

# MSF CLIENT ALERT

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## Coronavirus Guidance

*In the face of the rapid spread of infection of our national population with COVID-19 and closures of businesses, school and day care centers, it is important for New York City employers to remember their obligations under the New York City Earned Safe and Sick Time Act.*

### ***How much safe/sick leave do employers need to provide?***

Employers must permit their employees to accrue up to 40 hours of safe/sick leave per year. Employers can either front load the time at the beginning of the year or require employees to accrue safe/sick leave at a rate of 1 hour for every 30 hours worked.

### ***Is safe/sick leave paid or unpaid?***

For employers with 5 or more employees, such leave is paid. For employers with 4 or less employees, the leave is unpaid.

### ***When can an employee use such leave?***

The New York City Earned Safe and Sick Leave Act allows employees to use safe/sick leave for many reasons. The following is a list of permitted uses that are most relevant to the current COVID-19 pandemic:

- As a result of the employer's own illness, injury or medical condition, diagnosis, or for preventative medical care;
- So that the employee can care for their family member who needs medical diagnosis, care or treatment for an illness or medical condition or who needs preventative medical care; and
- As a result of closure of the employee's place of business by order of a public health official due to a public health emergency or such employee's need to care for a child whose school or childcare provider has been closed by order of a public health official due to a public health emergency.

### ***What considerations must we make in light of the COVID-19 pandemic?***

In light of the closure of all New York State schools due to the current public health emergency, many parents may need time away from work in order to care for their children during this crisis. Employees must be permitted to use their accrued safe/sick leave for such time away from work. Moreover, given the mandatory closure of certain businesses such as movie theaters and gyms due to the public health emergency, those employees can use their accrued time to replace their lost income.

Further, if an employee or their family member is stricken with COVID-19, they may use their accrued safe/sick leave to recover and/or care for their family member. The Family and Medical Leave Act may provide additional unpaid leave in the case of an employee's illness or family member's illness. In addition, employees caring for a sick family member may be eligible for paid leave under New York's Paid Family Leave Act.

### ***Are employers required to have a safe and sick leave policy?***

Yes. New York City employers are required to maintain a written safe/sick leave policy that is distributed to all employees. In addition to the written policy, employers are required to provide all employees with a Notice of

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Rights in English and their primary language, if the notice is published in that language. If an employer provides vacation or paid time off in excess of 40 hours per year, that time may be used to satisfy obligations under the

New York City law provided that the vacation or paid time off policy is administered consistent with the law's requirements.

Should you require assistance or have any questions about employer obligation regarding safe and sick leave or require assistance implementing or reviewing an existing safe and sick leave policy or vacation/paid time off policy, Meister Seelig & Fein's Employment team is available to help.



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## *Additional COVID-19 Resources That Might Interest You.*

[MSF COVID-19 HUB](#)

[Coronavirus Guidance - Employment](#)

[Coronavirus Guidance - Real Estate](#)

[Coronavirus Guidance - Taxation & Estates](#)

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