



To: Valued Clients
From: Gray and Gray and Associates, CPAS
Date: September 2020
RE: New NYS Paid Sick Leave Law

The Fiscal year 2021 New York State Budget signed into law by Gov. Cuomo on April 3, 2020 included an amendment to the Labor Law that requires New York employers to provide sick leave to all employees.

The paid sick leave requirement will take effect September 30, 2020. The paid sick leave starts accruing September 30, 2020 and employers may restrict use of sick leave until January 1, 2021.

- Employers with four or fewer employees and a net income of \$1 million or less in the prior tax year must provide employees with up to **40** hours of accrued **UNPAID** sick leave in each calendar year.
- Employers with four or fewer employees and a net income of greater than \$1 million in the prior tax year must provide employees with up to **40** hours of accrued **PAID** sick leave in each calendar year.
- Employers with 5-99 employees must provide up to **40** hours of accrued **PAID** sick leave in each calendar year
- Employers with 100 or more employees must provide up to **56** hours of accrued **PAID** sick leave.

Unused sick leave may be carried over by employees to the following year but an employer with fewer than 100 employees may limit the use of sick leave to 40 hours per calendar year and employers with 100 or more employees may limit the use of sick leave to 56 hours per calendar year.

Employers are not required to pay employees for unused sick leave upon termination, resignation, retirement or other separation from employment.

Nothing in the law prevents an employer from providing more sick leave, paid or unpaid, than required under the law.

Employees must accrue sick leave at a rate of at least 1 hour for every 30 hours worked. Alternatively, employers may fulfill their obligation under the law by providing the full amount of sick leave in a lump sum at the beginning of each year.

Employers may set a reasonable minimum increment for the use of sick leave, but it may not exceed 4 hours.

Sick Leave may be taken for the following reasons:

- For a mental or physical illness, injury, or health condition of an employee or an employee's family member, regardless of whether the illness, injury, or condition has been diagnosed or required medical care at the time that leave is requested.
- For the diagnosis, care or treatment of a mental or physical illness, injury or health condition of an employee or an employee's family member, or for the preventative care for an employee or an employee's family member.
- For an absence from work for the following reasons related to an employee or an employee's family member being the victim of domestic violence, a family offense, a 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, to temporarily or permanently relocate, or to take other actions to increase the safety of an employee and/or an employee's family member.
 - To meet with an attorney or other social services provider in relation to a criminal or civil proceeding.
 - To file a complaint or domestic incident report with law enforcement.
 - To meet with the district attorney's office.
 - To take any other action necessary to ensure the health and safety of an employee or an employee's family member, or to protect those who associate or work with the employee.

Employers may not require an employee to disclose confidential information relating to the reason for the use of sick leave.

Under the law, "family member" is defined as an employee's child, spouse, domestic partner, parent, sibling, grandchild, grandparent, and the child or parent of an employee's spouse or domestic partner.

Any employer that has adopted a sick leave policy or paid time off policy that provides employees with an amount of leave which meets or exceeds the amount required by the statute and satisfies the accrual, carryover, and use requirements of the statute is not obligated to provide any additional sick leave under the statute.

Review of Current Sick Leave Policy

Employers must review their current sick leave policy and adopt necessary changes to comply with the mandate. Revised policies must be distributed to all employees and employers should obtain an acknowledgement of receipt from all employees.