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Workforce Now® Comprehensive HR

Paid Sick Leave Toolkit: California, Connecticut, Massachusetts and Washington, D.C.

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Table of Contents

California	4
Connecticut	8
Massachusetts	11
Washington, DC	14

Sample Policies

California – Separate Paid Sick Leave Policy	17
Connecticut	21
Massachusetts	23
Washington, DC	24

Overview

Sick leave laws pose a compliance challenge to employers. While the legislative framework for sick leave laws tends to be similar (they generally define eligible employees, an accrual formula, reasons for leave, carry-over requirements, employee and employer notice and documentation requirements), each law differs with respect to the application of these requirements which, in turn, poses unique challenges for multi-state (and multi-city) employers.

The Department of Labor has also expressed interest in exploring the feasibility of additional sick leave laws. On September 24, 2014, the U.S. Department of Labor's Women's Bureau and Employment Training Administration announced that it had awarded \$500,000 to fund feasibility studies on paid leave laws in the District of Columbia, Massachusetts, Montana, and Rhode Island. Specifically, according to the [DOL's news release](#), the studies will inform the development or implementation of paid family and medical leave programs at the state level.

With 50 states and 39,000 municipalities the number of sick leave mandates will continue to grow rapidly. As your trusted compliance partner we stand ready to assist you in helping to ensure you are meeting your compliance obligations. To this end, we have prepared this toolkit. It includes a summary of paid sick leave laws¹ in California, Connecticut, Massachusetts, and Washington, D.C. (as of the date of this publication) as well as model policies. We hope that you will find it to be a useful resource.



Please note: The Workforce Now Comprehensive Services document team can assist you, our ADP Workforce Now Comprehensive HR clients, with the suggested best practice policy language, whether you are seeking to maintain an all-inclusive Paid Time Off policy (PTO) that provides for paid sick leave in compliance with the new state law, or you wish to maintain a Paid Sick Leave policy separate from your general PTO policy. With regard to tracking, wage statement notification, rate of pay, and other requirements (as applicable depending on the jurisdiction) our clients are encouraged to reach out to their RM or service team.

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¹ Note that this Toolkit does not cover federal or state Family and Medical Leave laws such as the federal Family and Medical Leave Act or similar state leave laws which do not require paid leave.



California

1. When is the law effective?

Portions of the law went into effect on January 1, 2015. Entitlement to paid sick leave begins on **July 1, 2015**. Per agency guidance, the qualifying periods that determine which employees are eligible for paid sick leave and the employee notice required by Cal. Lab. Code § 2810.5 are currently in effect.

2. How is a covered employer defined under the law?

All employers with employees in California are covered.

3. Do part-time employees count for purposes of determining coverage?

Yes. See question number 2 above.

4. Do out of state employees count for purposes of determining coverage?

Yes. See question number 2 above.

5. Are there any specific employer exemptions (other than those who do not employ a sufficient number of employees to be covered)?

No, but see question number 7 below.

6. Which employees are eligible?

Starting July 1, 2015, an employee is eligible for sick leave if the individual works in California for at least 30 days within a year from the commencement of employment. This is measured from July 1, 2015.

7. Are certain classes of employees not eligible?

Yes. Employees working under a valid collective bargaining agreement that provides for similar paid sick time and who earn 30 percent more than the state minimum wage, among other terms of employment, are not covered by the Act. Also not covered by the Act are employees in the construction industry covered by a valid collective bargaining agreement, with similar required terms of employment as above including a regularly hourly rate of pay of not less than 30 percent more than the state minimum wage, entered into before January 1, 2015, or an employer in the construction industry which negotiates a collective bargaining agreement that expressly waives the requirements of the Act. The Act also exempts other classes of employees including providers of in-home supportive services (as defined by the state Welfare and Institutions Code) and certain flight deck or cabin crew members of air carriers subject to the federal Railway Labor Act.

8. Are exempt employees (those for whom time records are not ordinarily maintained) presumed to work a certain number of hours?

An employee who is exempt from overtime requirements, such as an administrative, executive, or professional employee under a wage order of the Industrial Welfare Commission, is deemed to work 40 hours per workweek for the purposes of accrual, unless the employee's normal workweek is less than 40 hours, in which case the employee must accrue paid sick days based upon that normal workweek.

9. For what purposes may sick leave be used?

Accrued sick time can be used:

- (1) For the diagnosis, care or treatment of an existing health condition of, or preventive care for, the employee or the employee's family member; and
- (2) By an employee who is a victim of domestic violence, sexual assault, or stalking.

Family member is defined more broadly than the definition of Kin Care Leave at Labor Code 233. Under the Act, "Family member" means: (1) A child, which for purposes of the law means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis (stands in the same capacity as a parent). This definition of a child is applicable regardless of age or dependency status; (2) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child; (3) A spouse; (4) A registered domestic partner; (5) A grandparent; (6) A grandchild; and (7) A sibling.



10. When does accrual begin?

Employees begin accruing leave at the commencement of employment or on July 1, 2015, whichever is later.

11. How is “year” or “calendar year” defined under the law?

It depends. Given that paid sick leave accrues beginning on July 1, 2015, for current employees and on the first day of employment for any employee hired after July 1, 2015, the 12-month period will vary by hire date for those employees hired after July 1, 2015.

12. What is the required accrual rate?

Employees accrue one hour of sick leave for every 30 hours worked.

13. When can employees use accrued paid sick leave time?

Employees can use accrued sick days beginning on the 90th day of employment.

Although the Commissioner of Labor has not provided specific guidance clarifying how the 90 day period applies to current employees, we recommend that employers measure 90 days from the actual date of hire, not from July 1, 2015.

14. Are there carry-over (ex. from year to year) requirements?

Yes. Any accrued, unused sick leave must carry over from year to year.

15. May employers pay-out accrued but unused sick leave instead of carrying over?

No.

16. May employers cap the usage of sick leave?

Yes. An employer is permitted to limit an employee's use of paid sick leave to 24 hours or three days in each year. The DLSE interprets the reference to “three days” as the equivalent of 24 hours, based on an 8 hour workday. Accordingly, if an employee who typically works ten hour shifts is sick for three days and has accrued 24 hours, he or she will be able to use and be paid for 24 hours. If the employee has accrued 30 hours, the employee must be paid for 30 hours since it the equivalent of three 10-hour work days.

17. May employers cap the accrual of sick leave?

Yes. An employer has no obligation to allow an employee's total accrual of paid sick leave to exceed 48 hours or 6 days, provided that an employee's rights to accrue and use paid sick leave are not otherwise limited in any way. See question 16 above regarding the DLSE's interpretation of the meaning of the terms “days” and “hours.”

18. Will my current sick leave or PTO policy suffice for purposes of the law?

Possibly. An employer is not required to provide additional paid sick days if the employer has a paid leave policy or paid time off policy, the employer makes available an amount of leave that may be used for the same purposes and under the same conditions as specified in the law. For example, the policy must either: (1) (If the accrual method is chosen), satisfy the accrual, carry over, and use requirements of the law, or (2) (If the frontload method is chosen),* satisfy the use requirements of the law and provide no less than 24 hours or three days of paid sick leave, or equivalent paid leave or paid time off, for employee use for each year of employment or calendar year or 12-month basis.

