

What's New In Westchester County Employment Law

Monday, June 17, 2019

Employers with locations in Westchester County, NY should be aware that Westchester has recently followed in the footsteps of other neighboring jurisdictions by enacting laws requiring employers to provide paid sick leave and leave for victims of domestic violence, stalking, and other sexual offenses. We provide details on each below.

Paid Sick Leave

Effective April 8, 2019, the Westchester County Earned Sick Leave Law (ESLL) requires employers with five or more employees to provide eligible employees with up to 40 hours of paid sick time each year. For employers with fewer than five employees in Westchester County, the same amount of sick leave must be provided, but does not have to be paid time. Eligible employees are any employees, including part-time employees and domestic workers, who are employed within Westchester County for more than 80 hours in a calendar year. Employees who are covered by a collective bargaining agreement will be covered by the ESLL upon the expiration date of the collective bargaining agreement.

Similarly to the paid sick time law in New York City, under the ESLL, employees will accrue at least one hour of sick time for every 30 hours worked up to a maximum of 40 hours per year. Domestic workers, however, will accrue one hour of sick time for every seven days worked. Employers who already provide employees with at least 40 hours of paid sick time per year will be in compliance as long as employees are permitted to use the sick time for the purposes articulated in the ESLL. If an employee uses sick time for more than three consecutive work days, an employer may require reasonable documentation that the employee used the earned sick time for a purpose covered by the ESLL.

Under the law, employers must, for a period of at least three years, keep records clearly documenting all hours worked by employees and all hours of earned sick time that are accrued and used by employees for a period of three years. Employers must also distribute the ESLL to all employees at the time of hire or within 90 days of April 10, 2019, whichever occurs later. Employers must also post the ESLL poster, which is available [here](#), in English, Spanish, and any other language deemed appropriate by Westchester County, in conspicuous locations in the workplace.

Paid Safe Leave

In addition, beginning October 30, 2019, Westchester County employers will be required to provide employees who are victims of domestic violence or victims of human trafficking with up to 40 hours of paid leave in any calendar year or consecutive 12-month period in order to attend or testify in criminal and/or civil court proceedings relating to domestic violence or human trafficking matter, and/or to move to a safe location. This paid leave is in addition to the paid sick leave described above, and it may be used in full days or increments. As presently written, the law does not allow employers the right to set minimum increments for use of safe leave.



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When the need to use safe leave is foreseeable, employees must make a good faith effort to provide advance notice of an intent to use safe leave. Requests to an employer to use safe leave may be made orally, in writing, by electronic means, or by any other means acceptable to the employer. An employer may request reasonable documentation from an employee demonstrating that the employee has used safe time leave for a qualified purpose. Documentation and other information about an employee or family member relating to the use of safe leave must be kept confidential and not disclosed without written permission from the employee, unless such disclosure is otherwise required by law.

The law prohibits retaliation against an employee who exercises his/her rights to use safe leave. The law establishes a “rebuttable presumption” of retaliation if an employee is subject to an adverse action within 90 days of the employee’s exercise of his or her rights under the Safe Time Leave Law.

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