



## New Leave Requirement For Colorado Employers

Insights

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It's time for Colorado employers to update their employee handbooks. On June 1, 2009, Gov. Bill Ritter signed the "Parental Involvement in K-12 Education Act," which will take effect on August 5, 2009. This new law requires Colorado employers with 50 or more employees to grant up to six hours per month (up to 18 hours per academic year) of unpaid leave for the purposes of attending an academic activity for or with the employee's child.

Employers may allow the employee to use accrued vacation, sick or personal paid leave for absences due to academic activities, or may allow the employee to "make up" the hours missed during the same workweek. Employees who work less than a full-time schedule are eligible for a pro rata share of the overall leave entitlement.

The new law defines "academic activities" broadly to include parent-teacher conferences or any meeting related to special-education services, dropout prevention, attendance, truancy, or disciplinary issues.

To temper the administrative and operational impact, you may require your employees to use leave in three-hour increments and to provide written verification of the academic activity. In addition, you may also limit the ability of an employee to use leave "in cases of emergency," in situations that would endanger a person's health or safety, or where the absence would result in a halt of service or production. The new leave law also requires employees to make a "reasonable attempt" to schedule leave outside of normal work hours and to give employers at least one week's notice of the academic activity, when possible.

Unfortunately, the language of this new law leaves some important questions unanswered. First, the law does not define what important terms like "in cases of emergency," "reasonable attempt," or "endanger health or safety" actually mean as a practical matter, thereby leaving it to the courts to clarify these terms. Second, the new law does not contain any provisions regarding how compliance will be enforced, typically either by granting a private right of action or by imposing civil/criminal penalties for violations. At the very least, we anticipate that employees terminated for using academic parental leave will rely on this provision as part of a wrongful discharge in violation of public policy claim.

*This Alert provides an overview of a specific new law. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.*