

Temporary Schedule Changes Now Mandatory for New York City Employers

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By: Concepcion A. Montoya

The New York City Council further solidified its commitment to advancing the work-life balance of New Yorkers by requiring employers to allow employees to take two temporary schedule changes per calendar year. Effective July 18, 2018, New York City employees may request a temporary change to their schedule, up to two times per year, for a “personal event” defined as the need to provide care to a minor child or care recipient; the need to attend a legal proceeding or hearing for subsistence benefits; or any circumstances that would be a basis for permissible use of safe time or sick time as defined by the NYC Earned Sick Time Act. The new law amends New York City’s Fair Workweek Law, which was enacted in November 2017, to require employers to grant a request for a temporary change in work schedule.

The new law allows employees to alter their hours, times or locations for a limited period including the use of sick time, working remotely, swapping or shifting work hours, or using short-term unpaid leave. An employee need not use accrued leave before requesting a temporary work schedule change.

The employee need not put the initial request in writing, but as soon as practicable, and no later than the second business day after the employee returns to work after the temporary change to the work schedule. The employer may allow an employee to use two business days for one request, and in such case, the employee need not grant a second request.

The employer must respond to the initial request immediately but need not put the initial response in writing. If the employee makes a written request, however, the employer must respond in writing as soon as practicable and no later than 14 days after the employee’s request in writing. The response should specify whether the request for temporary change is granted or whether it shall constitute leave without pay (which does not amount to a denial of the request). If the request is denied, the employer must provide a written explanation. Employers may deny a request for temporary change if more than two allotted requests have been exhausted for the calendar year.

The law does not apply to employees who are covered by a collective bargaining agreement; have been employed for less than 120 days; work less than 80 hours in New York City for any calendar year; or to certain employees in the television, movie and live entertainment industries.

Penalties for violations include compensatory damages, civil penalties and administrative penalties.

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