Joint Employer Rule (*NY v. Scalia*, 2020 U.S. Dist. LEXIS 163498)
- Enforceability of arbitration agreements in NY not guaranteed and in flux (*Newton v. LVMH Moet Hennessy Louis Vuitton* – July 2020)
- Americans with Disabilities Act (ADA) Braille Gift Card Cases
- Rideshare Worker Classification Battle Continues





Other Statutes

Other Statutes

- Minimum wage increases
- WARN Notice Expansion
- Voting Leave
- Reproductive Health Non-Discrimination



Questions? Please let us know.



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