



# New York Employment Law Update: Review of 2021 and Outlook for 2022

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**Seyfarth Shaw LLP**

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# Speakers

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# Agenda

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- 01** Wage & Hour Developments
- 02** Email and Phone Monitoring
- 03** Use of AI in Hiring
- 04** Salary Range in Employment Ads
- 05** COVID-19 Developments
- 05** Updated Whistleblower Protections
- 06** Amended NYC Fair Chance Act
- 07** Leave Law Updates
- 08** Guidance on Cannabis Legalization

# Wage & Hour Developments – Minimum Wage

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<b>Size/Location of Employer</b>	<b>Minimum Wage (as of December 31, 2021)</b>
New York City, 11 or more employees	\$15.00
New York City, 10 or fewer employees	\$15.00
Long Island and Westchester employers, regardless of size of employer	\$15.00
Remainder of State, regardless of size of employers	\$13.20

# Wage & Hour Developments – Exempt Status Thresholds

Size/Location of Employer	Salary Threshold <i>(as of December 31, 2021)</i>
New York City, 11 or more employees	\$1,1125.00 per week (\$58,500.00 per year)
New York City, 10 or fewer employees	\$1,1125.00 per week (\$58,500.00 per year)
Long Island and Westchester employers, regardless of size of employer	\$1,1125.00 per week (\$58,500.00 per year)
Remainder of State, regardless of size of employers	\$990.00 per week (\$51,480 per year)

# Email and Phone Monitoring

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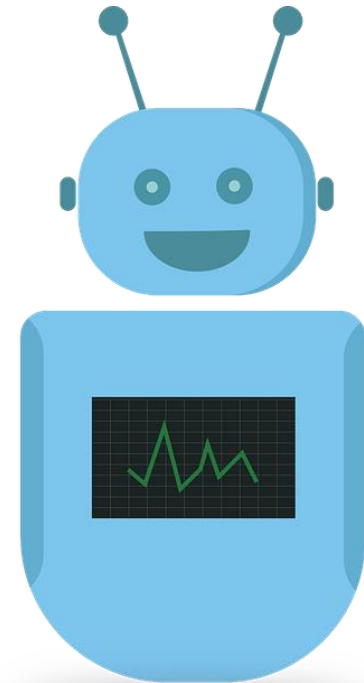
- NYS law effective **May 7, 2022**
- Any employer that monitors or intercepts email or other transmissions by employees must provide written notice upon hiring.
- No provision for notice to current employees
- Law does not apply to processes that:
  - Manage email, voicemail, or internet systems
  - Are not targeted to an individual
  - Are performed solely for the purpose of system maintenance and/or protection



# Use of AI in Hiring

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- NYC law effective **January 1, 2023**
- Prohibits employers or employment agencies from using automated employment decision tools to assess job candidates unless the tool underwent a “bias audit” within a year before its use.
- Results of bias audit must be available for public inspection.
- Employers must notify candidates residing within NYC that AI tools will be used to assess their candidacy.



# Salary Range in Employment Ads

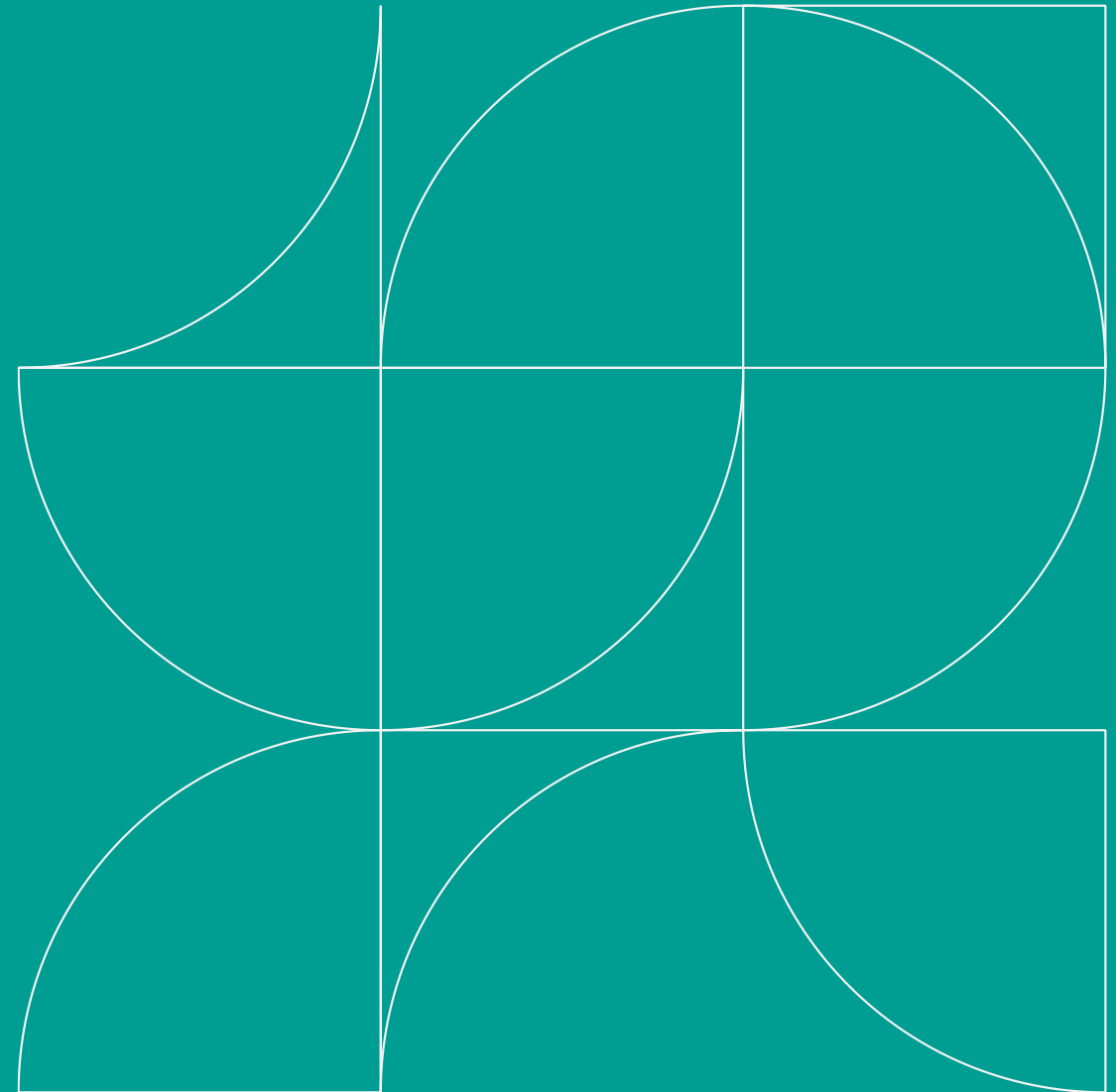
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- NYC law effective **April 2022** (if not vetoed by January 14)
- Applies to advertisement for any “job, promotion or transfer opportunity”
- Ad must state “the minimum and maximum salary for such position” that employer “in good faith believes at the time of the posting it would pay for the advertised job, promotion, or transfer opportunity”
- Inapplicable to ads for temporary employment at a temporary help firm