* Under the federal Fair Labor Standards Act (FLSA) employers are permitted to dock a salaried exempt employee's salary based on sick leave absences in full day increments if the employer has a “bona fide” sick leave policy and the employee has either not accrued or has exhausted all time under the policy.

The U.S. Department of Labor has in the past found policies providing at least five days of sick leave to be bona fide. There is a risk that a policy that provides fewer than five days of sick leave may not be considered bona fide and therefore a deduction from salary could not be made. Nothing in California law indicates more than 5 days are needed to be provided to an exempt employee to meet the bona fide requirement, although there is no clarity as to whether 5 days is sufficient. However, because the legislature was satisfied with an accrual cap of 6 days or 48 hours is possible that the DLSE would view 6 days or 48 hours more deserving of “bona fide” status, than 5.

In addition, the California law regarding provision and usage of paid sick leave is not yet effective, the DLSE is still issuing guidance and the plaintiffs' bar has only begun to evaluate this new litigation opportunity. Accordingly, while it is counterintuitive due to the 3 day usage restriction on the accrual method, an employer intending to deduct from an exempt employee's salary for full day absences due to illness when sick leave is exhausted should consider making the usage cap 5 days and even consider 6 days, especially if it was already willing to give 5 days. For non-exempt employees, a 5 day grant or even a 3 day grant is sufficient.



Based on the above, clients should therefore consider:

Accrual Method

- Cap accrual at 48 hours or 6 days; and limit usage to 24 hours or 3 days for all employees
- Cap accrual at 48 hours or 6 days; and limit usage to 40 hours or 5 days to exempt employees who must be paid on a guaranteed salary basis and limit usage to three days or 24 hours to non-exempt employees.
- Cap accrual at 48 hours or 6 days; and limit usage to 48 hours or 6 days to exempt employees who must be paid on a guaranteed salary basis and limit usage to three days or 24 hours to non-exempt employees.
- Cap accrual at 48 hours or 6 days; and limit usage to 48 hours or 6 days to all employees.

Grant/Front Load Method

- Providing 24 hours or three days of sick leave to all employees.
- Providing 40 hours or five days of sick leave to all employees.
- Providing 40 hours or five days of sick leave (or 48 hours or six days) to exempt employees who must be paid on a guaranteed salary basis and only three days or 24 hours to non-exempt employees.
- Providing 48 hours or six days of sick leave to all employees.

In reviewing these choices clients should assess their own risk tolerance, financial position and ability to administer the policy. The most conservative option if a client wants to have one policy applicable to both non-exempt and exempt employees is to provide six days. Therefore by default our model policy provides for six days.

19. Are employees with collective bargaining agreements treated differently under the law?

Yes. See question number 7 above.

20. Are there specific record keeping or paystub requirements?

Yes. An itemized wage payment statement must show the amount of available paid sick leave or PTO. Alternatively, an employer may provide this information in a separate writing on the designated payday.* The law also requires that employers keep records of hours worked and sick leave accrued and used for three years. Employers must also make these records available upon request to the employee or the Labor Commissioner. The failure to keep records results in a legal presumption that the employee is entitled to the maximum number of hours accruable (despite any previous sick leave use). Clients must therefore keep these records.

***Please note:** Clients not currently reflecting PTO or sick leave on their pay stubs should reach out to their Payroll Service Representative as soon as possible to implement this requirement. Otherwise we will assume that clients are unilaterally providing information in a separate writing.

21. Are there specific notice or poster requirements?

Beginning January 1, 2015, employers are required to post in a conspicuous place at the workplace, a poster containing the following information: (1) that an employee is entitled to accrue, request, and use paid sick days; (2) the amount of sick days provided for and the terms of use of paid sick days; (3) that retaliation or discrimination against an employee who requests paid sick days or uses paid sick days or both is prohibited; and (4) that an employee has the right under this law to file a complaint with the Labor Commissioner against an employer who retaliates or discriminates against an employee. The new law required the Labor Commissioner to develop such a [poster](#), and it is now available on the Labor Commissioner's website.

Second, after January 1, 2015, employers are required to provide most employees with an individualized [Notice to Employee](#) (required under Labor Code section 2810.5) that includes paid sick leave information. A revised Notice to Employee form (available to employers for download at DLSE's website) must be used for employees hired after January 1, 2015, and is optional for use prior to the January 1, 2015 effective date. Use of the revised form prior to January 1, 2015, will be deemed compliant with the new requirement as of January 1, 2015; otherwise, for employees hired prior to January 1, 2015, the employer is required to provide a revised Notice to Employee or otherwise inform each employee of the information regarding paid sick leave within 7 days of the change, using any of the alternative methods specified in Labor Code section 2810.5(b).



22. Can I use my handbook policy and distribute that to employees instead of the specific notice or poster requirements above?

The law does not address this. It is not a recommended best practice.

23. Must I payout accrued but unused sick leave at termination?

No. However, payout may be required if an employee adopts or uses a PTO policy for purposes of compliance with the ordinance, as discussed in question number 18. Additionally, if an employee separates from an employer and is rehired by the employer within one year from the date of separation, previously accrued and unused paid sick days must be reinstated. The employee is entitled to use those previously accrued and unused paid sick days and to accrue additional paid sick days upon rehire.

24. What are the penalties for noncompliance?

The Labor Commissioner enforces the requirements of the Act and may order appropriate relief (including reinstatement, backpay, payment of sick days unlawfully withheld and administrative penalties) for violations. The Act contains a broad range of harsh penalties for violations, including but not limited to certain penalties up to \$4,000, in addition to remuneration for the paid sick days denied. The Labor Commissioner or the Attorney General may bring a civil action on behalf of an aggrieved worker against anyone who violates the Act.

25. Has the government agency issued any official guidance?

Yes. Guidance is available on the California Division of Labor Standards Enforcement website:
http://www.dir.ca.gov/dlse/Paid_Sick_Leave.htm.



Connecticut

1. When is the law effective?

This law has been in effect since **January 1, 2012**.

2. How is a covered employer defined under the law?

The law defines “employer” as any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company or other entity that employs 50 or more individuals in the state on its payroll for the week containing October 1, annually.

3. Do part-time employees count for purposes of determining coverage?

Yes.

4. Do out of state employees count for purposes of determining coverage?

No.

5. Are there any specific employer exemptions (other than those who do not employ a sufficient number of employees to be covered)?

The definition of employer does not include (1) any business establishment classified in sector 31, 32 or 33 in the North American Industrial Classification System (NAICS) or (2) certain nationally-chartered organizations exempt from taxation under Section 501(c)(3) of the Internal Revenue Code that provide recreation, child-care, and education. The exclusion for manufacturers extends to include all forms of manufacturing, including food, textiles, wood, petroleum, chemical, plastics, metal, machinery, motor vehicles, aerospace, computer, electronic, and miscellaneous products.

