

New York Labor Department No Longer Pursuing Call-In Pay Regulations

By Jeffrey W. Brecher and Richard I. Greenberg

February 28, 2019

The New York State Department of Labor (NYSDOL) is no longer pursuing regulations on “call-in pay,” or predictive scheduling, that would affect most New York employers.

The regulations would have required employers, among other things, to provide call-in pay (ranging from two to four hours at the minimum wage) if:

- Employers do not provide non-exempt employees 14 days' advance notice of their work shift;
- Employers cancel employee shifts without at least 14 days' advance notice;
- Employers require employees to work “on-call”; or
- Employers require non-exempt employees to report to work but then send them home.

(For more on the proposal, see our article, [New York State Department of Labor Issues Revised Proposed 'Predictive Scheduling' Regulations.](#))

After a round of revisions that included several exemptions to the regulations, the NYSDOL has decided to allow the proposed regulations to expire. This development is a relief for employers who would have lost flexibility in scheduling employees and responding to customers' needs. The proposal also could have had the effect of restricting employers' willingness to grant employees' requests for modifications to their schedules or shifts, as doing so might also trigger penalties to employees asked to cover such shifts. The NYSDOL will leave employee scheduling to be determined by employees and employers, at least for now.

While the proposed regulations will no longer be an issue for employers statewide, covered New York City employers (certain fast food and retail employers) are still subject to the Fair Workweek Law. (For details of the Fair Workweek Law, see our article, [New York City Issues Proposed Rules for Fast Food, Retail Workers Scheduling Law.](#)) Further, the NYSDOL may work with the New York State Legislature to advance predictive scheduling legislation in the future.

Please contact the authors or the Jackson Lewis attorney with whom you regularly work with any questions regarding your New York State legal compliance.

The Jackson Lewis Government Relations practice monitors and tracks all regulatory proposals and legislation introduced in New York, and advocates for client positions at all levels of city and state government.

©2019 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on labor and employment law since 1958, Jackson Lewis P.C.'s 950+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged, stable and diverse, and share our clients' goals to emphasize inclusivity and respect for the contribution of every employee. For more information, visit <https://www.jacksonlewis.com>.

Meet the Authors



[Jeffrey W. Brecher](#)

Principal
New York Metro
Long Island
631-247-4652
Email



[Richard I. Greenberg](#)

Principal
New York Metro
New York City
212-545-4080
Email

Practices

Wage and Hour

Services

New York Metro

