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New York City updates safe and sick time model notice

On October 27, the New York City Department of Consumer and Worker Protection issued an updated version of its model “Notice of Employee Rights: Safe and Sick Leave” under the city’s Earned Safe and Sick Time Act. Employers must conspicuously post the model notice at their place of business and provide the notice to current employees by January 1, 2021 and to each new hire at the commencement of employment.

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Background

Since 2014, New York City’s Earned Sick Time Act has required private-sector employers with five or more employees to provide a minimum amount of job-protected, paid sick time to eligible employees. (See our [March 27, 2014 FYI](#).) When coverage was expanded to include absences related to domestic violence, a family offense, sexual offense, stalking, or human trafficking, the law was renamed the “Earned Safe and Sick Time Act” (ESSTA). (See our [November 27, 2017 FYI](#).)

Effective September 30, 2020, New York City amended the ESSTA. Most of the modifications were intended to better align it with New York state’s new paid sick leave law, which became effective on September 30 as well. The amendments also imposed new obligations on NYC employers, including certain notice and posting requirements. (See our [October 14, 2020 FYI](#).)

Notice and posting requirements

On October 27, the New York City Department of Consumer and Worker Protection (DCWP) issued an updated version of its model “Notice of Employee Rights: Safe and Sick Leave” under the ESSTA. Key notice and posting requirements under the amended law are highlighted below.

Notice requirement

Under the ESSTA, employers are required to provide written notice of safe and sick time rights to employees when they begin employment or when their rights change. For employees who were

already employed prior to September 30 (the effective date of the latest amendments), the ESSTA amendments required an updated notice to be provided by October 30, 2020. However, according to the DCWP [website](#), employers with 100 or more employees and employers of domestic workers must provide an updated notice to employees by January 1, 2021. It is unclear whether the later deadline will also apply to employers with fewer than 100 employees.

The employee rights notice must be provided in English and the primary language spoken by the employee, provided the DCWP has made a translation available. While the model notice is currently available in both [English](#) and [Spanish](#), the DCWP website notes that it will be translated into additional languages soon.

Available safe and sick time balances

The ESSTA amendments also require employers to notify employees of their safe and sick leave balances. Specifically, the amounts of accrued and used leave and the total balance of accrued leave must be listed on employees' paystubs (or any document issued each pay period). Notably, the DCWP website provides a grace period for employers that could not operationalize the documentation requirement by September 30 but are working in good faith on implementation. They will have until November 30, 2020 to comply without a penalty.

Posting requirement

The ESSTA amendments also add a requirement for employers to conspicuously post the written notice of employee's safe and sick time rights at their place of business in an area accessible to employees. Whether posting the model notice in English is sufficient or postings in other languages will also be required is not yet clear.

In closing

NYC employers should update their policies, postings, and employee paystubs to ensure compliance with both the ESSTA amendments and the state's new paid sick leave law that also took effect on September 30. Employers should continue to monitor state and city websites for additional guidance on the new requirements.

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