The exemption of manufacturers in NAICS sectors 31-33 is not a blanket exemption, and an employer may have some, but not all, of its facilities subject to the law.

6. Which employees are eligible?

The law covers “service workers,” defined as employees engaged primarily in an occupation within one of the occupation code numbers/titles identified in the statute that are listed by the federal Bureau of Labor Statistics Standard in its Occupational Classification system, who are paid on an hourly basis or are otherwise not exempt from minimum wage and overtime requirements under the FLSA. The list includes some obvious job titles, such as cashier, while excluding others that would seem to fit the definition of a service worker, such as a grocery store bagger, and including some that do not seem to fit, such as pharmacists.

7. Are certain classes of employees not eligible?

Yes. Employees who are not “service workers” and day or temporary workers are not eligible. Day or temporary workers are defined as workers who perform work on a per diem basis or an occasional or irregular basis, for only the time required to complete the work, whether they are paid by the person for whom such work is performed or by an employment agency or temporary help service.

8. Are exempt employees (those for whom time records are not ordinarily maintained) presumed to work a certain number of hours?

N/A. Service workers who are exempt from minimum wage and overtime requirements under the FLSA are not covered under the law. See question number 7 above.



9. For what purposes may sick leave be used?

An employee may use paid sick leave:

- (1) *for his or her, or a spouse's or child's:* illness, injury or health condition; the medical diagnosis, care or treatment of his or her mental illness or physical illness, injury or health condition; or preventative medical care; or
- (2) *if the employee is a victim of family violence or sexual assault:* for medical care or psychological or other counseling for physical or psychological injury or disability; to obtain services from a victim services organization; to relocate due to such family violence or sexual assault; to participate in any civil or criminal proceedings related to or resulting from such family violence or sexual assault.

Spouse means a husband or wife. Child means a biological, adopted or foster child, stepchild, legal ward of a service worker, or a child of a service worker standing in loco parentis, who is either under eighteen years of age or is eighteen years of age or older and incapable of self-care because of a mental or physical disability.

10. When does accrual begin?

Accrual begins on the first day of employment.

11. How is “year” or “calendar year” defined under the law?

Effective January 1, 2015, employers can use any 365 day period, such as that which is used to calculate employee benefits.

12. What is the required accrual rate?

Employees accrue one hour of sick leave for every 40 hours worked during a calendar year.

13. When can employees use accrued paid sick leave time?

Employees who have worked an average of ten (10) or more hours per week in the most recent quarter are eligible to use accrued paid sick time after completing 680 hours of employment.

14. Are there carry-over (ex. from year to year) requirements?

Yes. Up to 40 hours of accrued, unused sick leave must carry over from year to year. The Connecticut Department of Labor has indicated that an employer that grants the full allotment of paid sick leave at the beginning of the calendar year is not required to carry unused paid sick leave into the following calendar year.

15. May employers pay-out accrued but unused sick leave instead of carrying over?

Employers may offer employees the option of payout of accrued but unused sick leave instead of carrying over, but employees cannot be required to accept the payout in lieu of carryover.

16. May employers cap the usage of sick leave?

Yes. An employer is permitted to limit an employee's use of paid sick leave to 40 hours in each calendar year.

17. May employers cap the accrual of sick leave?

Yes. An employer is permitted to limit an employee's accrual of paid sick leave to 40 hours in each calendar year.

18. Will my current sick leave or PTO policy suffice for purposes of the law?

Possibly. An employer that provides sick leave or “other paid leave,” such as vacation, personal days or paid time off (PTO), is deemed to be in compliance with the paid sick leave aspect of the law if service workers can use the leave for the purposes enumerated in the law and leave accrues at a rate equal to or greater than the rate described in the law.

19. Are employees with collective bargaining agreements treated differently under the law?

Nothing in the law diminishes any rights provided under a collective bargaining agreement, or preempt or override the terms of any collective bargaining agreement effective prior to January 1, 2012. When the collective bargaining agreement expires or is renegotiated, service workers that are covered under that collective bargaining agreement must be provided paid sick leave in accordance with the law.

20. Are there specific record keeping or paystub requirements?

No.



21. Are there specific notice or poster requirements?

Yes. Employers must give notice to each covered employee, at the time of hire, that they are entitled to paid sick leave, the amount provided, and the terms under which it can be used; that the employer cannot retaliate against the employee for requesting or using sick leave; and that employees can file a complaint with the Labor Commissioner for any violation.

This requirement may be satisfied by displaying a poster containing this information in English and Spanish in a conspicuous place, accessible to employees, at the employer's place of business.

[Click here to download a Poster for Employers \(English\) \(Spanish\)](#). This poster satisfies an employer's notice obligation under the Paid Sick Leave law.

22. Can I use my handbook policy and distribute that to employees instead of the specific notice or poster requirements above?

The law does not address this. It is not a recommended best practice.

23. Must I payout accrued but unused sick leave at termination?

No. However, if an employee separates from an employer, this is considered a break in service. Employers are not required to reinstate any accrued but unused sick leave, but employees retain any or all hours worked, prior to their break in service, towards the 680 hours required for use of accrued leave.

24. What are the penalties for noncompliance?

The Labor Commissioner enforces the requirements of the law. An employer found to have violated the law is liable for civil penalties for violations of the general provisions and higher penalties for violation of the retaliation provision. The Labor Commissioner can also award aggrieved employees all appropriate relief, including payment for used paid sick leave, rehiring or reinstatement to the employee's previous job, payment of back wages, and reestablishment of benefits for which the employee was otherwise eligible if not for the retaliatory personnel action or being discriminated against. Aggrieved parties may appeal the Labor Commissioner's decision to Superior Court, but an aggrieved employee does not otherwise have the right to file an action in court.

25. Has the government agency issued any official guidance?

Yes. Guidance is available on the Connecticut Department of Labor website:
<http://www.ctdol.state.ct.us/wgwkstnd/sickleave.htm>.



Massachusetts

1. When is the law effective?

July 1, 2015.

2. How is a covered employer defined under the law?

The law defines "employer" as any individual, corporation, partnership or other private or public entity, including any agent thereof, who engages the services of an employee for wages, remuneration or other compensation.

Employers who employ 11 or more employees for compensation are required to provide paid sick time in a calendar year. Individuals who work for employers who employ 10 or fewer employees accrue sick time, but this sick time can be unpaid.

3. Do part-time employees count for purposes of determining coverage?

Yes.

4. Do out of state employees count for purposes of determining coverage?

The law does not address this, and the Fair Labor Division of the Attorney General's Office has indicated that they will not clarify this prior to their issuance of formal guidance. It is a suggested best practice that, until definitive guidance is released, employers count out of state employees when determining if they are a covered employer who must provide paid or unpaid sick leave per number 2, above.

5. Are there any specific employer exemptions (other than those who do not employ a sufficient number of employees to be covered)?

The definition of employer does not include the United States government. Cities and towns are only considered employers for the purposes of the law if accepted by vote or by appropriation pursuant to Massachusetts law.

