



Webinar 16 – August 27, 2025

Paid Time Off – A Closer Look at Various Paid Time Off Policies and What is Recommended and Required by Law

WEBINAR OUTLINE

INTRO/SETTING THE STAGE

- PTO at a Glance

AN OVERVIEW OF FEDERAL LEAVE LAWS

- ADA
- FMLA

AN OVERVIEW OF NEW YORK STATE LEAVE LAWS AND REQUIREMENTS

BEST PRACTICES FOR LEAVE MANAGEMENT

HRtelligence TIPS

INTRO/SETTING THE STAGE

PTO at a Glance

- In New York, employers are not mandated to offer paid time off (PTO) generally, including vacation time.
- While not required by law, many employers in New York choose to offer paid time off as part of their benefits package, which can be used for vacation, personal days, or other reasons.
- If an employer chooses to provide PTO, it must adhere to a written policy or employment contract.

AN OVERVIEW OF FEDERAL LEAVE LAWS

The Americans with Disabilities Act (“ADA”)

- **Employer Coverage:** Applies to employers with 15 or more employees
- The ADA does not mandate paid leave. Employers must provide unpaid leave if it allows the employee to perform the job's essential functions and doesn't cause an "undue hardship" to the business.
- The leave must be for a defined period, and the employee's job and benefits must be protected upon their return

The Family Medical Leave Act (“FMLA”)

- **Employer Coverage:** Applies to employers with 50 or more employees
- **Employee Eligibility:** Employees who work at a worksite with 50 or more employees within a 75-mile radius, have worked there for at least 12 months, and have worked at least 1,250 hours in the 12 months immediately preceding the leave
- **Leave Rules:** Provides up to 12 weeks of unpaid leave per 12-month period for employee (or family member) with a “serious health condition”
- FMLA itself does not provide paid leave; it provides job-protected, unpaid leave. However, an employee can choose to use their accrued paid time off, such as vacation or sick leave, during FMLA leave, or an employer may require them to do so, making the absence paid

AN OVERVIEW OF NEW YORK STATE LEAVE LAWS AND REQUIREMENTS

New York Paid Sick Leave

- New York’s paid sick leave law requires employers with five or more employees or net income of more than \$1 million to provide paid sick leave to employees and for employers with fewer than five employees and a net income of \$1 million or less to provide unpaid sick leave to employees.
- On September 30, 2020, covered employees in New York State began to accrue leave at a rate of one hour for every 30 hours worked. On January 1, 2021, employees could start using accrued leave.

Sick Leave:

- For mental or physical illness, injury, or health condition, regardless of whether it has been diagnosed or requires medical care at the time of the request for leave*;
or

- For the diagnosis, care, or treatment of a mental or physical illness, injury or health condition; or need for medical diagnosis or preventive care.

Safe Leave:

- For an absence from work when the employee or employee's family member has been the victim of domestic violence as defined by the State Human Rights Law, a family offense, sexual offense, stalking, or human trafficking due to any of the following as it relates to the domestic violence, family offense, sexual offense, stalking, or human trafficking:
 - to obtain services from a domestic violence shelter, rape crisis center, or other services program;
 - to participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members;
 - to meet with an attorney or other social services provider to obtain information and advice on, and prepare for or participate in any criminal or civil proceeding;
 - to file a complaint or domestic incident report with law enforcement;
 - to meet with a district attorney's office;
 - to enroll children in a new school; or
 - to take any other actions necessary to ensure the health or safety of the employee or the employee's family member or to protect those who associate or work with the employee.

LEAVE INCREMENTS

Employers are permitted to require that leave be used in increments (e.g., 15 minutes, 1 hour, etc.) but may not set the minimum increment at more than 4 hours.

Employers are permitted to limit the leave taken in any year to the maximum amount required to be provided to such employee (e.g., 40 hours for midsized employers and 56 hours for large employers). Any limitations permitted by the law must be put into writing and either posted or given to employees.

Employers must notify employees in writing or by posting a notice in the worksite, prior to the leave being earned, of any restrictions in their leave policy affecting the employees' use of leave, including any limitations on leave increments.

New York Paid Family Leave (NY PFL)

Eligible workers can get up to 12 weeks of paid time off to care for family.

Workers can take Paid Family Leave to:

- bond with a child within 12 months of birth, adoption, or foster placement.
- care for a family member with a serious health condition.

- assist loved ones when a family member is deployed abroad.
 - care for yourself, a child, or a family member during a COVID-19 order of quarantine or isolation.
- Leave doesn't have to be taken all at once, but has to be taken for full days, not half days.
- You can get paid up to 67% of your average weekly wage.
- Paid Family Leave also provides:
 - job protection
 - continued health insurance
 - protection from discrimination or retaliation
- Immigration status doesn't affect eligibility.

Eligibility

- Full-time employees (20+ hours a week) are eligible after 26 consecutive weeks of employment, beginning with the employee's start date.
- Part-time employees (<20 hours per week) are eligible after working 175 days, beginning with the employee's start date. The 175 workdays do not have to be consecutive.

Can an employee take Paid Family Leave ("PFL") consecutively with paid sick leave?

- Yes. If the employer allows employees to take PFL and paid sick leave consecutively, the employee may choose to do this. However, the employee cannot receive more than their full wages while collecting PFL benefits.

