

New York City Issues Guidance for Prenatal Leave

New York became the first state in the nation to enact paid prenatal leave that became effective January 1, 2025. New York employers must provide 20 hours of paid prenatal leave for covered healthcare services in a 52-week period that is measured from the first time the employee uses paid prenatal leave. The New York City (“NYC”) Department of Consumer and Worker Protection (“DCWP”) amended its interpretive rules for the NYC Earned Safe and Sick Time Act (“ESSTA”) to incorporate New York state’s prenatal leave guidance.

The NYC amended rules were effective July 2, 2025, and while the rules attempt to align the city’s ESSTA with the state’s paid prenatal leave guidance, there are some notable differences as summarized below.

	New York State Paid Prenatal Leave	New York City Amendments to DCWP Interpretive Rules
Failure to file Form 5500	Employers may not request medical records or ask employees to disclose confidential information about their health condition when requesting paid prenatal leave	After three consecutive workdays of leave, employers can require employees to submit reasonable documentation to substantiate that paid prenatal leave was used appropriately
Employee Notice Requirements	Employees should request time off in accordance with existing notification/request procedures within their workplaces and are encouraged to provide advance notice of such leave requests, when possible	Employers can require an employee to provide reasonable notice of the need to use safe/sick time or paid prenatal leave for “foreseeable” absences

Use of Paid Prenatal Leave	Allows employees to take paid prenatal leave in hourly increments	Permits an employer to set a minimum increment of paid prenatal leave at “one hour per day” suggesting that an employer has flexibility to establish a different minimum leave increment
Employer Notice and Recordkeeping Requirements	Employers are not required to separately identify paid prenatal leave on employee paystubs but are encouraged to keep accurate records	Requires employers to report an employee’s available paid prenatal leave balance each pay period in which an employee uses the leave (on the pay statement following the use or other written documentation)

■ Employer Action

NYC employers should review the paid prenatal leave interpretive rules with counsel to ensure compliance with all relevant guidance. It remains to be seen whether the NYC differences to the state paid prenatal leave provisions are applicable absent amendments to the ESSTA.