



NYC Council Passes Bill Granting Paid COVID-19 Child Vaccination Leave

Insights

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Parents in the Big Apple are likely to soon receive paid time off from work to accompany their child to receive a COVID-19 vaccine injection or to care for the child if experiencing side effects from the injection. The New York City Council recently passed a bill granting parents or legal guardians of a child four hours of paid COVID-19 child vaccination time, per child and per injection. The bill now awaits Mayor DeBlasio's signature, which is expected in short order. ***[Ed. Note: The law was enacted without the mayor's signature on December 24, 2021]*** New York City employers should be prepared to comply with this impending new legislation, which will take immediate effect once signed by the mayor.

What Does the Legislation Entail?

The new COVID-19 child vaccination leave law amends the New York City Earned Safe and Sick Time act to provide employees with four hours of paid COVID-19 child vaccination time. An employee who is a parent (biological, foster, step, adoptive, legal guardian, or a person who stands in loco parentis) can use this leave to accompany their child to get a COVID-19 vaccine injection or to care for their child who cannot attend school or child care due to side effects from the vaccine injection. To be eligible for leave, the employee's child must be under the age of 18 or an older child who is incapable of self-care because of a mental or physical disability. The four hours of paid leave is per child, per vaccine injection, including booster shots.

The COVID-19 child vaccination leave must be in addition to any existing sick leave provided to the employee as well as the leave the employee is entitled under New York State law to for their own vaccination. Moreover, employers cannot require the employee to work additional hours to make up for the time missed or to find a replacement to cover the employee's shift.

Payment for Leave

COVID-19 child vaccination time must be paid at the employee's regular rate of pay, without any credits or allowances, no later than the next regular payday after the leave was used by the employee.

Notice and Documentation

Employers may require reasonable notice of the need to use COVID-19 child vaccination time, not to exceed seven days if the need for leave is foreseeable. If the need for leave is not foreseeable, an employer can require the employee to provide notice as soon as practicable. An employer can require the employee to provide reasonable documentation within seven days of use of the leave showing the employee's child has received a COVID-19 vaccine injection.

Penalties for Non-Compliance

If an employer fails to compensate an employee for COVID-19 child vaccination time, the employee is entitled to three times the wages that should have been paid or \$250, whichever is greater. If the leave is denied or charged against existing paid time off, the employee is entitled to \$500.

The law includes a 60-day phase-in period, during which an employer will be provided with written notice of an alleged violation and 15 days to cure before penalties will be levied.

Effective Date

The law will take effect immediately upon the Mayor's signature and has a retroactive effective date of November 2, 2021. Accordingly, employees who have already used unpaid leave for COVID-19 child vaccination purposes will be entitled to compensation and employees who used existing sick leave or paid time off will be entitled to have that leave time re-credited. Employees who used leave between November 2 and the law's effective date must be compensated no later than the payday for the next regular pay period after the law takes effect.

The law expires December 31, 2022.

What Happens Next?

Since the law takes effect immediately upon the mayor's signature **and** includes retroactive provisions, you should be prepared to have systems in place to deal with leave requests and pay appropriate benefits. Additionally, you must review whether any employees have taken leave for COVID-19 vaccination purposes and prepare to make retroactive payments for unpaid leave or to credit leave banks if existing paid time off was used. You will also want to update your leave policies to alert employees to the availability of COVID-19 child vaccination leave as well as the contours of the leave.

We will continue to monitor developments impacting New York employers, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. If you have questions about how to ensure that your vaccine policies comply with workplace and other applicable laws, visit our [Vaccine Resource Center for Employers](#) or contact your Fisher Phillips attorney, the author of this Insight, or any attorney in [our New York City office](#) or on our [FP Vaccine Subcommittee](#).

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