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New York Requires Paid Leave for COVID-19 Vaccinations

To encourage New York employees to schedule and receive their COVID-19 vaccinations, Governor Cuomo signed legislation on March 12, 2021 requiring all New York public and private employers to provide employees up to four (4) hours of paid leave per required dose of the COVID-19 vaccine. Employees requiring two separate injections (e.g., the Pfizer and Moderna COVID-19 vaccines) will be entitled to up to eight (8) hours of paid leave. This legislation took effect immediately and will be in effect through December 21, 2022.

Briefly, the legislation provides the following:

- The leave must be paid at the employee's regular rate of pay.
- Time off to receive the vaccination may not be charged against any other leave to which the employee may be entitled to such as accrued sick or vacation time.
- Employees covered under a collective bargaining agreement ("CBA") are entitled to at least eight (8) hours of vaccination leave unless additional time is specifically granted under the CBA.

- The provisions of the bill may only be waived by a CBA that explicitly references the new provision of the New York labor law provided under this legislation.
- An employer may not retaliate against an employee for exercising his or her rights under this legislation.

The law does not address timing of employee notification of the need for this leave and what, if any, documentation an employer can request from employees to verify proof of vaccination. We hope to receive further guidance from the NYS Department of Labor.

Employer Action

New York employers should update leave policies and communicate the required COVID-19 leave policy with their employees to help encourage vaccine scheduling.