

Temporary Schedule Changes for Employees in NYC

FEATURED ATTORNEY



Sharon P. Stiller

Of Counsel

Effective July 18, 2018, New York City employers will be required to allow employees who have been employed for at least 120 days and who work at least 80 hours in New York City in a calendar year to make two temporary schedule changes per year for certain personal events. These events include:

1. to provide care to a minor child or to a person living in the caregiver's household with a disability who relies on the caregiver for medical care or the needs of daily living;
2. to "attend a legal proceeding or hearing for subsistence benefits to which the employee, a family member or the employee's care recipient is a party"; or
3. to attend to "any circumstance that would constitute a basis for permissible use of safe time or sick time" under the [New York City Earned Safe and Sick Time Act](#) (the Sick Time Act).

Temporary changes include permitting a change in schedule or locations where the employee works, or permitting the employee to use paid leave, work remotely, take unpaid leave or exchange schedules. Employees are entitled to make these type of changes twice per calendar year for up to one business day per request. If an employee uses two days for one request, it is not necessary to grant a second request.

An employee must notify his or her employer or direct supervisor as soon as he or she becomes aware of the need for the temporary change, identifying the qualified personal event. The request need not be in writing, however, no later than two days after returning to work, the employee must indicate in writing the date for which the temporary change was requested and that the change was due to the employee's qualified personal event.

Within 14 days of receiving the request in writing, the employer must provide a written response that includes the following information:

- "Whether the employer will agree to the temporary change to the work schedule in the manner requested by the employee, or will provide the temporary change to the work schedule as leave

without pay, which does not constitute a denial”

- An explanation for the denial, if the employer denies the request for a temporary change to the work schedule
- How many requests and how many temporary change business days the employee has left in the calendar year, after taking into account the employer’s decision contained in the written response

Employees are not required to use Safe and Sick Time Act leave before requesting schedule changes.

Unpaid leave granted for a personal event does not count towards any Sick Time Act-mandated leave.

Likewise, leave granted under the Sick Time Act does not satisfy the requirements under this law.

Employers may be subject to a \$500 penalty for each violation of this law. However, an employer may avoid liability if it presents proof to the New York City Office of Labor Standards that it provided the employee with the required written response within seven days of the office notifying the employer of its opportunity to cure.

Sharon P. Stiller

585.218.9999

sstiller@abramslaw.com

Rachel Demarest Gold

718.215.5300

rgold@abramslaw.com