# COVID-19 Developments



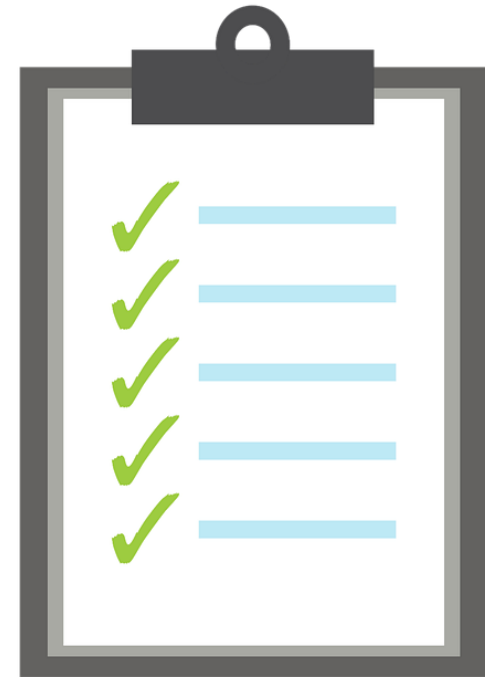
# NY HERO Act – Section 1 (Workplace Safety Plan)

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## Workplace Safety Plan

- **Adopt** safety plan (*templates available at: <https://dol.ny.gov/ny-hero-act>*)
- **Distribute** safety plan
- **Post** safety plan
- **Include** in employee handbook
- **Activate** safety plan: (1) masks (2) screening (3) training

→→ *Designation triggering activation is currently in place through **January 15, 2022***



# NY HERO Act – Section 2 (Workplace Safety Committees)

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## Statutory Requirements

- Since **November 1, 2021** – employers with 10 or more employees must *permit* formation of joint labor-management workplace safety committees.
- Committees will be comprised of at least 2/3 non-supervisory employees and selected by non-supervisory employees.
- Committee members are allowed to:
  - 1) Raise concerns regarding workplace health and safety issues
  - 2) Review employer workplace safety policies
  - 3) Participate in government site visits
  - 4) Meet at least once a quarter
  - 5) Attend trainings on-the-clock

# NY HERO Act – Section 2 (Workplace Safety Committees)

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## DOL Proposed Regulations

- **Committee Establishment**

- Established only after written request by two non-supervisory employees
- Employers must respond to a request with “reasonable promptness”
- Separate committees may be established for geographically distinct worksites

# NY HERO Act – Section 2 (Workplace Safety Committees)

## DOL Proposed Regulations

### • Committee Composition

- Minimum number of committee members is 3 and the maximum number is 12, depending on the size of the relevant worksite
- Must always have at least 2 non-supervisory employees for every employer representative
- If there is a CBA, the union may select the employee members
- If no CBA, the proposed rule permits employees to select the members in any way they see fit
  - Prohibits employer involvement in the selection process



# NY HERO Act – Section 2 (Workplace Safety Committees)

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## DOL Proposed Regulations

- **Committee Rules**

- May establish operating rules; otherwise, may take action by majority vote
- Members are required to be paid for a maximum of 4 hours of committee training per calendar year, and up to 2 hours per quarter for committee meetings.
- Members can hold additional committee meetings, but not during work hours.
- Members' committee work (aside from quarterly meetings) may not interfere with performance of work responsibilities.
- Quarterly meetings may not be held at times that “unreasonably conflict” with business operations.

# NY HERO Act – Section 2 (Workplace Safety Committees)

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## DOL Proposed Regulations

- **Employer Obligations**

- Once a committee is established, the employer must:

- 1) Provide written notice to all employees at a worksite within 5 days of establishing committee

- 2) Respond in writing “within a reasonable time period” to each safety and health concern raised by the committee

- 3) Provide written or electronic notice of government site visit related to workplace safety and health concern

- 4) Appoint an employer representative

- 5) Not interfere with committee’s performance of authorized duties

# NY HERO Act – Section 2 (Workplace Safety Committees)

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## DOL Proposed Regulations

- The DOL will hold a public hearing on **February 9, 2022** to receive public comments and feedback on its proposed regulations.
- The DOL will accept written comments through **February 14, 2022**.
- The DOL will then consider the feedback and issue final regulations that may, or may not, substantively differ from the proposed regulations.



# NYS Mask Mandate

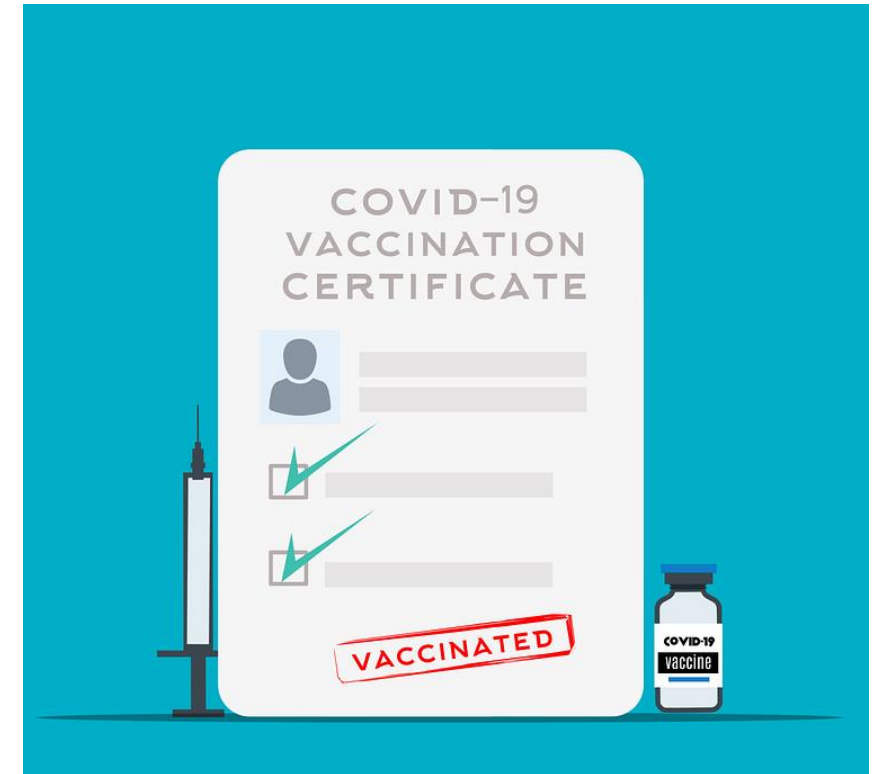
Announced **December 10, 2021**

- All public places of business must either:
    - 1) Require proof of vaccination for anyone who enters **OR**
    - 2) Require masks for everyone who enters
  - No mixing and matching
  - No exception for those who are vaccinated
- → ~~Currently in place through **January 15, 2022**~~; Extended through **February 2, 2022**



