

EMPLOYER RISKS AND WORK UPDATES ...EVERYONE OUGHTA' KNOW

For New York employers, the first quarter includes updated handbooks, raises, and the announcement of state and local agendas for the coming year. This year there's also a significant new mandatory benefit for workers, and every business owner needs to understand their responsibilities.

PAID PRENATAL CARE

As of January 1, all pregnant employees are entitled to 20 hours of paid leave for prenatal care.

This applies to all workers in the State of New York -- full and part-time, and regardless of your total number of employees. There is no accrual period, meaning that people are entitled to the full 20 hours upon hire, and this is time on top of all other leave. Both the city and state strictly enforce retaliation laws and all employers need to note that they cannot ask for medical documentation. Just asking could be interpreted to mean that the employer is creating a "chilling effect" for using the leave, so how this is discussed and handled is important. Make sure all supervisory and management person-

nel understand the rules so it is never handled inappropriately, or worse, illegally.

Along the same lines of protecting parents in the workplace, there are two other laws that should be on everyone's radar.

PAID LACTATION BREAKS

In 2007, New York started to require that employers provide breaks for nursing mothers to express or "pump" breast milk. As of June 2024, those breaks must be paid. On the state front, the law allows, for up to three years following the birth of a child, unlimited breaks of up to 30 minutes at a time. In the city, those breaks are allowed for an unlimited number of years following the birth of a child. Most employers have to have a separate room available for nursing mothers with a comfortable chair, a power source, and facilities to keep milk refrigerated. The law also requires that employees be notified of these rights, so make sure compliance efforts check all the boxes.

PREGNANT WORKERS FAIRNESS ACT

On a related federal note, in 2023, the Feds passed the Pregnant Workers Fairness Act (PWFA). In 2024, the EEOC issued its regulations on the law. The EEOC has more information on the law here: <https://www.eeoc.gov/wysk/what-you-should-know-about-pregnant-workers-fairness-act>. And you can find the full regulation here

<https://www.federalregister.gov/documents/2024/04/19/2024-07527/implementation-of-the-pregnant-workers-fairness-act>

To boil it down, however, because New York law tends to be stricter than federal anyway, the law requires employers with 15 or more employees to engage in an "interactive dialogue" process when a pregnant employee or applicant has limitations related to their pregnancy. It is the same procedure required under the Americans with Disabilities Act (ADA) and applies to accommodation requests that are due to pregnancy, childbirth,

or related medical conditions. The most important thing for employers to note, however, is that the law only applies to accommodations, not leave, and the condition does not need to be as serious as under the ADA to be covered. That means employers need to consider accommodations that would not be warranted under the ADA.

The State has many new requirements and there are more to come.

ON THE HORIZON

Last month Gov. Kathy Hochul unveiled her State of the State and Budget proposals. If you have read this far, there are a couple of items that might be of interest.

For one, the governor is proposing to expand the enforcement powers of the Department of Labor. The state wants to target unpaid wage judgments and is seeking employer asset forfeiture as a potential tool. As the Trump Administration is taking aggressive measures to scale back enforcement, and New York has always prided itself on being more protective of workers than the federal law, it can be expected that our local authorities will look to fill that void. Employers should expect the city and state authorities to ramp up its activities and exercise of powers while looking to inflate them.

On a more optimistic note, the state seems to be noticing how difficult it is to find the right people for certain jobs and is looking to expand paid training opportunities. The State of the State proposed an initiative that, rather than limit all attention and funding to formal, registered apprenticeship programs, will allow funding for employers who need specifically trained workers that they can teach on the job.

The year is young and New York is notorious for rapid-fire workplace regulations. My goal is to keep my eyes peeled and readers informed. This article is for informational purposes only and is not legal advice.

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