6. Which employees are eligible?

The law defines employee as any person who performs services for an employer for wage, remuneration, or other compensation.

7. Are certain classes of employee not eligible?

No.

8. Are exempt employees (those for whom time records are not ordinarily maintained) presumed to work a certain number of hours?

Yes. An employee who is exempt from overtime requirements under the FLSA is assumed to work 40 hours per workweek for purposes of accrual, unless the employee's normal workweek is less than 40 hours, in which case the employee must accrue paid sick days based upon that normal workweek.

9. For what purposes may sick leave be used?

An employee may use paid sick leave:

- (1) to care for the employee's child (which includes a biological, adopted, or foster child, stepchild, legal ward, or child of a person standing in loco parentis), spouse (as defined by the marriage laws of the commonwealth, which includes a partner in a same-sex marriage), parent, or parent of a spouse, who is suffering from a physical or mental illness, injury, or medical condition that requires home care, professional medical diagnosis or care, or preventative medical care;
- (2) to care for the employee's own physical or mental illness, injury, or medical condition that requires home care, professional medical diagnosis or care, or preventative medical care;
- (3) to attend the employee's routine medical appointment or a routine medical appointment for the employee's child, spouse, parent, or parent of spouse; or
- (4) to address the psychological, physical or legal effects of domestic violence.

10. When does accrual begin?

Accrual begins on July 1, 2015, or the first day of employment, whichever is later.



11. How is “year” or “calendar year” defined under the law?

The ordinance does not define “calendar year.”

12. What is the required accrual rate?

Employees accrue one hour of sick leave for every 30 hours worked during a calendar year.

13. When can employees use accrued paid sick leave time?

Employees may begin using accrued paid sick time on the 90th calendar day of employment.

14. Are there carry-over (ex. from year to year) requirements?

Yes. Up to 40 hours of accrued, unused sick leave must carry over from year to year.

15. May employers pay-out accrued but unused sick leave instead of carrying over?

The law does not address whether an employer may payout accrued but unused sick. It is not a suggested best practice for employers to pay-out, rather than carry over, accrued but unused paid sick leave.

16. May employers cap the usage of sick leave?

Yes. An employer is permitted to limit an employee's use of paid sick leave to 40 hours in each calendar year.

17. May employers cap the accrual of sick leave?

Yes. An employer is permitted to limit an employee's accrual of paid sick leave to 40 hours in each calendar year.

18. Will my current sick leave or PTO policy suffice for purposes of the law?

Possibly. Employers with 11 or more employees who provide their employees paid time off under a paid time off, vacation or other paid leave policy who make available an amount of paid time off sufficient to meet the accrual requirements of the ordinance that may be used for the same purposes and under the same conditions are not required to provide additional paid sick time.

19. Are employees with collective bargaining agreements treated differently under the law?

Nothing in the ordinance diminishes or impairs an employer's obligation to comply with collective bargaining agreements in effect on the effective date of the law, particularly to the extent the agreements provide employees greater earned sick time rights than the rights established under the law.

20. Are there specific record keeping or paystub requirements?

The law does not address specific recordkeeping or paystub requirements.

21. Are there specific notice or poster requirements?

Yes. The Attorney General will prepare a notice which includes: (1) the rights to earned sick time; (2) notices, documentation and any other requirements placed on employees in order to exercise their rights to earned sick time; (3) the protections that an employee has in exercising rights under the law; (4) the name, address, phone number, and website of the Attorney General's office where questions about the rights and responsibilities under the law can be answered; and (5) information about filing an action under this section.

Employers must post the notice in a conspicuous location accessible to employees in every establishment where employees with rights under the law work.

Employers must also provide a copy of the notice to their employees.

22. Can I use my handbook policy and distribute that to employees instead of the specific notice or poster requirements above?

The law does not address this. Best Practice: It is not a recommended best practice for employers to distribute their policy in lieu of the required notice.

23. Must I payout accrued but unused sick leave at termination?

No.



24. What are the penalties for noncompliance?

The Attorney General is responsible for enforcing this law, and may obtain injunctive or declaratory relief as appropriate. Violations may result in required restitution to the aggrieved party as well as civil penalties for each violation, which may be reduced for employers who have not previously been criminally convicted of a violation of the provisions or have not been issued a citation of applicable Massachusetts law.

25. Has the government agency issued any official guidance?

Not at this time.



Washington, DC

1. When is the law effective?

This law has been in effect since November 13, 2008, and was amended in 2014.

2. How is a covered employer defined under the law?

The law defines “employer” as a legal entity (including a for-profit or nonprofit firm, partnership, proprietorship, sole proprietorship, limited liability company, association, or corporation), or any receiver or trustee of an entity (including the legal representative of a deceased individual or receiver or trustee of an individual), who employs an employee, including the District government. All employees of a covered employer are entitled to paid leave, but the amount of leave depends on the number of employees employed by the employer.

3. Do part-time employees count for purposes of determining coverage?

Yes.

4. Do out of state employees count for purposes of determining coverage?

The definition of “employee” was recently broadened by amendment (by eliminating the requirement of 1,000 hours over the previous 12 month period and one year of continuous service), but the implementing regulations which also define employee, and which referred explicitly to “employees in the District of Columbia” have not been amended in light of the new statutory definition. It is therefore unclear whether employers should count all employees, regardless of where they work, in determining the applicable accrual rate. The D.C. agency responsible for enforcement has advised that it still interprets the law to count only D.C. employees for purposes of accrual level. As such, while we believe an employer can still count only those employees in D.C., in resolving this question, employers should analyze their risk tolerance and consult experienced employment counsel.

5. Are there any specific employer exemptions (other than those who do not employ a sufficient number of employees to be covered)?

No.

6. Which employees are eligible?

The law defines “employee” as any individual employed by an employer.

7. Are certain classes of employees not eligible?

The term “employee” does not include: (1) volunteers for educational, charitable, religious or nonprofit organizations, (2) lay members elected or appointed to religious organization and engaged in religious functions, (3) casual babysitters in a residence, (4) an independent contractor, (5) a student, or (6) health care workers who choose to participate in a premium pay program.

Employees in the building and construction industry covered by a bona fide collective bargaining agreement that expressly waives the requirements in clear and unambiguous terms are not covered under the law.

8. Are exempt employees (those for whom time records are not ordinarily maintained) presumed to work a certain number of hours?

Yes. An employee who is exempt from overtime requirements under the FLSA is assumed to work 40 hours per workweek for purposes of accrual, unless the employee’s normal workweek is less than 40 hours, in which case the employee must accrue paid sick days based upon that normal workweek.

9. For what purposes may sick leave be used?

An employee may use paid sick leave for:

- (1) An absence resulting from a physical or mental illness, injury, or medical condition of the employee;
- (2) An absence resulting from obtaining professional medical diagnosis or care or preventive medical care for the employee; or
- (3) An absence for the purpose of caring for a family member who has any of the conditions or needs for diagnosis or care described in (1) and (2) above.