# NYC Vaccine Mandate

- Effective **December 27, 2021**
- All private sector employers in NYC must ensure and keep records that all of their employees working in-person in NYC have:
  - 1) Provided proof of at least one COVID-19 vaccine dose **OR**
  - 2) Submitted a medical/religious exemption request
- 2<sup>nd</sup> dose needed within 45 days of first dose
- Employers were required to post attestation certificate demonstrating compliance
- Must ensure vendors send employees who are in compliance



# NYC Vaccine Mandate

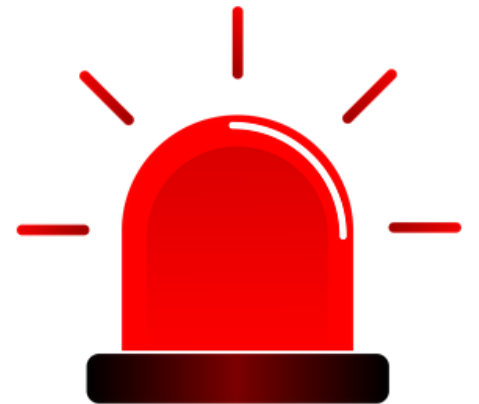
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- City has published accommodation guidance:  
<https://www1.nyc.gov/assets/doh/downloads/pdf/covid/vaccination-workplace-accommodations.pdf>
- Examples of medical accommodations:
  - Permanent: allergic reaction to prior dose or ingredient in dose
  - Temporary: (1) within 90 days of monoclonal antibody treatment, (2) immunocompromised, (3) recent COVID diagnosis
- Possible Accommodations: (i) weekly PCR test + masking, (ii) telework, (iii) LOA, (iv) “Other\_\_\_\_\_”

# NYC Vaccine Mandate

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- **Penalties:** \$1,000 for first violation, escalating penalties thereafter
- **Risk of Enforcement:** *“Our goal is always to educate and work with businesses to help them achieve compliance. It’s always our preference to ensure compliance and to avoid fines and penalties.”*
- **Adams Administration:** stressed that *“[t]he goal is to be cooperative and not punitive”* in relation to employers and businesses subject to the mandates, with a pledge *“to give support, and ... to communicate.”*



# Isolation Protocols

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## Isolation

- Someone who contracts COVID-19 (irrespective of vaccination status) should isolate for 5 days.
- At the end of the 5-day isolation period:
  - Individuals who are asymptomatic, or whose symptoms are resolving, can exit isolation and should wear a well-fitting mask while around others for an additional 5 days.
  - Individuals who are moderately or severely immunocompromised should continue to follow the 10-day isolation period.
  - Individuals who are unable to wear a well-fitting mask for 5 days after the 5-day isolation should also continue in isolation for an additional 5 days.