New York City Sick and Safe Leave

Under NYC's Paid Safe and Sick Leave Law, covered employees have the right to use safe and sick leave for the care and treatment of themselves or a family member and to seek legal and social services assistance or take other safety measures if the employee or a family member may be the victim of any act or threat of domestic violence or unwanted sexual contact, stalking, or human trafficking.

- Employers must allow employees to use safe and sick leave as it is accrued, with no waiting period for new hires.
- Employees can use safe and sick leave for unexpected reasons without giving advance notice.
- Employers must provide employees with a written safe and sick leave policy that describes the benefit and how to use it.
- Employers can require documentation only when employees use more than three workdays in a row of safe and sick leave, if the documentation requirement is explained in the employer's written policy.
- Employers must inform employees of their accrued, used, and total leave balances on a paystub or through an employee-accessible electronic system.

New York Paid Prenatal Leave

On January 1, 2025, an amendment to New York Labor Law section 196-b, the state's paid sick leave law, went into effect. The amendment requires New York employers to provide employees with 20 hours of paid prenatal leave during any 52-week period.

The amendment provides that paid prenatal leave may be taken for "health care services received by an employee during their pregnancy or related to such pregnancy, including physical examinations, medical procedures, monitoring and testing, and discussions with a health care provider related to the pregnancy."

Employees may take paid prenatal leave in hourly increments at their regular rate of pay or the applicable minimum wage, whichever is greater. Paid prenatal leave is in addition to existing leave entitlements such as paid sick and safe leave, paid family leave, and leave under the Family and Medical Leave Act.

Holiday leave

New York state does not mandate private employers to provide paid holidays. While some businesses may require employees to work on holidays employers are not obligated to pay employees premium wages to work on holidays (i.e. overtime).

Offering paid time off for holidays or overtime is generally at the employer's discretion. It's crucial for employers offering holiday leave benefits to clearly communicate their holiday leave policies and comply with the terms of the employment contract.

Jury Duty Leave

Recently, the New York State Legislature and Governor Hochul have amended Sections 519 and 521 of the New York Judiciary Law, to increase the daily rate of pay for jury duty in New York State.

Every individual who serves as a juror in the New York State Courts or the Town and Village courts is entitled to be paid at least the \$72 fee for each day that they report in person for jury service. Employers of more than 10 employees must pay jurors the jury fee of \$72 or the employee's wage (whichever is lower) each day for the first three days of jury service. If the juror's daily wage is less than the jury fee, then the State makes up the difference.

The State will pay the jury fee of jurors who work for employers of 10 or fewer employees if the jurors are not paid at least the jury fee of \$72 by their employers. After three days, the State pays the jury fee to jurors who are not paid at least the jury fee.

Blood Donation Leave

New York State allows employees to take 3 hours of leave within 12 months to donate blood at the employer premises.

Employers can also provide paid time off twice a year to allow employees to donate blood at a place and time set by the employer.

Bone Marrow Donor Leave

New York provides job-protected leave for employees donating bone marrow. Eligible employees may take up to 24 hours of leave unless allowed by the employer. Employers can also ask for verification from the physician regarding bone marrow donor leave.

Military Leave

The Uniformed Services Employment and Reemployment Rights Act (USERRA) is a federal law that protects the employment rights of individuals who serve in the U.S. military. In addition to the USERRA, military members of New York are also protected by the New York employment laws.

Employees are entitled to be reemployed to their pre-service positions after the completion of their service, which includes:

- 10 days from completing school, reserve drills;
- 60 days after completing full-time or active-duty training;
- 90 days after being discharged from active military service or annual training

Military spouse leave

Spouses of military members are entitled to take up to ten days of unpaid leave when their spouse is on leave from deployment. This leave is designed to provide support to military families to make the most of the time when they are off duty.

Bereavement Leave

There are no New York State laws that mandate bereavement or funeral leave for employees. Typically, all businesses allow employers to take time off, also known as bereavement leave, in the event of a death in the family or a close relative.

If an employer offers bereavement leave, all the policies regarding bereavement or funeral leave should be available to the employees.

Voting leave

Eligible and registered employees must be provided up to two hours of paid leave to vote if they do not have sufficient time outside working hours to vote. However, employees must request this time off in advance.

BEST PRACTICES FOR LEAVE MANAGEMENT

A Clear and Inclusive Policy

At a minimum, a leave policy should include.

- The number of paid time off days an employee has each year
- How many additional paid time off days employees get after more years of service
- How many days an employee can take off in a row without penalty
- Whether or not you allow unpaid time off
- Bereavement, parental leave, jury duty and voting time off policies
- Which holidays your company has off

Clearly Communicate Company Policies

Properly defining leave management policies can help you stay compliant with labor laws in every location.

Make Sure Employees Are Paid Appropriately

- In addition to correctly documenting all days off, employers must ensure employees are being paid correctly.
 - Did they get paid for their time off?
 - Was it for the correct amount?

Properly Track Time Off

- A clear leave management system in many cases makes math automated so mistakes can be avoided.
- Leave management systems can automatically assign employees PTO or leave benefits based on their years of service or qualifying life events.



- Employers would be well-advised to take note of their differing requirements under the many leave laws that apply in New York and under federal law.
- As a best practice, ensure policies are updated and that you are familiar with all of them.
- It is also imperative that leave entitlement is communicated clearly to employees.
- In addition, ensure managers and HR representatives are adequately trained in all applicable leave laws.