An employee may also use paid leave for an absence if the employee or the employee's family member is a victim of stalking, domestic violence, or sexual abuse and the absence is directly related to medical, social, or legal services pertaining to the stalking, domestic violence, or sexual abuse for the purposes of:

- (1) Seeking medical attention for the employee or the employee's family member to treat or recover from physical or psychological injury or disability caused by the stalking, domestic violence, or sexual abuse;
- (2) Obtaining services for the employee or the employee's family member from a victim services organization;
- (3) Obtaining psychological or other counseling services for the employee or the employee's family member;
- (4) Temporary or permanent relocation of the employee or the employee's family member;
- (5) Taking legal action, including preparing for or participating in a criminal or civil proceeding related to or resulting from stalking, domestic violence, or sexual abuse; or
- (6) Taking other actions that could be reasonably determined to enhance the physical, psychological, or economic health or safety of the employee or the employee's family member or the safety of those who work or associate with the employee.

Family member means a spouse or domestic partner; the parent of a spouse or domestic partner; children (including step-children, foster children and grandchildren); the spouses or domestic partners of children (including step-children, foster children and grandchildren); parents and step-parents; brothers and sisters (including half-brothers and sisters and step-brothers and sisters); and the spouses or domestic partners of brothers and sisters (including half-brothers and sisters and step-brothers and sisters); a child who lives with an employee and for whom the employee permanently assumes and discharges parental responsibility; and a person with whom the employee shares or has shared, for not less than the preceding 12 months, a mutual residence and with whom the employee maintains a committed relationship.

10. When does accrual begin?

Accrual begins at the start of employment.

11. How is “year” or “calendar year” defined under the law?

This is not defined.

12. What is the required accrual rate?

Employers with 100 or more employees must provide 1 hour for every 37 hours worked; employers with 25-99 employees must provide 1 hour for every 43 hours worked; and employers with 1-24 employees must provide 1 hour for every 87 hours worked. Employees who regularly receive tips, commissions, or other gratuities to supplement a base wage that is below minimum wage accrue paid leave at a rate of 1 hour for every 43 hours worked.

13. When can employees use accrued paid sick leave time?

Employees may begin using accrued paid sick time after the 90 days of service with the employer.

14. Are there carry-over (ex. from year to year) requirements?

Unclear. Pursuant to the recent amendments, there is no carry-over requirement. However, the revised required poster indicates that accrued but unused paid sick leave carries over from year to year, but recently-issued FAQs covering the law maintain the original language regarding carryover. Therefore the most conservative course of action is to permit carry over, but employers should consult experienced employment counsel in this regard. For this reason, we remain silent on the issue of carry over in our model policy.

15. May employers pay-out accrued but unused sick leave instead of carrying over?

The law does not address. It is not a recommended best practice to pay out accrued but unused sick leave instead of carrying it over.

16. May employers cap the usage of sick leave?

Under the original law, employees' usage of paid sick leave could be limited to 3 days (for employers with 1-24 employees), 5 days (for employers with 25-99 employees and employees who regularly receive tips, commissions, or other gratuities to supplement a base wage that is below minimum wage), or 7 days (for employers with 100 or more employees).



However, pursuant to the recent amendments, there is no cap on annual usage. That being said, recently-issued FAQs covering the law maintain the original language regarding capping usage. Our model policy does not cap usage. Best Practice: In resolving this question clients should assess their risk tolerance and contact legal counsel.

17. May employers cap the accrual of sick leave?

Yes. Employers with 100 or more employees can cap accrual at 7 days per calendar year; employers with 25-99 employees can cap accrual at 5 days per calendar year; and employers with 1-24 employees can cap accrual at 3 days per calendar year.

Employees who regularly receive tips, commissions, or other gratuities to supplement a base wage that is below minimum wage can cap accrual at 5 days per calendar year.

18. Will my current sick leave or PTO policy suffice for purposes of the law?

Possibly. A policy that allows employees to access and accrue paid leave at least at the same rate as or greater than the hours of paid leave provided under the law and use paid leave for the same purposes as those set forth under the law, including unscheduled leave, is presumed to be equivalent to and compliant with the law.

19. Are employees with collective bargaining agreements treated differently under the law?

The law does not alter an employer's obligation to comply with any collective bargaining agreement that provides paid leave rights greater than those under the law. Additionally, the paid leave requirements under the law cannot be waived for less than 3 paid leave days per calendar year by the written terms of a bona fide collective bargaining agreement.

20. Are there specific record keeping or paystub requirements?

Yes. Employers must maintain records of the accrual, granting and denial of leave for 3 years. When an issue arises as to an employee's entitlement to paid sick leave, the employer's failure to maintain or retain adequate records constitutes a rebuttable presumption that the law has been violated. Clients must therefore keep these records.

21. Are there specific notice or poster requirements?

Yes. Employers must post and maintain in a conspicuous place a notice provided by the DC Mayor which sets for the information about the law including how to file a complaint asserting a violation of the law. The notice must be posted in English and in all languages spoken by eligible employees with limited or no English proficiency. The poster is available on the City's website:

http://does.dc.gov/sites/default/files/dc/sites/does/page_content/attachments/ASSLA%20Poster%20-%20English%20Spanish%20Combo%20-%20FINAL.pdf

22. Can I use my handbook policy and distribute that to employees instead of the specific notice or poster requirements above?

The law does not address this. It is not a recommended best practice to do this.

23. Must I payout accrued but unused sick leave at termination?

No. However, when there is a separation from employment and the employee is rehired within 1 year of separation, previously accrued unused paid leave will be reinstated and the employee may use any accrued paid leave (if available) and accrue additional paid leave immediately upon the re-commencement of employment. An employee discharged after completing a probationary period which was at least 90 days who is rehired within 1 year can access paid sick leave immediately.

24. What are the penalties for noncompliance?

The DC Department of Employment Services, Office of Wage and Hour can investigate possible violations, enforce the law's requirements, order reinstatement, order payment of paid sick leave unlawfully withheld, and impose penalties.

25. Has the government agency issued any official guidance?

Yes. Guidance is available on the DC Department of Employment Services, Office of Wage and Hour website: <http://does.dc.gov/service/wage-and-hour-compliance>.



Sample Policies

California – Separate Paid Sick Leave Policy

Notes:

Exempt versus non-exempt employees. Under the federal Fair Labor Standards Act (FLSA) employers are permitted to dock a salaried exempt employee's salary based on sick leave absences in full day increments if the employer has a "bona fide" sick leave policy and the employee has either not accrued or has exhausted all time under the policy.

The U.S. Department of Labor has in the past found policies providing at least five days of sick leave to be bona fide. There is a risk that a policy that provides fewer than five days of sick leave may not be considered bona fide and therefore a deduction from salary could not be made. Nothing in California law indicates more than 5 days are needed to be provided to an exempt employee to meet the bona fide requirement, although there is no clarity as to whether 5 days is sufficient. However, because the legislature was satisfied with an accrual cap of 6 days or 48 hours is possible that the DLSE would view 6 days or 48 hours more deserving of "bona fide" status, than 5.