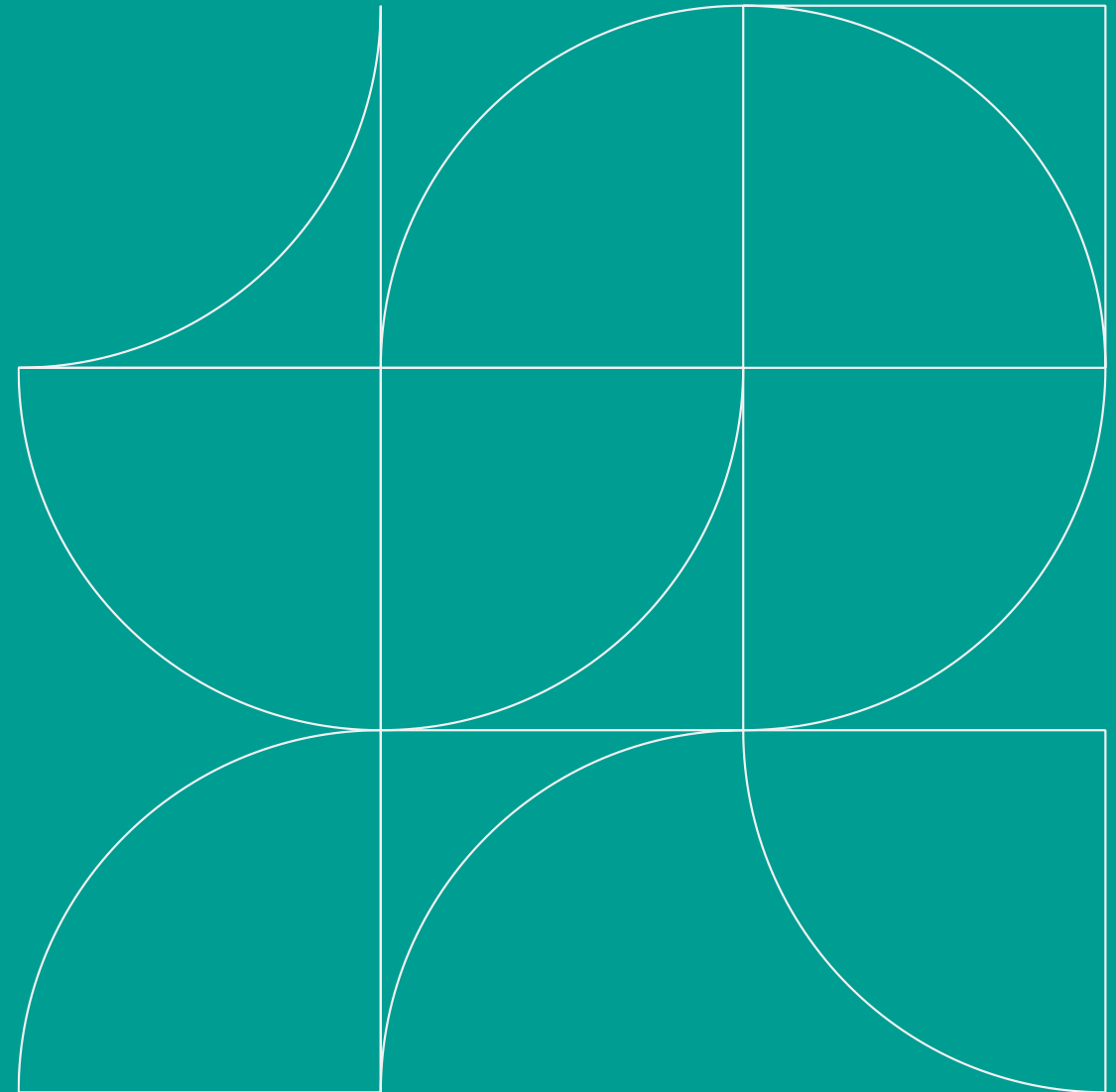
# Isolation Protocols

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## Quarantine

- Depends on vaccination status:
  - Individuals who are not fully vaccinated or not yet boosted (if eligible for booster), are required to quarantine for 5 days after exposure and wear a well-fitting mask while around others for an additional 5 days.
  - Individuals who are fully vaccinated and boosted (or not yet eligible for booster), if they are asymptomatic, they do not need to quarantine but should wear a well-fitting mask around others for 10 days after exposure to COVID-19.
- If symptoms appear, should “quarantine and seek testing”
- *“Regardless of vaccination status, all individuals with exposure to a confirmed case should, if possible, be tested for COVID-19 on the 5th day after exposure with either a nucleic acid amplification test (NAAT, e.g. PCR) or antigen test.”*

# Updated Whistleblower Protections



# NY Whistleblower Protections

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- Amendments to N.Y. Labor Law § 740 ...
  - Effective **January 26, 2022**
  - **Definition of “Employee”** expanded to include former employees and independent contractors
  - **Protected Activity:**
    - Disclose or threaten to disclose to a supervisor or public body (internal report or external report), an activity, policy, or practice that the employee “reasonably believes” violates any law, rule, or regulation; or poses a substantial and specific danger to public health and safety



# NY Whistleblower Protections

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## Notice Requirement:

- Employee must make a “good faith” effort to notify the employer before disclosing to a public body
- **BUT** notice not required if:
  - 1) there is imminent danger to public safety;
  - 2) the employee reasonably suspects that the employer will destroy evidence;
  - 3) the employee reasonably believes physical harm would result; or
  - 4) the employee reasonably believes the employer is already aware of the activity and will not correct it



# NY Whistleblower Protections

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## Prohibited Retaliation:

- 1) Actual or threatened discharge, suspension, or demotion, or any other adverse action against an employee related to the terms and conditions of employment
- 2) Action that would “adversely impact a former employee’s current or future employment”
- 3) The actual or threatened contacting of immigration authorities or reporting the immigration status of employees or their family members

# NY Whistleblower Protections

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## Statute of Limitations – 2 years

### Remedies:

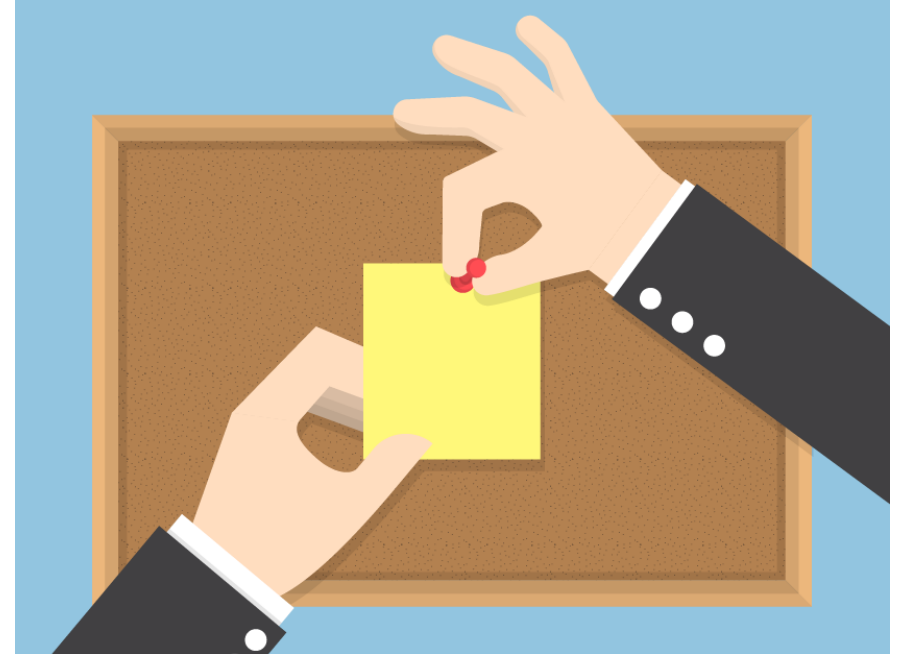
- Current law – injunctive relief, reinstatement, compensation for lost wages, benefits, and other remuneration, and reasonable costs, disbursements, and attorneys’ fees
- Amendments add:
  - Jury trials
  - Front pay (in lieu of reinstatement)
  - Punitive damages if the violation “was willful, malicious, or wanton”
  - Civil penalties up to \$10,000
- Important employer remedy – the court can award reasonable attorneys’ fees and court costs to the employer if it finds that the employee’s claim was brought “without basis in law or in fact”

