

Legislative Update JANUARY 2023*

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NEW YORK PROHIBITS EMPLOYERS FROM PENALIZING WORKERS ON LEAVE

New York recently passed a law taking effect on February 19, 2023 that prohibits employers from penalizing workers for taking legally protected leave, *i.e.*, a lawful absence. Under the law, it will be considered illegal retaliation for an employer to discipline workers by assessing points or deductions from a time bank when an employee uses any form of time off protected under federal, state or local law. The law impacts no-fault attendance policies under which employers count a point against an absent employee, regardless of the reason for the absence. Employers can still adopt policies that use points to track attendance, but legally protected absences must be excluded.

Employers cannot retaliate or discriminate against a worker for making a complaint about a violation of this law. Legally protected time off includes the following types of leave:

- Paid family and sick leave to bond with a new child, care for a family member with a serious health condition or assist family members deployed on active military service.
- Paid sick leave for eligible reasons.
- Quarantine and COVID-19 leave: Large and midsize employers must provide paid leave for employees who are under mandatory quarantine due to a COVID-19 infection. Small employers must at a minimum provide unpaid leave in that situation.
- Jury duty: Employers must provide workers unpaid time off when they are called to serve on a jury. If the employer has 10 or more employees, it must pay the employee \$40 per day for the first three days of jury duty.
- Voting leave: Employees are eligible for up to two hours of paid time off to vote if their work schedule does not allow sufficient time to vote before or after work.
- Domestic violence leave: Employers must allow time off for workers to seek medical attention for injuries caused by domestic violence or to obtain legal and other services related to domestic violence.
- The federal Family and Medical Leave Act: FMLA provides employees with up to 12 weeks of unpaid leave per year. Employees can use FMLA leave for their own serious health condition, after the birth or adoption of a child, or to care for a family member with a serious health condition. The FMLA also allows employees to take up to 26 weeks of unpaid leave per year to care for a spouse, child or parent who is a military service member, if that service member has a serious injury or illness.

Source: SHRM

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