In addition, the California law regarding provision and usage of paid sick leave is not yet effective, the DLSE is still issuing guidance and the plaintiffs' bar has only begun to evaluate this new litigation opportunity. Accordingly, while it is counterintuitive due to the 3 day usage restriction on the accrual method, an employer intending to deduct from an exempt employee's salary for full day absences due to illness when sick leave is exhausted should consider making the usage cap 5 days and even consider 6 days, especially if it was already willing to give 5 days. For non-exempt employees, a 5 day grant or even a 3 day grant is sufficient.

Clients might wish to consider the following policy options:

Grant/Front Load Method

- Providing 24 hours or three days of sick leave to all employees.
- Providing 40 hours or five days of sick leave to all employees.
- Providing 40 hours or five days of sick leave (or 48 hours or six days) to exempt employees who must be paid on a guaranteed salary basis and only three days or 24 hours to non-exempt employees.
- Providing 48 hours or six days of sick leave to all employees. **(this is the option selected by default in the model policy).**

Accrual Method

- Cap accrual at 48 hours or 6 days; and limit usage to 24 hours or 3 days for all employees
- Cap accrual at 48 hours or 6 days; and limit usage to 40 hours or 5 days to exempt employees who must be paid on a guaranteed salary basis and limit usage to three days or 24 hours to non-exempt employees.
- Cap accrual at 48 hours or 6 days; and limit usage to 48 hours or 6 days to exempt employees who must be paid on a guaranteed salary basis and limit usage to three days or 24 hours to non-exempt employees.
- Cap accrual at 48 hours or 6 days; and limit usage to 48 hours or 6 days to all employees. **(this is the option selected by default in the model policy).**

In reviewing these choices clients should assess their own risk tolerance, financial position and ability to administer the policy, and consult with experienced employment counsel. The most conservative option for a client who wants to have one Paid Sick Leave policy applicable to both non-exempt and exempt employees is to provide six days. By default our model policy provides for six days.

As with all policies, the information above and model policies presented below are subject to change based on further developments including but not limited future changes in the law, government enforcement positions and guidance.



California Paid Sick Leave – Front-Loading Method

Eligibility

Pursuant to the Healthy Workplaces, Healthy Families Act, the Company provides paid sick leave to employees who, on or after July 1, 2015, work in California for thirty (30) or more days within a year. For employees who work in California who are eligible for sick time under the general Paid Sick Time policy (if any), this policy applies solely to the extent it provides greater benefits/rights on any specific issue or issues than the general Paid Sick Time policy (if any).

Sick Leave Grant

At the beginning of each year, employees are granted **six (6) days (or forty (48) hours)** of paid sick leave. No further paid sick leave will be granted until the next year. For purposes of this policy, for employees hired on or before July 1, 2015, the year is the consecutive 12-month period beginning July 1st and ending on June 30th. For employees hired after July 1, 2015, the year is the consecutive 12-month period beginning on the employee's date of hire.

Usage

Employees can use granted paid sick leave beginning on the 90th day of employment. Paid sick leave may be used in minimum increments of two (2) hours.

Paid sick leave may be used for the following reasons:

- 1) For diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member meaning a child (including biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis, all regardless of age or dependency status); spouse; registered domestic partner; parent (including biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child); grandparent; grandchild; or a sibling.
- 2) For an employee who is a victim of domestic violence, sexual assault, or stalking:
 - a) To obtain or attempt to obtain a temporary restraining order, restraining order, or other injunctive relief;
 - b) To help ensure the health, safety, or welfare of the victim or the victim's child;
 - c) To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking;
 - d) To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking;
 - e) To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking; or
 - f) To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

Notice & Documentation

Notice may be given orally or in writing. If the need for paid sick leave is foreseeable, the employee must provide reasonable advance notification. If the need for paid sick leave is unforeseeable, the employee must provide notice of the need for the leave as soon as practicable.

Payment

Eligible employees will receive payment for paid sick leave, at their normal base rate of pay, by next regular payroll period after the leave was taken. Use of paid sick leave is not considered hours worked for purposes of calculating overtime. Variable rate employees should contact _____ for more information regarding the rate at which they will be paid.



Carryover & Payout

Paid sick leave does not carry over from year to year, and unused paid sick leave under this policy will not be paid out at separation.

Enforcement & Retaliation

Retaliation or discrimination against an employee who requests paid sick days or uses paid sick days, or both, is prohibited, and employees may file a complaint with the Labor Commissioner against an employer who retaliates or discriminates against the employee.

Employees will be notified of their available paid sick leave on each itemized wage statement or by separate written notice accompanying their wage statement.

If employees have any questions regarding this policy, they should contact _____.

California Paid Sick Leave – Accrual Method

Eligibility

Pursuant to the Healthy Workplaces, Healthy Families Act, the Company provides paid sick leave to employees who, on or after July 1, 2015, work in California for thirty (30) or more days within a year. For employees who work in California who are eligible for sick time under the general Paid Sick Time policy (if any), this policy applies solely to the extent it provides greater benefits/rights on any specific issue or issues than the general Paid Sick Time policy (if any).

Accrual

Employees begin accruing paid sick leave on July 1, 2015 or at the start of employment, whichever is later. Paid sick leave will accumulate at the rate of one (1) hour for every thirty (30) hours worked, up to a total maximum accrual of **six (6) days or forty-eight (48) hours**. Employees who are exempt from overtime pursuant to the executive, administrative, and professional exemptions are assumed to work forty (40) hours in each workweek unless their normal workweek is less than forty (40) hours, in which case paid sick leave accrues based upon that normal workweek. For purposes of this policy, for employees hired on or before July 1, 2015, the year is the consecutive 12-month period beginning July 1st and ending on June 30th. For employees hired after July 1, 2015, the year is the consecutive 12-month period beginning on the employee's date of hire.

Usage

Employees can use accrued paid sick leave beginning on the 90th day of employment. Paid sick leave may be used in minimum increments of two (2) hours. An employee may use up to six (6) days or 48 hour of paid sick leave in any year.

Paid sick leave may be used for the following reasons:

- 1) For diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member meaning a child (including biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis, all regardless of age or dependency status); spouse; registered domestic partner; parent (including biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child); grandparent; grandchild; or a sibling.
- 2) For an employee who is a victim of domestic violence, sexual assault, or stalking:
 - a) To obtain or attempt to obtain a temporary restraining order, restraining order, or other injunctive relief;
 - b) To help ensure the health, safety, or welfare of the victim or the victim's child;
 - c) To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking;
 - d) To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking;
 - e) To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking; or



- f) To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

Notice & Documentation

Notice may be given orally or in writing. If the need for paid sick leave is foreseeable, the employee must provide reasonable advance notification. If the need for paid sick leave is unforeseeable, the employee must provide notice of the need for the leave as soon as practicable.

Payment

Eligible employees will receive payment for paid sick leave, at their normal base rate of pay, by next regular payroll period after the leave was taken. Use of paid sick leave is not considered hours worked for purposes of calculating overtime. Variable rate employees should contact _____ for more information regarding the rate at which they will be paid.