# NY Whistleblower Protections

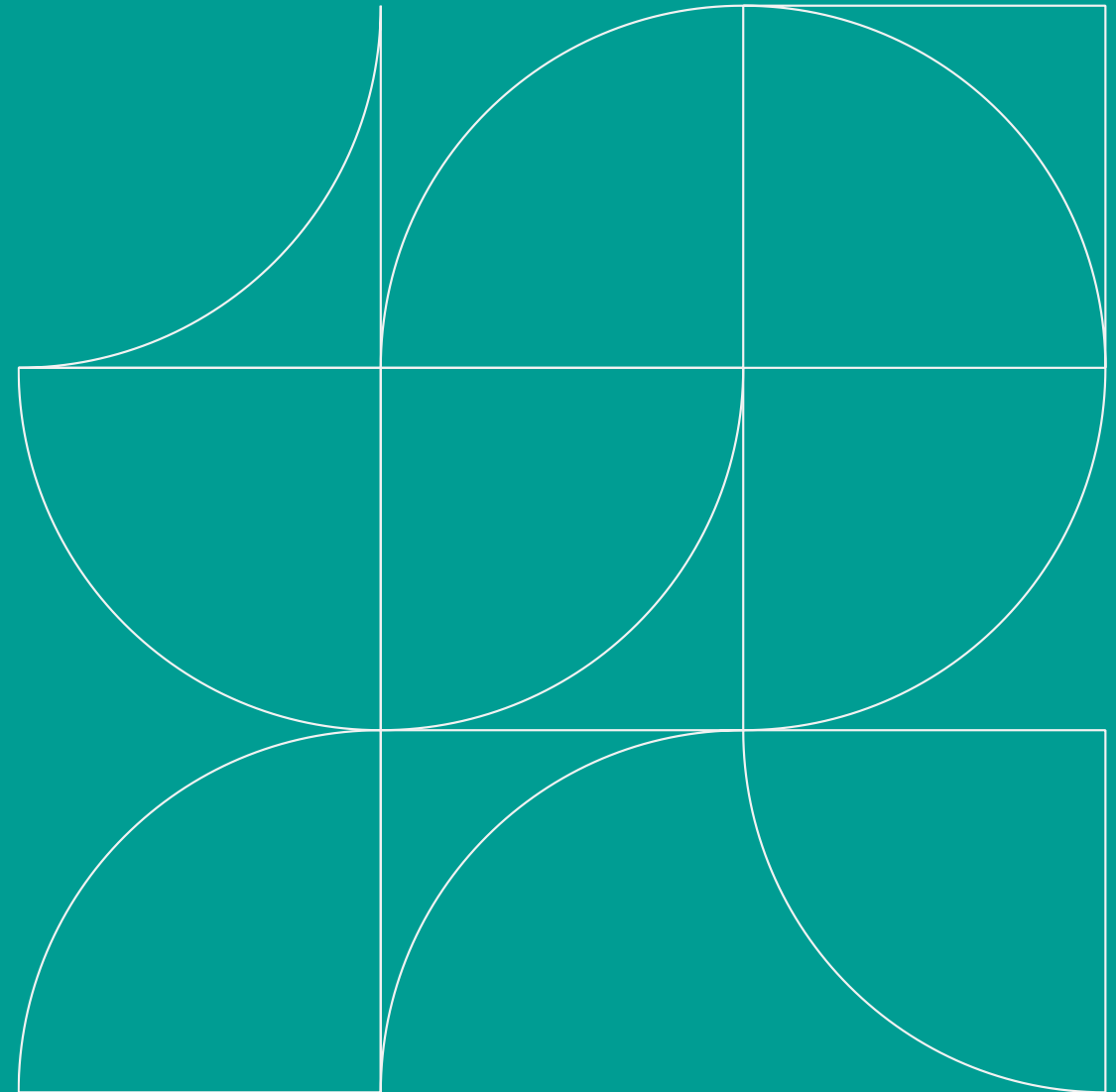
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## Posting Requirement:

- Notice posted in “conspicuously in easily accessible and well-lighted places customarily frequented by employees and applicants”
- New York Department of Labor is expected to provide a model notice for employers to use prior to the January 26, 2022 effective date.



# Amended NYC Fair Chance Act



# NYC Fair Chance Act Amended

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- **Two-Step Background Check Process**

**STEP 1: Employer should obtain and evaluate all non-criminal information before making a conditional offer.**

- E.g., employment verifications, academic/educational history, drug tests, Social Security traces, reference checks, and other background checks (not including criminal and motor vehicle records)

***Conditional Offer of Employment***

- Defined as an offer of employment, promotion, or transfer that can be revoked only based on the results of a criminal background check, a medical exam as permitted by the Americans with Disabilities Act, or “[o]ther information the employer could not have reasonably known before making the conditional offer....”

**STEP 2: Employer may ask about any self-disclosed criminal history and request a criminal background check.**

# NYC Fair Chance Act Amended

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- **Employers who cannot do the Two-Step Background Check Process**
  - Must establish a system to internally segregate criminal history information, to ensure that it is available to decision-makers, only after a conditional offer has been made
  - Employer will bear the burden of proving that the criminal information was inaccessible to decision-makers until after a conditional offer

# NYC Fair Chance Act Amended

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- **How about doing a background check for all information last?**
  - Per the NYC Commission, a conditional offer can only be revoked based on criminal history or an ADA-compliant medical examination.
  - An employer seeking to disqualify an applicant, post-conditional offer, based on non-criminal information, will have to prove that:
    - 1) it could not have reasonably known the information before the conditional offer; and
    - 2) regardless of the results of the criminal background check, the employer would not have made the offer if it had known the non-criminal information before the offer was extended.
  - The Commission takes the position that any non-criminal information could reasonably have been known before a conditional offer, if the information existed prior to the conditional offer, and could have been obtained by the employer exercising reasonable due diligence.





# NYC Fair Chance Act Amended

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- **Cannot Consider or Ask About Non-Convictions**

- **Examples:**

- Criminal charges that have been adjourned in contemplation of dismissal, terminated in favor of the individual, adjudicated as a youthful offender, or resulted in a conviction for a violation, non-criminal offense, or that was sealed.

- Non-conviction information from other jurisdictions that is comparable will also be barred



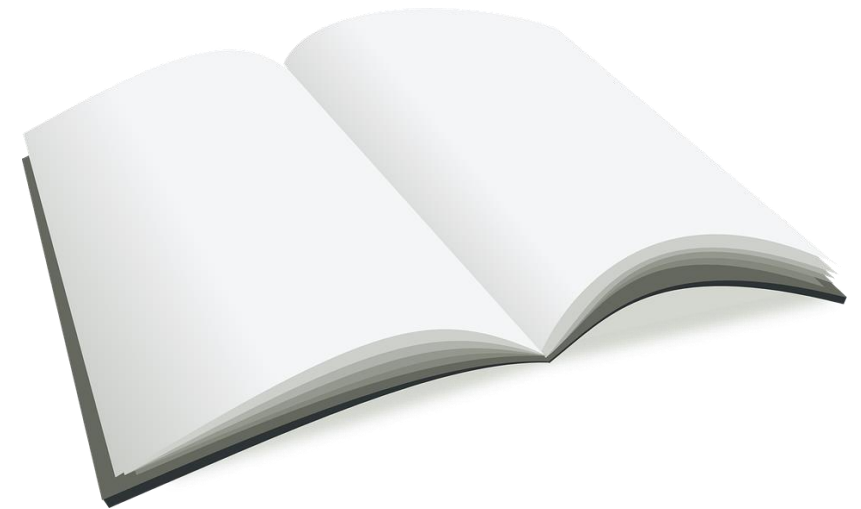
# NYC Fair Chance Act Amended

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- **Job Postings & Recruitment Materials**

**No reference whatsoever to criminal background checks!**

- But maybe: Commission may permit “people-first language,” such as “People with criminal histories are encouraged to apply”
  - However, definitely not: Neutral statements (e.g., ones that advise that “criminal history will be considered consistent with the requirements of the New York City Fair Chance Act”) are not permitted



