



# New York Poised to Expand Severance Agreement Rules: Key Employer Takeaways

Insights

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Employers would have to give all employees in New York time to review and revoke severance agreements under a bill that just passed the state Senate on March 4. The No Severance Ultimatums Act now moves to the Assembly, and if it's ultimately enacted, the legislation would amend the New York Labor Law to prohibit employers from imposing "coercive ultimatums" in employment severance agreements. Here's what you need to know about the proposal as it moves through the legislative process.

## Key Provisions

- **Review Period:** Employers would be required to provide employees at least 21 business days to review a severance agreement before signing.
- **Time to Revoke:** After signing, employees would have seven days to revoke the agreement. The agreement would only become effective after this revocation period expires.
- **Notice:** Employers would need to inform employees that they have a right on consult with an attorney before signing the agreement.
- **Effective Immediately:** The law would take effect immediately upon enactment.
- **Waiver of Review Period:** Employees would be able to waive the 21-business-day review period if they choose to sign the severance agreement before it expires. However, the seven-day revocation period cannot be waived, meaning employees will always have seven days to revoke the agreement after signing.

## What's Changing?

- **Older Workers Already Covered:** Under current law, employees over age 40 are already entitled to a 21-day review period and seven-day revocation period under the federal Older Workers Benefits Protection Act (OWBPA) to ensure a valid release of claims under the Age Discrimination in Employment Act (ADEA).
- **Specific Claims Already Covered:** Additionally, New York employees are already entitled to a 21-day review period and seven-day revocation period for severance agreements that resolve claims of discrimination, harassment, or retaliation – so long as the agreement includes a non-disclosure provision regarding the factual basis for those claims.

- **New Law Would Apply to All Employees:** The proposed law would extend the review and revocation rights to *all* employees in New York, not just those over 40 or those confidentially resolving discrimination-related claims.
- **Longer Review Period:** The new review period is longer than the current period under both the OWBPA and New York law for non-disclosure provisions because it is expressed in business days, not calendar days, which may be an intentional expansion or a potential oversight when the legislation was drafted.

## Compliance is Critical

If enacted, you will need to revise your standard severance agreement templates and practices to incorporate the new review and revocation periods and to include language notifying employees of their right to consult with legal counsel. Failure to comply with these new requirements will invalidate the severance agreement, so it is critical to take swift action to prepare for these potential changes.

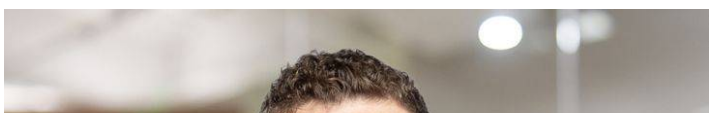
## Conclusion

We are continuing to monitor these developments, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. If you have questions, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in in our [New York City office](#).

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