Carryover & Payout

Accrued paid sick leave carries over from year to year, but is subject to the accrual cap of forty-eight (48) hours. Accrued but unused paid sick leave under this policy will not be paid at separation.

Enforcement & Retaliation

Retaliation or discrimination against an employee who requests paid sick days or uses paid sick days, or both, is prohibited, and employees may file a complaint with the Labor Commissioner against an employer who retaliates or discriminates against the employee.

Employees will be notified of their available paid sick leave on each itemized wage statement.

If employees have any questions regarding this policy, they should contact _____.



Connecticut

Notes:

The Connecticut Paid Sick Leave law went into effect January 1, 2012. The law requires employers with 50 or more employees within Connecticut (excluding most manufacturing establishments and the nationally chartered tax-exempt organizations described in the law) to provide non-exempt ("service workers") with paid sick leave that accrues at a rate of one hour per 40 hours worked, to a maximum of 40 hours per year (which can be any defined 365-consecutive-day period as of January 1, 2015). "Service workers" are employees whose primary duties track to those of the 68 federal Standard Occupational Classification System titles listed under the law. The law also prohibits covered employers from retaliating against any employee for requesting or using paid sick leave as provided by the law or in accordance with the employer's own sick leave policy, or for filing a complaint against the employer for violation of the law.

The Paid Sick Leave Law was amended to:

- allow an employer to determine whether it is covered due to having 50 employees on payroll in Connecticut by using the payroll week containing October 1;
- allow accrual of time on any annual basis (i.e., an employer no longer has to use the traditional calendar year but rather can use any pre-defined 365-day period); and
- to include radiologic technologists within the law's coverage.

Changes are effective January 1, 2015.

The Act accounts for potential abuse of this new method of determining whether an employer has the requisite number of employees by prohibiting employers from firing, dismissing or transferring an employee from one job site to another to avoid meeting the 50-employee threshold on October 1.

Connecticut Sick Leave Policy

The Company provides paid sick leave to non-exempt regular full-time and part-time service employees located in Connecticut. Employees begin to accrue paid sick leave pursuant to this from the date of hire and are eligible to utilize paid sick leave under this policy upon completion of the employee's 680th hour of employment beginning January 1, 2012, or if the employee was hired prior to January 1, 2012, or if hired after January 1, 2012, upon completion of the employee's 680th hour of employment from the date of hire.

In addition to the 680-hour requirement, an employee may only utilize paid sick leave under this policy if he or she worked an average of 10 or more hours a week for Company in the most recent calendar quarter.

Employees accrue paid sick leave in one (1) hour increments at a rate of one (1) hour for every 40 hours worked up to a maximum of 40 hours per year. For purposes of this policy, the year is the 365-day period beginning January 1 and ending on December 31.

How Sick Leave May Be Used

Employees may use paid sick leave for the following reasons:

1. an employee's illness, injury or health condition;
2. the medical diagnosis, care or treatment of an employee's mental illness or physical illness, injury or health condition;
3. preventative medical care for an employee;
4. the illness, injury or health condition of the child or spouse of an employee;
5. the medical diagnosis, care or treatment for a mental or physical illness, injury or health condition of an employee's child or spouse;
6. preventative medical care for an employee's child or spouse;
7. for medical care or psychological or other counseling for physical or psychological injury or disability, where the employee is a victim of family violence or sexual assault;
8. to obtain services from a victim services organization, where the employee is a victim of family violence or sexual assault;



9. to relocate due to such family violence or sexual assault, where the employee is a victim of family violence or sexual assault;
10. to participate in any civil or criminal proceedings related to or resulting from such family violence or sexual assault, where the employee is a victim of family violence or sexual assault.

Employees may be subject to discipline for using paid sick leave under this policy for purposes other than those provided under this policy.

The Company is prohibited from retaliating against an employee for requesting or using sick leave for which the employee is eligible. Employees have the right to file a complaint with Connecticut's Labor Commissioner for retaliation and/or failing to provide leave in accordance with the applicable law.

Notice Required

Where the need to use paid sick leave under this policy is foreseeable, employees must provide seven (7) days prior notice of the planned use of paid sick leave under this policy. Where seven (7) days prior notice is not possible, the employee must provide notice as soon as possible, ideally in writing.

Required Documentation

For paid sick leave of three (3) or more consecutive days, employees must provide reasonable documentation that such leave is being taken for the purpose permitted under this policy.

If leave is needed because of illness or injury, the employee must provide documentation signed by a health care provider who is treating the employee, the employee's child or spouse that indicates the number of days needed for such leave.

If such leave is needed because the employee is the victim of family violence or sexual assault, the employee must provide a court record or documentation signed by the employee or volunteer working for a victim services organization, an attorney, a police officer or other counselor.

Calculation of Pay

Paid sick leave under this policy will be calculated based on the employee's base pay rate at the time of absence. It does not include overtime or any special forms of compensation such as incentives, commissions, or bonuses.

Carryover

An employee may carryover up to 40 hours of accrued, unused paid sick leave under this policy to the following calendar year, however, an employee may not use more than 40 hours of accrued sick leave in any calendar year. Accrued but unused paid sick leave under this policy will not be paid at separation.



Massachusetts

Employees working in Massachusetts may be eligible for paid or unpaid sick leave under the Sick and Safe Time Leave law. Employees of employers with eleven (11) or more employees may be eligible for paid sick time. Employees of employers with ten (10) or fewer employees may be eligible for unpaid sick time. Paid sick time will either accrue, or be granted up-front on an annual basis. Regardless of how it is earned, employees cannot begin using the paid sick time granted or accrued until 90 days after their employment begins.

Option A: Accrual: Eligible employees will accrue one (1) hour of sick time for every 30 hours worked, up to a maximum amount of 40 hours per calendar year. An employee may carryover up to 40 hours of accrued, unused sick time into the following calendar year. Accrual will begin on July 1, 2015, or when employment begins, whichever is later.

Option B: Grant/Frontloaded: Eligible employees will receive 40 hours of sick time January 1st of each year.

Exempt employees are assumed to work 40 hours in each workweek unless their normal workweek is less than 40 hours, in which case paid sick time is granted based upon that normal workweek.

For purposes of this policy, the calendar year is the 12 consecutive month period beginning January 1st and ending on December 31st.

Usage

Employees may begin using accrued time after completing 90 calendar days of employment.

Sick time may be used in minimum increments of one (1) hour or the smallest increment the payroll system uses to account for absences or use of other time if it less than one (1) hour.

An employee may not use more than 40 hours of accrued paid sick time in any calendar year.

Employees may use accrued sick time for absences for the following reasons:

- To care for employee's own physical or mental illness, injury, or medical condition.
- To care for the employee's child, spouse, parent, or parent of a spouse suffering from a physical or mental illness, injury, or medical condition.
- To attend the employee's routine medical appointment or a routine medical appointment for the employee's child, spouse, parent, or parent of a spouse.
- To address the psychological, physical or legal effects of domestic abuse.