# NYC Fair Chance Act Amended

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- **Inadvertent Disclosures**

- I.e., applicant inadvertently discloses criminal information during the application process that the employer is otherwise prohibited from soliciting or considering prior to a conditional offer
- Employers who make a good faith effort to exclude information regarding criminal history before a conditional offer of employment will not be liable under the FCA
- What to do?
  - Employer should state that, by law, it will consider the applicant's record if it decides to make them a conditional offer
  - If the applicant asks whether there will be a criminal background check, the employer may state that a criminal background check will be conducted only after a conditional offer of employment
  - Then, the employer must move the conversation to a different topic

# NYC Fair Chance Act Amended

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- **Intentional Misrepresentations – Lies!!**

- An employer can disqualify an applicant based on an “intentional misrepresentation” about the applicant’s conviction history or pending case.
  - A misrepresentation is “intentional” if it is made with knowledge of its falsity and with intent or purpose to deceive the employer.
  - Before taking action, the employer must:
    - 1) provide the applicant a copy of any information that led the employer to believe that the applicant intentionally misrepresented their criminal record; and
    - 2) afford the applicant a reasonable period of at least 5 business days to respond.
  - If the applicant credibly demonstrates either that the information provided was not a misrepresentation, or that a misrepresentation was unintentional, the employer is required to perform the Fair Chance Analysis before taking adverse action against the applicant.

# NYC Fair Chance Act Amended

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- **Withdrawing a Conditional Offer of Employment**

- Employer must:

- 1) provide the applicant with a copy of everything the employer considered (e.g., a background report, print-outs of any internet searches, and summaries of any oral conversations where relevant information was obtained)

- 2) provide the applicant a written copy of the Fair Chance Analysis; and

- 3) allow the applicant a reasonable time period of at least 5 business days from receipt of the analysis to respond to the employer's concerns

- Cannot permanently give someone else the job during Fair Chance Process

- Current employees can be placed on unpaid leave for a “reasonable time”

- NYC Commission views delays beyond 5 business days from when the employee receives the Fair Chance Notice to be presumptively unreasonable and an employer's continuing unpaid leave thereafter may be viewed by the Commission as having taken an adverse employment action

# NYC Fair Chance Act Amended – Fair Chace Factors

## Pre-employment

- **NY State public policy, which encourages employers to hire individuals with criminal histories**
- Specific duties & responsibilities of the job
- Criminal offense's bearing on the person's fitness or ability to perform any of the job's duties or responsibilities
- **Time since the occurrence of the criminal offense (not the time since arrest or conviction)**
- **Age at the time of occurrence of the criminal offense (not their age at arrest or conviction)**
- Seriousness of the offense
- Rehabilitation or good conduct
- Legitimate interest of the employer in protecting property and the safety and welfare of specific individuals or the general public
- **Whether the person has a certificate of relief from disabilities or for good conduct, which creates a presumption of rehabilitation**

## Pending Criminal Cases and Post-Employment Convictions

- **NY City policy to overcome stigma toward, and unnecessary exclusion from, employment of persons with criminal justice involvement**
- Specific duties & responsibilities of the job
- Criminal offense's bearing will have on the person's fitness or ability to perform any of the job's duties or responsibilities
- **Was the person 25 years of age or younger at the time of occurrence of the criminal offense – if so, it is a mitigating factor**
- Seriousness of the offense
- Legitimate interest of the employer in protecting property and the safety and welfare of specific individuals or the general public
- Any additional information regarding the person's rehabilitation or good conduct, including, but not limited to, **history of positive performance and conduct on the job or in the community**

# NYC Fair Chance Act Amended

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- **Temporary Help Agencies**

- Conditional offer of employment and Fair Chance Process occur prior to the applicant being placed in the agency's labor pool
- Then, employers who accept placements and wish to inquire about a worker's criminal history have to follow an independent and additional Fair Chance Process

*Note: Temporary help agencies can be subject to liability for aiding and abetting discrimination by, for example, sending only applicants with “less serious” criminal histories to their employer clients.*

# NYC Fair Chance Act Amended

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- **Are there any exemptions?**

- Legally-mandated background checks do not need bifurcated process
  - But, employer is still required to follow the Fair Chance Act to the extent it does not conflict with that federal/state/local law
  - Here: Employer may advise the applicant once they apply for a position that a background check will be required. The background check can be conducted prior to a conditional offer of employment, but otherwise the Fair Chance Act procedures must be followed
- Employer is prohibited by another law from hiring someone based on a particular criminal offense
  - Employer may advise applicants once they apply about any such criminal histories that are disqualifying for the position due to a legally-mandated exclusion
  - The employer can conduct a criminal background check prior to the conditional offer and can disqualify an applicant based on an conviction that is subject to a legally-mandated exclusion, and can do so without following the Fair Chance Process. However, the employer must provide the job applicant of copies of any information the employer relied upon and the legal citation for the exclusion.



# NYC Fair Chance Act Amended

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- **An exemption applies!!**
  - NYC Commission recommends:
    - Employers should inform the applicant of the exemption
    - Keep a record of using the exemption 3 years from the date the exemption is used
  - Commission anticipates requesting exemption logs in the event of an investigation
  - Commission also recommends that the results of any inquiry into an applicant's/employee's criminal history should be maintained separately, and only people involved in making decisions about the applicant/employee should have access to that information

# NYC Fair Chance Act Amended

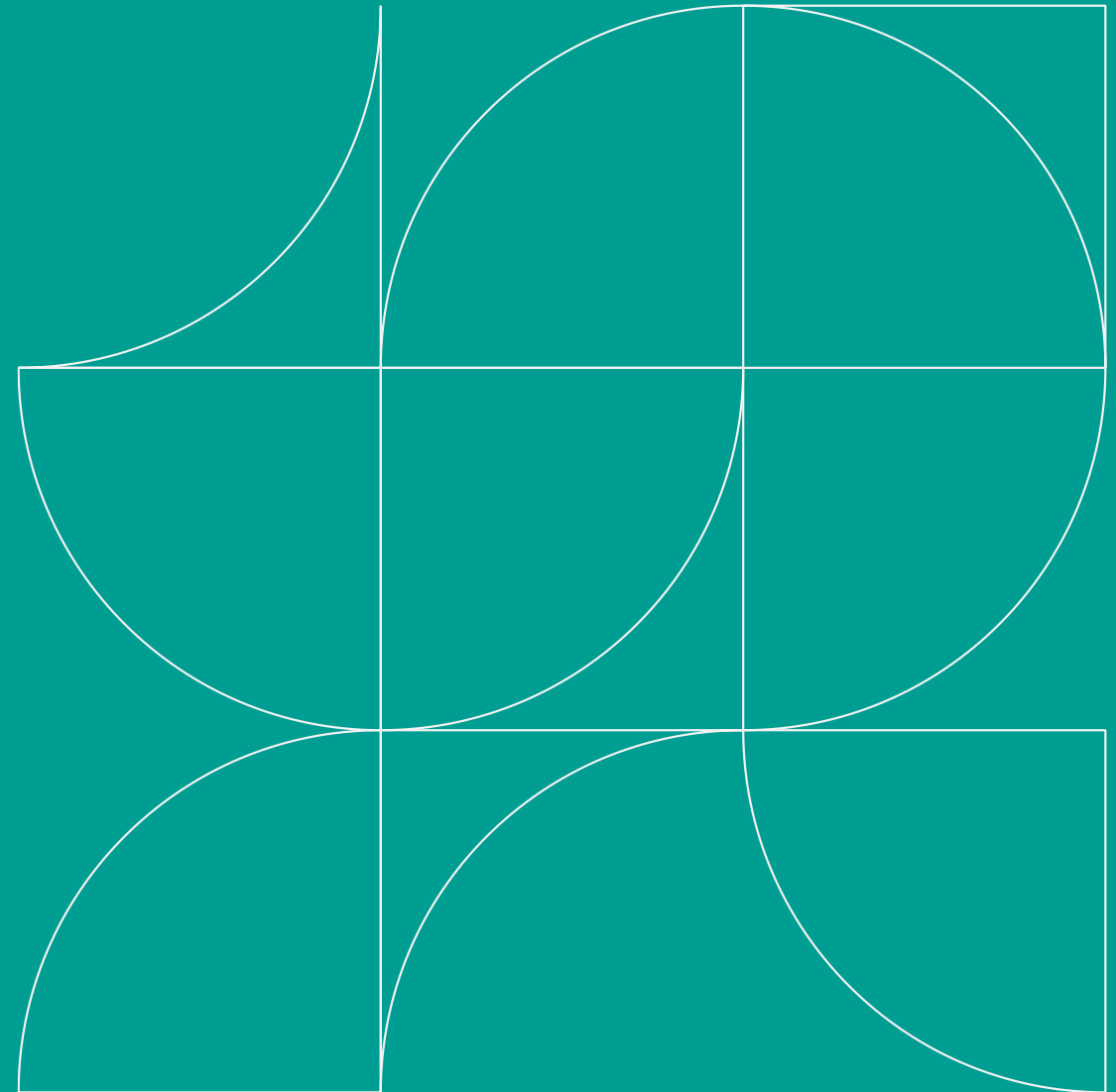
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- **Enforcement**

- Commission “vigorously enforces” the FCA
  - Civil penalties are based on (1) the severity of the particular violation; (2) the existence of previous or contemporaneous violations; (3) the employer’s size, considering both the total number of employees (e.g., 4-9 employees, 10-20 employees, 21-50 employees, 50+ employees) and revenue; and (4) whether or not the employer knew or should have known about the law.
  - Civil penalty up to \$125,000
  - Willful, wanton, or malicious actions – Civil penalty of up to \$250,000
  - Civil penalties are in addition to other remedies available under the FCA, which may include compensatory damages (e.g., back pay, front pay, emotional distress damages, punitive damages, and attorney’s fees)



# Leave Law Updates



# New York State COVID-19 Vaccine Leave Law

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- **Effective Date:** March 12, 2021
- **Sunset Date:** December 31, 2022
- **Amount of Leave:** A sufficient period of time, not to exceed 4 hours per vaccine injection.
- **Reasons for Leave:** Leave is available to employees for absences needed from work in order for the employee to receive their own COVID-19 vaccine injection.
- **Rate of Pay:** Generally, leave must be paid at the employee's regular rate of pay.
- **Notice:** FAQs provide that the law does not prevent an employer from requiring notice.
- **Documentation:** FAQs provide that the law does not prevent an employer from requiring proof of vaccination. However, employers are encouraged to consider any confidentiality requirements applicable to such records prior to requesting proof of vaccination.



# New York City Child Vaccine Leave Mandate

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- **Effective Date:** December 23, 2021 (retroactive effect November 2, 2021)
- **Sunset Date:** December 31, 2022
- **Amount of Leave:** Four hours of COVID-19 child vaccination time per vaccine injection, for each child. This is in addition to leave provided under the NYC ESSTA.
- **Reasons for Leave:** (1) Leave to accompanying a child to receive a COVID-19 vaccine injection; or (2) to care for a child who is experiencing temporary side effects from a COVID-19 vaccine injection.
- **Rate of Pay:** Generally, leave must be paid at the employee's regular rate of pay.
- **Notice/ Documentation:** Unchanged standard of the New York City Earned Safe and Sick Time Act.
- **Written Policy Requirement:** Most likely, yes.



# Reminder: New York State & New York City Paid Sick Leave Laws

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- **New York COVID-19 Emergency Paid Sick Leave Law**

- Depending on the size and/or income of the employer, employees may be entitled to between 5 and 14 days of paid sick leave by the employer. Certain small employers may provide unpaid leave.
- In certain circumstances, employees may also be entitled to use Paid Family Leave or disability benefits for the days of quarantine not paid by the employer.

- **New York State General Paid Sick Leave Law**

- 40 or 56 hours of paid or unpaid sick leave, depending on employer size.
- In late December 2021, the State released final regulations.