Notice and Documentation

If the need for paid sick leave is *foreseeable*, an employee must provide *make a good faith effort* to provide advance notice. If the need is *unforeseeable*, an employee must provide notice of the need for the leave as soon as practicable. The Company may require documentation after the employee has missed 24 consecutively scheduled work hours. Documentation may include as reasonable document signed by a health care provide or for domestic violence a court document, a restraining order, a police report, a statement by a counselor or other professional, or a sworn statement by the employee.

Payment

Sick time will be paid at the same rate that the employee would be paid had he/she been working during the time the employee uses such time, but no less than the applicable minimum wage. Accrued but unused paid sick time will not be paid out to employees at separation.

Enforcement & Retaliation

Employees have the right to request and use sick time and may file a complaint for alleged violations of this policy with the Department of Labor. The Company prohibits retaliation or the threat of retaliation against an employee for exercising or attempting to exercise any right provided in this policy, or interference with any investigation, proceeding or hearing related to or arising out of an employee's rights pursuant to this policy and applicable law.



Washington, DC

Notes: Pursuant to the recent amendments, there is no carry-over requirement. However, the revised required poster indicates that accrued but unused paid sick leave carries over from year to year. Therefore the safest course of action is to permit carry over. However we remain silent on the issue of carry over in our model policy. Clients wishing to permit carryover should consider modifying the policy.

In addition, under recent amendments, there is no cap on annual usage. That being said, recently-issued FAQs covering the law maintain the original language regarding capping usage and therefore clients may wish to follow the caps on usage which existed under the original law. In analyzing this issue clients should consider their risk tolerance. The model policy does not include a cap on usage.

Note that employers must insert information in the Accrual and Enforcement and Retaliation Sections.

District of Columbia: Sick and Safe Leave Policy

Eligibility

The Company provides paid sick leave to all District of Columbia employees pursuant to the District of Columbia Accrued Sick and Safe Leave Act.

Accrual

Employees begin to accrue paid sick leave pursuant to this policy from the date of hire. Employees accrue paid sick leave at a rate of _ hour for every ___ hours worked up to a maximum of _ days per calendar year. **[Note to Employers: IF A RESTAURANT OR BAR ALSO ADD, “Employees who regularly receive tips, commissions, or other gratuities to supplement a base wage that is below minimum wage accrue paid sick leave at a rate of 1 hour for every 43 hours worked up to a maximum of 5 days per calendar year.”]**

Usage

Employees may begin using paid sick leave under this policy after the 90th day of employment. An employee may use paid sick leave under this policy for the following reasons:

1. an absence resulting from a physical or mental illness, injury, or medical condition of the employee;
2. an absence resulting from obtaining professional medical diagnosis or care or preventive medical care for the employee; or
3. an absence for the purpose of caring for a family member who has any of the conditions or needs for diagnosis or care described in paragraphs (1) and (2) above.

An employee may also use paid leave for an absence if the employee or the employee's family member is a victim of stalking, domestic violence, or sexual abuse and the absence is directly related to medical, social, or legal services pertaining to the stalking, domestic violence, or sexual abuse for the purposes of:

1. seeking medical attention for the employee or the employee's family member to treat or recover from physical or psychological injury or disability caused by stalking, domestic violence, or sexual abuse;
2. obtaining services for the employee or the employee's family member from a victim services organization;
3. obtaining psychological or other counseling services for the employee or the employee's family member;
4. the temporary or permanent relocation of the employee or the employee's family member;
5. taking legal action, including preparing for or participating in any criminal or civil proceeding related to or resulting from stalking, domestic violence, or sexual abuse; or
6. taking other actions that could be reasonably determined to enhance the physical, psychological, or economic health or safety of the employee or the employee's family member or the safety of those who work or associate with the employee.



Notice & Documentation

If possible, employees must provide at least 10 days prior notice of the planned use of paid sick leave under this policy. Where 10 days prior notice is not possible, the employee must provide notice as soon as possible, ideally in writing. In the case of an emergency, employees must notify the Company of need to use paid sick leave prior to the start of their next shift or within 24 hours of the onset of the emergency, whichever is sooner. Employees are required to make a reasonable effort to schedule paid sick leave in a manner that does not unduly disrupt the Company's operations. If paid sick leave is requested in a non-emergency situation, the employee must consult with the Company regarding the date and time of the paid leave to be taken.

Employees are required to provide reasonable certification of the reason for leave within one business day of return to work where the requested leave under this policy is for three or more consecutive days. A reasonable certification may include:

1. a signed document from a health care provider affirming the illness of the employee or the employee's family member;
2. a police report indicating that the employee or the employee's family member was the victim of stalking, domestic violence, or sexual abuse;
3. a court order indicating that the employee or employee's family member was the victim of stalking, domestic violence, or sexual abuse;
4. a signed written statement from a victim and witness advocate affirming that the employee or employee's family member is involved in legal action or proceedings related to stalking, domestic violence, or sexual abuse. The signed statement shall include only the name of the employee or employee's family member who is a victim and the date on which services were sought; or
5. a signed written statement from a victim and witness advocate, or domestic violence counselor affirming the employee or employee's family member sought services to enhance the physical, psychological, economic health or safety of the employee or employee's family member.

Payment

Paid sick leave under this policy will be calculated based on the employee's base pay rate at the time of absence. It does not include overtime or any special forms of compensation such as incentives, commissions, or bonuses.

Payout

Accrued but unused paid sick leave under this policy will not be paid at separation.

Enforcement & Retaliation

The Company prohibits retaliation against any employees who assert their rights to receive paid sick leave under this policy. The Office of Wage-Hour of the D. C. Department of Employment Services can investigate possible violations. To request full text of the Act, to obtain a copy of the rules associated with this Act, or to file a complaint, contact the Office of Wage-Hour at (202) 671-1880, 4058 Minnesota Avenue, N.E., 4th Floor, Washington, D.C. 20019, or visit www.does.dc.gov. Employees with questions regarding this policy can contact _____.

Sample Policy Update Acknowledgement

COMPANY NAME:

Because the Company's operations may change, the contents of these updates and the employee handbook may be changed at any time, with or without notice, in an individual case or generally, at the sole discretion of management. Please read the following statements and sign below to indicate your receipt and acknowledgment of these policy updates which supersede any versions of the same policy (as applicable).

I have received and read a these policy updates. I understand that the policies, rules and benefits described in these updates are subject to change at the sole discretion of the Company at any time.

I further understand that my employment remains terminable at will, either by myself or the Company, with or without cause or notice, regardless of the length of my employment or the granting of benefits of any kind.

I understand that my employment at-will status with the Company may only be altered IN AN INDIVIDUAL CASE OR GENERALLY in a writing signed by the Owner, President or CEO of the Company.

I understand that my signature below indicates that I have read and understand the policy updates and that I have received a copy of the policy updates.

The signed original copy of this acknowledgment should be given to management - it will be filed in your personnel file

Policy Name	Effective Date

Employee Signature Date

Employee Name (print)