- **New York City Earned Safe and Sick Time Act**

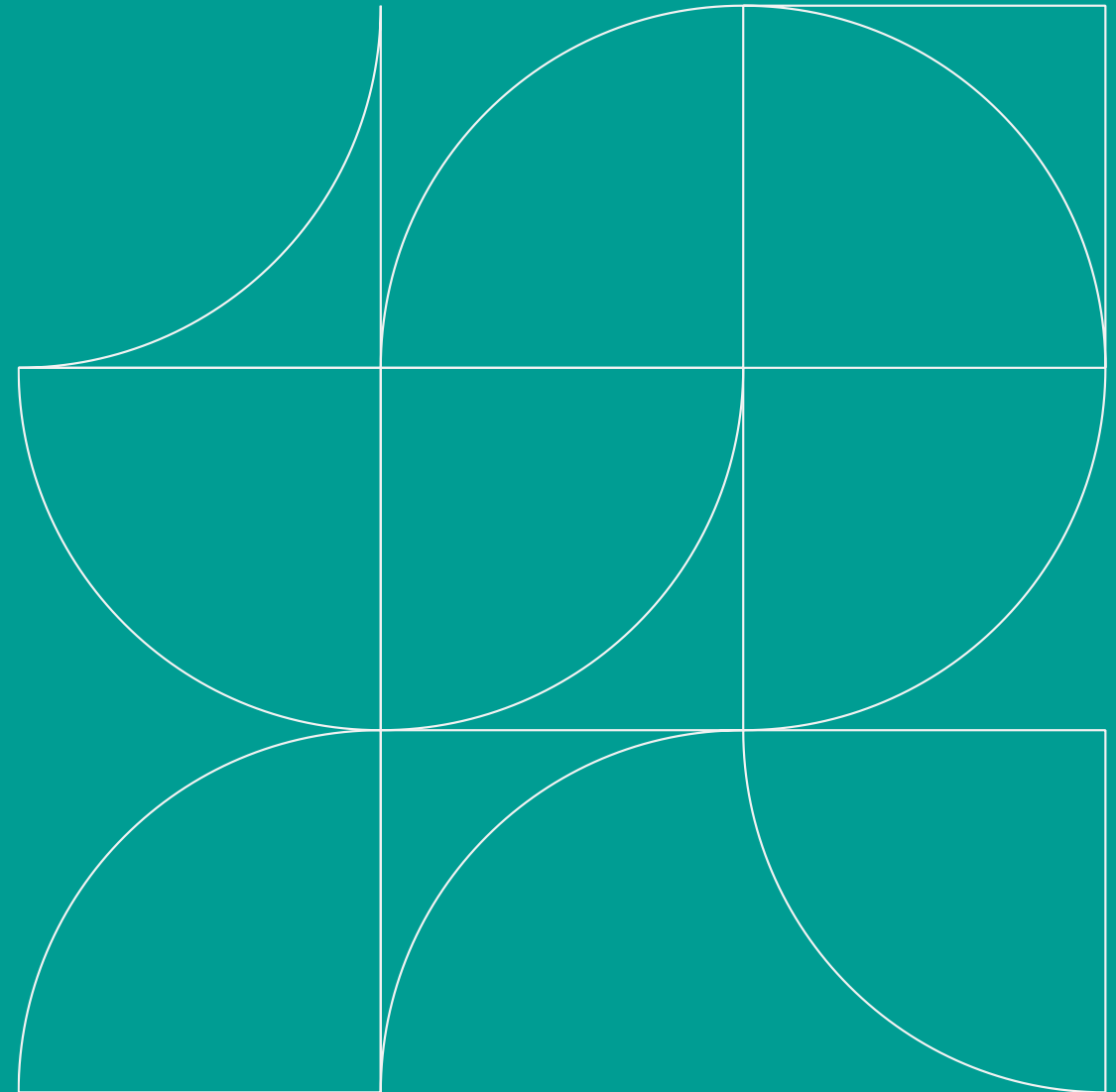
- 40 or 56 hours of paid sick leave (not inclusive of child vaccine leave hours), depending on employer size.

# New York Paid Family Leave Update

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- In effect since 2018
- Effective January 1, 2023, employees will be able to take PFL to take care of a sibling with a serious health condition.
- A number of updates, including greater monetary benefits, higher employee contributions, and a new Statement of Rights, went into effect in January 2022.
  - Monetary benefits maximum increased to \$1,068.36 per week
  - Employee contribution maximum increased to \$423.71
  - The State released a 2022 version of the Statement of Rights

# Guidance on Cannabis Legalization





# Guidance on Cannabis Legalization

- Marijuana Regulation and Taxation Act
  - Legalized the sale and use of cannabis for adults 21 and older
  - Cannabis allowed in public wherever smoking tobacco is legal
    - Not permitted in workplaces or inside a car (cannot drive under the influence)
- Labor Law 201-D:
  - Employers cannot discriminate on the basis of lawful use of cannabis.



# Guidance on Cannabis Legalization

- **Who** is protected under Labor Law 201-D?
  - **Employees** (private and public)
    - Immigration status or citizenship... don't matter
  - But not:
    - Students (who are not employees otherwise)
    - Independent contractors
    - Volunteers
    - Working out of familial obligation
    - Employees under 21 years old



# Guidance on Cannabis Legalization

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- NYS DOL FAQs (Nov. 2021):
  - Drug testing for **cannabis / marijuana** (i.e., THC) is generally **prohibited**
    - Explicitly prohibited by NYC Human Rights Law
    - Unless testing is specifically required by federal or other state law, such as with commercial motor vehicle drivers
      - Laws that permit, but do not require, testing are not enough to justifying testing
    - DOL: employers cannot test and cannot rely on testing as proof of impairment
      - “such tests do not currently demonstrate impairment”

# Guidance on Cannabis Legalization

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- Employee using cannabis on the job....
  - Employer **can take employment action,** **only if:**
    - The employee manifests **specific articulable symptoms** of impairment that:
      - 1) **decrease or lessen** the performance of their duties or tasks, or
      - 2) **interfere** with an employer’s obligation to provide a safe and healthy workplace, free from recognized hazards, as required by state and federal occupational safety and health laws.
    - Specific articulable symptoms: objectively observable indications that the employee’s performance of the duties of their position are decreased or lessened
      - Cannot be a drug test
      - Caution: same “symptoms” can be indicators of disability or medical condition
    - So... employee can be physiologically impaired at work and not face discipline or discharge, so long as the employee does not “manifest specific articulable symptoms” and the employer does not have a written policy in place prohibiting impairment

# Guidance on Cannabis Legalization

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- Employer policies...
  - Employers can prohibit cannabis use during “work hours”
    - Can include:
      - All time employee is engaged in work
      - Paid and unpaid breaks (even if employee goes off-site)
      - On-call time (expected to be engaged in work)
    - Employers can prohibit cannabis possession at work
      - Worksite can include:
        - All of the employers property
        - Lockers, desks, etc.
        - Vehicles (even after hours)
        - But not remote location (i.e., home) – unless employee exhibits articulable symptoms

# Guidance on Cannabis Legalization

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- Employer policies...
  - **Cannot** prohibit use outside of the workplace (unless permitted/required by law)
  - **Cannot** require employees to promise or agree to not use cannabis as a condition of employment



# Guidance on Cannabis Legalization

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- How about safety???
- **National Safety Council** recommends a **zero-tolerance policy** for cannabis
  - Based on the decline in judgment and motor skills, and increase in accidents, incidents, employee injuries, and employee fatalities
  - Following workplace fatalities, a large percentage of post-mortem toxicology shows evidence of cannabis impairment
- **Labor Law 201-D**
  - No safety-sensitive exemption
  - Need **“specific articulable symptoms”**

# Guidance on Cannabis Legalization

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- Are remote workers protected?
  - NY law applies to employees within the State
  - Out of state workers... likely not protected by NY law, but potentially protected by local law (e.g., NJ)





**Thank You**

